SENATE—*Tuesday, March 8, 1994*

(Legislative day of Tuesday, February 22, 1994)

The Senate met at 10:02 a.m., on the expiration of the recess, and was called to order by the Honorable CAROL MOSELEY-BRAUN, a Senator from the State of Illinois.

PRAYER

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

Let us pray:

Behold, how good and how pleasant it is for brethren to dwell together in unity!—Psalm 133:1.

Eternal God, Ruler of the nations, recognizing the many political distinctions in the Senate—Democrat, Republican, conservative, moderate, liberal—we pray for the unity in diversity, characteristic of our Nation. Remembering the words engraved on the Dirksen Building, "The Senate is the living symbol of our union of states," and remembering "E pluribus unum," we pray that the Senate will realize its full potential in this crucial legislative year.

God our Father, we believe the Senate is infinitely greater than the sum of its parts. Remembering the words on the Archives building, "What is past is prologue," all its history is included—not only since the 18th century, but in antiquity as the fertile seedlings of representative government developed in ancient England, Greece, and Rome. Every person who has ever served as a Senator or worked on a staff, all the giants of the Senate, past and present, are part of its greatness.

Dear God, help us who labor here to appreciate the significance of the Senate.

In His name who is incarnate Truth. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 8, 1994.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CAROL MOSELEY-BRAUN, a Senator from the State of Illinois, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Ms. MOSELEY-BRAUN thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10:15 a.m., with Senators permitted to speak therein for up to 5 minutes each.

Who seeks recognition?

The Senator from Utah.

THE DEPARTMENT OF JUSTICE MANDATORY MINIMUM STUDY

Mr. HATCH. Madam President, former Deputy Attorney General Philip Heymann has criticized the Senate-passed crime bill as largely irrelevant to any realistic law enforcement effort, disparaging, among other things, Republican proposals to increase Federal prison construction.

Mr. Heymann argues that the Federal Government does not need additional prison space because existing Federal prisons house so many nonviolent, low-level offenders who should not be in prison. He cites as evidence a recent Department of Justice study which finds that 21 percent—or 16,316—of all Federal offenders within the custody of the Bureau of Prisons are low-level drug offenders for whom there could be alternative punishments. This finding is questionable.

For example, the study suggests that each of these 16,316 low-level drug offenders within the Bureau of Prisons custody are actually imprisoned. In fact, the 21 percent figure includes many of the nearly 5,000 offenders who are not in prison but who are serving their sentences in halfway houses or in-home confinement.

When one digs deeper, one also finds that the study's definition of low-level offender is exceedingly broad. Low-level drug offenders are defined as persons who are not sophisticated criminals, meaning offenders who are not principal figures or prime motivators in the criminal organization or activity. In short, unless an offender is the leader or organizer of a drug enterprise, he or she is considered low level.

This broad definition fails to account adequately for mid-level conspirators and fails to take into account the quantity of drugs with which an offender may have been involved. For example, a mid-level drug cartel member involved in a conspiracy to smuggle several tons of cocaine could qualify under the Justice Department guidelines as a low-level drug offender. Couriers who, on several occasions, knowingly transport millions of dollars of narcotics into our States qualify as low-level offenders.

The study's 21 percent figure also includes drug offenders who have lengthy criminal records but who have avoided serving more than 60 days in prison. As well, this figure includes foreign drug smugglers who have never been convicted in the United States but may have lengthy criminal records in foreign countries. So too does this 21 percent figure include nonviolent drug offenders who may have threatened violence against others or whose associates used firearms.

The Senate-passed crime bill contains an amendment I offered with Senator PHIL GRAMM that gives Federal judges limited discretion to sentence below mandatory minimum sentences for those drug offenders who are truly first time, low-level, nonviolent offender.

I read Congressman EDWARDS' op-ed piece in the Washington Post this morning. He wants to do the same thing. Only I am sure he would make it even broader so that some would slip through. But we did it in the Senate. We really, basically have given judges limited discretion with regard to those who are truly first-time, low-level, nonviolent offenders.

Our provision, while needed, will affect less than 1 percent of the drug cases in Federal court. And we have given that provision because a number of judges have asked me personally to see what I could do to bring a little balance in that system. And we tried to do it.

According to figures provided by the U.S. Sentencing Commission, of the total 16,684 drug cases sentenced in Federal court in 1992, only 98—6 percent—of those sentenced to mandatory minimum sentences—were truly first-time offenders who had minimal involvement in the drug enterprise, did not carry a firearm, and did not cause death or serious injury to another.

The notion that our Federal prisons are filled with people who should not be there is wrong. And, with respect to

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

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State prisons, bear in mind that in 1991, the Department of Justice found that 94 percent of all State inmates were either violent or repeat offenders, and over one-third of all inmates have been incarcerated before. Moreover, two-thirds of the violent inmates in State prisons had killed, raped, or injured their victims. Over half of the remaining 6 percent of State inmates had been convicted of drug trafficking or burglary.

That is according to the Bureau of Justice Statistics survey of State prison inmates in 1991.

The problem facing our criminal justice system is not one of too much incarceration. Rather, the problem is too much crime, and the simple fact is that the best way to stop crime is to put criminals, drug offenders included, in prison.

The Senate-passed crime bill appropriately ensures that additional prison space will be constructed both at the State and Federal level. Yet, despite the obvious need for more prison space, the administration appears to be basing its decisions on its own questionable studies. That might explain the Department's decision to cut prison construction by nearly 30 percent. It is time for the administration to stop worrying so much about how it can curtail prison expansion and to focus on how it can more readily ensure that criminals are incarcerated.

Rather than curtail prison expansion, as the budget proposes, I believe we must continue aggressively to increase prison space.

Madam President, these are important issues. I think Professor Heymann, who happens to be a friend of mine, a person I really admire and like, is way off base in some of his criticisms. That is typical sometimes of people who are only looking at the liberal side of things instead of at the realistic side of things.

Frankly, it is sometimes typical of law school professors who really do not have to deal with the day-to-day heinous world of crime. I think we have to deal with that in the Senate, and I am happy to say that the Senate bill, which passed overwhelmingly, passed because the principles in it, by and large, are valid, good and will work.

I want to thank my colleagues in the Senate for being so strongly in favor of that bill. I hope our colleagues in the House will do an equivalent job rather than what they did in the prior Congress: Passing something that really is soft on crime rather than hard on crime. It is time we get tough on these criminals in this society. I, for one, am going to do everything I can to do so.

I yield back the remainder of my time.

Mrs. MURRAY addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Washington.

MENTORS

Mrs. MURRAY. Madam President, I rise first today to pay tribute to our majority leader. I, like many of my colleagues, was stunned by his retirement announcement last Friday. His leadership in the Senate has been a source of pride for this body. When I arrived a little over a year ago, I was not sure what my reception would be. Senator MITCHELL quickly dispelled many of the myths that I had heard about the good old boys in the Senate. He treated everyone with dignity and respect. He provided opportunities for us as newcomers to grow and learn and be a part of the decisionmaking process.

Under his leadership, the Senate last year passed history-making legislation from the Family and Medical Leave Act and the budget deficit reduction package to the National Community Service Act and the Brady bill.

Senator MITCHELL's courage and determination are nationally recognized, but I also want to thank Senator MITCHELL personally for his willingness to be a coach and a mentor to me in my freshman years in the Senate. Senator MITCHELL, you have made me believe that this body can work for the good of all people. On behalf of thousands of families in my State, I thank you for your willingness to make a difference for our children, our families, and our communities. We will miss your leadership.

I would also like to thank you for assembling the best staff on the Hill. They are wonderful to work with and deserve our sincere appreciation.

But, Senator MITCHELL, I also want you to know I stand ready with you to fight the many battles that are yet to come this session, from health care to the budget. There is much to be done, and I look forward to working hard with you on these issues in your last year of tenure in the Senate.

Madam President, I want to talk about another mentor of mine, a longtime friend, a man who got me into politics and taught me the ropes many years ago: Former Washington State Senator Donn Charnley. Donn and his wife, Melinda Denton, were there to encourage me throughout the years, from running for the school board, to the State legislature, to the U.S. Senate. Donn and Melinda encouraged me, helped me and were always there for me.

Melinda was chair of the botany department at the University of Washington. She knew what it was like to be a woman pioneer in a man's field and a mother. We shared many stories.

Melinda was devoted to her work. She visited me here in Washington, DC, last summer to urge me to make sure we passed strong environmental legislation. She was worried because of the loss of so many plants in our country and around the world. As a botanist, she knew the value of plants for medical research, agricultural production, and many other purposes. Melinda was forever traveling and gathering plants to preserve and catalog them before, as she said, it was too late.

When Melinda visited me last summer, she complained of being tired. We joked about jet lag and the summer heat in this Washington. A few weeks later, Melinda went in for a checkup and was shocked to find out she had an ovarian tumor. She underwent surgery. Over the Christmas holidays, I visited with Donn and Melinda and was glad to hear they had gone on their usual skiing trip and were doing well.

But a few short weeks later, I got a call. Melinda was back in the hospital for more tests, chemotherapy, taxol treatments, and more surgery. A week ago, I talked to Melinda and she told me the fight was over. Early this Saturday morning, Melinda died.

The shock of her death holds me hostage. How could a vibrant woman in her forties, a mother, close to my own age, be gone so swiftly? Ovarian cancer: What is it? What causes it? How many women, like my friend Melinda, have died?

I immediately called to get statistics and answers to my questions. Shocks again. We really do not know much about ovarian cancer. The National Cancer Institute says for those under the age of 65, death rates for certain cancers have fallen substantially. But some researchers say there is no good screening tool for ovarian cancer. Consequently, the cancer is found in advanced stages and is difficult to treat.

Dr. Fred Appelbaum at the Fred Hutchinson Cancer Center in Seattle told me that in 1993, 17,000 new cases of ovarian cancer were diagnosed and 12,000 women died. Two out of three women diagnosed with ovarian cancer will die. This is the opposite of those women diagnosed with breast cancer today. Over a lifetime, every woman has a 1 out of 50 to 1 out of 100 chance of developing ovarian cancer.

I believe I speak today for many women my age who are confused by the word on the street about diseases affecting women. One year we are told to have a mammogram every year, and we faithfully comply. Next we are told to have a mammogram every 5 years. Then we are told, well, maybe mammograms really are not as reliable as we thought. We go in faithfully for our Pap smears, but does early detection really work? Is taking tests the only thing we can do? When ovarian cancer is found, often there is very little that can be done.

The Fred Hutchinson Cancer Center is getting close to identifying a gene that gives women a higher risk of developing ovarian and breast cancer. We need to support that kind of research. If we can discover that gene, then those women with that gene can regularly be screened.

Are more women dying of breast cancer today than when my mother was my age? It seems so, but the statistics in research are difficult to find. Is it caused by environment? Is it caused by food, medication? There are far more questions than answers.

The only solution, in my mind, is research. As we work on health care reform and the budget for the remainder of this year, we must make sure that women's health care concerns are not forgotten or swept under the rug. I assure all of my colleagues, I will be watching and working to make sure that this does not happen.

This is a very personal issue for me. Melinda left behind my friend Donn and an 8-year-old son. But Melinda's story is not unique. My colleague from the Highline School Board, Mary Louise Cline, 48 years old, died last week as well. The names are endless: My aunt Mary; my friend Kennie's sister, Carol Tyler; my friend Kate's mother, Ruth Cudlipp. It is too late for Melinda and the many others, but it is not too late for my daughter.

I urge my colleagues to help me fund research and education for women's health care issues and to include strong language in the health care reform bill to address the needs of millions of women. It is the very least we can do.

EXTENSION OF MORNING BUSINESS

Mr. GORTON. Madam President, I ask unanimous consent that morning business be extended.

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

YOUTH VIOLENCE AMENDMENT

Mr. GORTON. Madam President, several weeks ago I worked with Senators DOLE and KENNEDY in pursuing a youth violence amendment to Goals 2000. This amendment empowers local school districts by allowing them to make their own decisions with regard to violent or criminal behavior. Today, I urge my colleagues on the conference committee to Goals 2000 to assure the youth violence in schools and communities amendment is included in the final report.

School safety is increasingly a concern for parents, teachers, and citizens throughout the country. As I noted a few weeks ago, more than two-thirds of all public school teachers have been verbally abused, threatened with injury, or physically attacked. Perhaps, more significantly, almost half of all of the people who leave the teaching profession, Madam President, do so citing discipline problems as one of the frustrations which cause them to abandon that noble profession. I cite these statistics once again because they prove it is time that we do something to empower our local communities in the fight against youth violence.

Madam President, I have three children who have gone through the public schools of Washington State, occasionally, with some problems, but never with a threat to their physical well-being. Today, my first grandchild is in kindergarten. And I will simply not rest until I know that she, and my other grandchildren, will grow up in a society in which it is safe to go to school.

My amendment simply states that no Federal law, except education and civil rights laws protecting individuals with disabilities, will restrict the ability of schools to implement their own disciplinary policies with regard to violent or criminal activity. Madam president, it would almost seem to go without saying that this kind of authority should exist. Yet, I found a common thread in frustrations expressed to me by local school authorities. These Washingtonians feel restricted by government laws and regulations in their authority to discipline violent or criminal activity.

A second substantive area of importance included in this amendment is the sharing of criminal information. We find that schools and, for that matter, enforcement authorities, are fearful of lawsuits if they do nothing but exchange information between one school district and another to follow a student who has a history of violent or criminal behavior. Law enforcement agencies are often reluctant to share such information with schools. This amendment states that no Federal law, except those disability laws, will restrict the sharing of that information.

Madam President, soon after the Senate accepted my youth violence amendment, I received a flood of letters thanking the Senate for empowering local school districts to deal with violent and criminal behavior in their schools. These letters of support came from rural educational service districts in eastern Washington, parent-teacher organizations throughout my State, and the National Association of School Principals. These groups represent the people who must deal with violence in our schools every single day. It is time we listen and give them the flexibility they need to stop violent and criminal activity.

Let me read a small excerpt from one of the letters:

DEAR SENATOR GORTON: On behalf of the 43,000 members of the National Association of Secondary School Principals, I want to express our support for your Youth Violence Amendment to Goals 2000. This important amendment will assist principals and school leaders across the country in establishing firm disciplinary policies regarding violence in our schools.

As you cited in your floor remarks, the sixth goal of the National Education Goals calls on schools to provide a learning environment free of drugs and violence, and this amendment will assist in that important effort. Our members believe it is virtually impossible to provide a safe haven of learning in their schools without a thorough understanding and record of incoming students' in school and out of school disciplinary record.

The National Association of Secondary School Principals hopes that the Goals 2000 House-Senate Conference will adopt this important language.

My amendment is strongly supported in my State by the Washington State PTA, the Association of Washington School Principals, the Washington State School Directors' Association, the Washington State Educational Service Districts, and several individual schools and school districts.

The sentiments of these groups following our inclusion of the youth violence amendment includes:

Thank you for taking a very practical, pragmatic approach in assisting schools and society in dealing with youth violence problems.

[We] would support having the amendment become part of the law.

We all need to support the flexibility of parents and educators to work with youth in developing solutions to violence at the local level. Your amendment addresses this issue specifically and is essential if we are to reduce and eliminate youth violence.

Americans cherish the concept of local control in the decision-making process. While your amendment acknowledges that violence is a national problem, it also recognizes that precise remedies may vary from one locale to another. Your amendment upholds the right of local school districts to tailor strategies to their own specific needs.

We are doing our best, but we are continually frustrated by threats of lawsuits, parental apathy, and student attitude of "anything goes". [We] wholeheartedly support your Youth Violence amendment to the Goals 2000 legislation.

Simply put, the American people are sick and tired of the rights of criminals outweighing the rights of law-abiding citizens. This amendment puts the rights of law-abiding citizens above those of violent or criminal students. This amendment enhances the rights of handicapped children by providing them with a safe learning environment. Finally, this amendment clearly states that local school districts are empowered to reduce violence and crime in their schools. A clear message will be sent: We will not tolerate violent or criminal behavior in our schools. Period.

The day after I offered my amendment, the Spokane School District called. That day a senior high student wielded a 12-inch bowie knife and threatened repeatedly to kill his teacher. Luckily, the teacher was an ex-prison guard, involved in several prison riots, and knew how to handle the situation. This instance highlights the need for this amendment. How much abuse must our teachers and principals take before we empower them to end violent and criminal activity?

Madam President, I want to thank my colleagues for their inclusion of

this crucial youth violence amendment to the Senate version of Goals 2000. On behalf of schools across Washington State and across the Nation, I call on the House and Senate conferees to assure this amendment remains in the final conference report.

HONORING JOHN RILEY

Mr. DURENBERGER. Madam President, Sunday night at about 8:30, quite a number of us lost a very dear friend to cancer. He was my friend, and the friend of a great many of us in this Chamber.

Last Thursday, in one of those poignant ironies of which life seems to have so many, I found myself riding Amtrak to what turned out to be my final visit to my dear friend—the very Amtrak that John Riley had done so much to rebuild.

As I rode through the State of Maryland on the way to his Philadelphia hospital room, I thought about my very first meeting with John 16 years ago.

John came up to me after my underdog speech to the Hennepin County Independent Republican Convention and said, "I like what you said, and I'd like to help you get elected."

John celebrated his 47th birthday in January 1994. For the last 16 of those years he worked with me in campaigns and in Government—and he was a best friend as well.

There was even a time in the early 1980's—he was serving as my second legislative director—when many people were convinced that I was working for him.

Early in our friendship, John discovered that my grandfather Cebulla was a 50-year veteran with the Great Northern Railroad. John then launched both himself and me on an effort to save a small and dilapidated rail line in southern Minnesota—and John was the key to our success.

That led us into an effort to save the Milwaukee Road mainline. The Milwaukee Road was the lifeline for dozens of rural communities in western Minnesota, and it was about to go under. Once again—John Riley to the rescue.

Our next step was Japan and Europe, where we prospected for high-speed rail service for the United States. John created the Senate rail caucus, a U.S. International High Speed Rail Congress, and rail compacts with France and Japan.

In 1983, John moved on to serve as special assistant for rail policy to Transportation Secretary Elizabeth Dole. Later that year, he became Federal Railroad Administrator [FRA], serving with distinction until 1989.

His years as head of the FRA were a time of great achievement on John's part. He wrote—and managed through final passage—the Rail Safety Improvement Act of 1988. This was the most sweeping legislation in the history of the FRA.

He was an effective spokesman on rail issues, and had earned the respect and goodwill of the entire Washington community when—in 1989—his doctors told him he was suffering from cancer and had only a few months to live.

After experimental treatment by the wonderful medical staff at Johns Hopkins in Baltimore, it looked like John was on the road to recovery. In January 1991, he was prevailed upon to become Minnesota's transportation commissioner. He had served only 8 months in that post when Governor Carlson promoted him to chief of staff.

In 1992, doctors discovered a second tumor. After another operation, and returning to work part time for a few months in 1992, John resigned because he felt his course of medical treatment would keep him away from the Capitol too long—and thus impede his effectiveness as the Governor's chief of staff.

Last year, Governor Carlson appointed him to the chairmanship of the regional transit board, which coordinates transportation policy on the Twin Cities.

John left that job in December. And he left us on Sunday night.

How can I sum up the life of this outstanding person? His will to live was evident in the titanic fight he waged in what proved to be his final years. The day after he left the FRA post, he was at Arlington Hospital with a brain tumor, of which—thanks to some miraculous positive bent that was purely his own—he was cured. But another one followed, and a third. It was the third that killed him, 5 years after the first was discovered.

John was an incredible human being. Above all, he was an optimist. He was what most people would call a character—but if you were lucky enough to have a relationship with him, you knew that that relationship was a pearl of great price. It is so hard to find in the political life—indeed, in any walk of life—a friend whose character is of such a bright, lovable nature that you can look up to and emulate him, and pray that your children grow up to be like that person.

Madam President, that is the person whom the world lost on Sunday night. I ask my colleagues to join me in extending our warmest condolences to John's family and friends as they gather for a memorial service at noon Friday, in Ardmore, PA.

John Riley was a brief light that left us amazed. We will miss him deeply.

THE ADULT FRIENDS FOR YOUTH REDIRECTIONAL METHOD: AN EFFECTIVE THERAPEUTIC INTERVENTION MODEL FOR REDUCING AND ELIMINATING ADOLESCENT GANG BEHAVIOR

Mr. INOUYE. Madam President, the United States of America finds itself in the grip of a terror, called street violence, with which it feels powerless to cope. This feeling of powerlessness has resulted in frustration and helplessness turned to rage; a rage that is manifested in a national get tough policy that includes stricter enforcement of laws, tougher sentences, placing 100,000 police officers on the street, and establishing boot camps for youthful offenders. I believe such measures are an important step toward sending a clear message to criminals and would-be criminals that our society will not tolerate their behavior. That is why the Senate worked last year to pass a comprehensive anticrime package.

However, we must also begin to look beyond the criminal act itself and ask, "What are the conditions that turn a human being into a violent predator? It is time that we take a good hard look at ourselves, and start to find some answers to that question before we destroy our Nation's greatness.

In our present frame of mind, we look only at the act and respond by punishing it. Logically, if punishment was the answer then we should see crime and violence drying up. But that is not the case. It is time that we stop reacting only to acts of violence and begin to look at the humanity of the perpetrator. When we can do that we may begin to unlock the door that will help both perpetrators and their victims find a decent life that is free from fear.

There is a youth service agency, Adult Friends for Youth, in my State of Hawaii that has developed a unique gang intervention method, called the redirectional method, that looks beyond the criminal and violent acts of adolescent gang members, and interacts with them at the most human level. It demonstrates concern for their problems and needs, and does not simply demonstrate them for their behavior or give them advice.

At first glance, the redirectional method, created by Adult Friends for Youth, may appear to be spoiling gang members. However, the important questions are: Does the redirectional method reduce and/or eliminate gang violence? and; Does it reduce and/or eliminate gang behavior and the gang itself? The answers to these questions are a resounding, yes. In fact, the Honolulu Police Department acknowledges that gang activity in the underprivileged community where Adult Friends for Youth has focused its efforts is down by 50 percent, at the same time that it is up in other communities. Unfortunately, due to limited financial resources, Adult Friends for Youth

cannot extend its program further. Too often I hear complaints that problems can't be solved for lack of an answer, but today I stand here to tell you that a new well of knowledge has been discovered, and we need only to start drawing from it.

A GROUP THEORY PERSPECTIVE OF THE GANG

The redirectional method takes the view that a gang is like any other group with the significant exception that it is perceived as, and often is, a threat to other people and institutions. Although gangs may vary in severity of behavior, it appears that they share fundamental commonalities. They are either a small friendship group, or consist of faction of a larger group with a core membership rarely exceeding 25 members, and often much smaller. Members frequently live in the same neighborhood and share common age, economic, ethnic, gender, experiential, and interests characteristics.

Many, if not most, gang youth believe that they are unacceptable in the mainstream because they look different from the racial or ethnic groups who appear to run things. This low self-esteem is enhanced by poverty, a lack of educated or occupationally successful role models, and often physical, emotional, or sexual abuse. Consequently, they believe that they have little worth, and since they are unloved that they are unlovable. They also feel powerless to change their lives, and often, even if they do want to change, don't know how to go about doing it. For these young people, the gang is the brotherhood, sometimes sisterhood, that provides security, a sense of belonging, affection, and value.

One myth about gangs is that they form with the intent to do harm. In fact, Adult Friends for Youth gang workers have found that many members regret having joined a gang and wish things were different. Few have said that they became members to cause trouble or joined with the intent to harm. Most have stated that they join for protection, that is, Your brothers protect your back. However, this doesn't cancel the view that sometimes the best defense is a strong offense.

Undeniably, the gang is a very powerful influence in the lives of its members. Therefore, if behaviors are to be redirected the group cannot be ignored as the context through which change can be achieved.

THE REDIRECTIONAL METHOD

The redirectional method, created by Adult Friends for Youth, contributes to the development of self-esteem, self-determination, and empowerment. It helps members of the gang to feel valued, and helps them to develop a sense of their potentialities and how to achieve them. The fundamental principles of the redirectional method are all critical to redirecting youth from gang to prosocial club behaviors. The goal of the method is not to control gang members, but rather to change their behaviors in order to integrate them into middle-class mainstream.

The redirectional method is also unique because it presumes that gang members ultimately have the ability to make decisions that are in their best interests, and that these decisions will also be best for the community. This is a clear contradiction to the common position that adults always know what is best for the child. The method also assumes that members have the capacity to join the mainstream, and provides frequent opportunities for participating in new experiences, including access to institutions of higher education. Many of these youth have no idea that they can go to college, because all too often they've heard that they are not college material. The mere action of exposing them to a university campus removes the mystique, and provided them with the sense that maybe it's possible after all.

The principles of the redirectional method are practical and easily understood, and can, with dedication, professional discipline, and financing, result in the positive outcomes experienced by Adult Friends for Youth. Results that include a high school graduation rate of 80 percent by gang members in 1992 and 1993, up from 20 percent in 1991, the elimination of fighting among groups, and the evolution of gangs into social clubs.

The redirectional method represents a new generation of knowledge to help adolescent gang members become part of America's mainstream. It is up to us to make use of this knowledge and turn back the tide of violence that is becoming increasingly pervasive and damaging to our way of life.

WHITEWATER SCANDAL

Mr. D'AMATO. Madam President, yesterday, President Clinton took part in an extraordinary press conference. At that press conference, in response to a question about his wife's involvement in the Whitewater scandal, the President defended Hillary Clinton by saying the following:

> I have never known a person with a stronger sense of right and wrong in my life—ever.

Well, Madam President, that seems to be the problem.

I would like to pose two questions to Hillary Clinton, the person that the President refers to as having the strongest sense of right and wrong of anyone he has ever met in his life:

Were you briefed by your friend, Chief of Staff Maggie Williams, about her meeting with Roger Altman? And did you know it was wrong?

Madam President, I yield the floor.

A.Z. YOUNG'S SPIRIT OF SERVICE ALIVE IN A NEW SCHOLARSHIP FUND

Mr. BREAUX. Madam President, Andrew Jackson once observed that "one man with courage makes a majority." That sentiment certainly applies to the late A.Z. Young, a great American and a great Louisianian whose life embodied the notion that certain principles are indeed worth risking your life or your livelihood.

A.Z., who died last year, was that kind of man. In 1968, as the leader of an historic civil rights march from Bogalusa to Baton Rouge, he put shoe leather to his belief that Thomas Jefferson was thinking of someone just like him when he wrote that, "All men are created equal."

And because of A.Z., and brave people like him, we are now raising a generation of young Americans—black and white—who can barely comprehend the stories their parents and grandparents tell them about the days of Jim Crow and segregation.

The advances in civil rights that began more than 25 years ago did not simply occur spontaneously. We know that great social changes—like civil rights—do not just happen. Brave, visionary men and women make them happen.

A.Z. Young made things happen.

He was honest, brave, and an inspiration to an entire generation of Louisianians. He was, quite simply, an indispensable man—someone who made a real difference in lives of hundreds of his fellow men, black and white.

I was honored last month to join with A.Z.'s wife, Dorothy, at Southern University in Baton Rouge to announce the creation of a scholarship fund in his memory. The A.Z. Young Memorial Scholarship has been established to identify and assist young people who wish to follow the example of his leadership and service to his community, State, and Nation.

Under its terms, students eligible for the $1,000 scholarship must be full-time students attending Southern University who are majoring in political science, history, journalism, communication, public administration, or public policy.

Last month's announcement marks the beginning of our efforts to endow this scholarship in the name of one of Louisiana's greatest citizens.

As someone who knew A.Z. and worked with him over the years, I am proud to be a part of the creation of this scholarship and look forward to helping raise the funds necessary to sustain it.

A.Z. would be quick to tell us, there is much work left to do in this life. We have passed the laws that guarantee all of us equal rights. But I know A.Z. would remind us that it is now time to ensure that every young person gets the chance to take advantage of the

many opportunities guaranteed by law but often denied in reality.

After all, the young people of today are the ones who will do tomorrow's work. And so, A.Z. would be proud to know that his work did not end when he left this life.

His spirit will live and thrive for generations to come in the hearts and minds of the young people who will have a better chance in life because of this scholarship in his name.

A TRIBUTE TO TIP O'NEILL

Mr. DODD. Madam President, on January 10, 1994, I attended the funeral of the former Speaker of the House of Representatives and a great American, Thomas P. O'Neill, Jr. It was with a heavy heart that I said goodbye to a dear friend. Whether it was his aggressive and determined style of politics or his genuine sympathy for the people of Massachusetts, Tip was a role model to an entire era of Members of Congress.

I think those of us in attendance would have to agree that the service was both moving and beautiful. Each speaker brought back cheerful and heartwarming memories of Tip, and shared some new anecdotes, typifying the Speaker we all came to know. Mr. President, I would like to take this opportunity to cite two individuals whose extraordinary comments captured the spirit of Tip O'Neill and added comfort and grace to such a difficult day.

J. Donald Monan, S.J., is the president of Boston College in Chestnut Hill, MA. It was with great eloquence that Father Monan detailed Tip O'Neill's reverence for God and strong faith in mankind. His captivating retrospective of a loving husband and father will undoubtedly remain with those present at the service for years to come. Those of us who know Tip O'Neill understood how important his spiritual beliefs were to him. I commend Father Monan for capturing the essence of the great Speaker we all came to love.

In addition to Father Monan's touching speech, one of Tip's five children, Thomas P. O'Neill III, also provided a moving reflection of the special father-son relationship he cherished so much. His recitation of Charles Hanson Towne's poem, "Around the Corner," illustrated a side of Tip that perhaps many of his colleagues were never fortunate enough to witness.

Madam President, at this time I ask unanimous consent that both the address from J. Donald Monan, S.J., president of Boston College, as well as Charles Hanson Towne's poem, "Around the Corner," be printed in the RECORD.

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

FUNERAL MASS OF THOMAS P. O'NEILL, JR., JANUARY 10, 1994

(By J. Donald Monan, S.J.)

Your Eminence, Cardinal Law, President Ford, President Carter, Vice President Gore, and members of the Cabinet, Ambassador Flynn, Governor Weld, Members of the Congress and the Massachusetts Great and General Court, Mayor Menino, Mayor Reeves, Mrs. O'Neill (Millie), members of the O'Neill family, and my dear friends.

Our human family's loves and its losses have taught us many ways of expressing grief. In the clear, cold air of this weekend, flags flew at half-staff in the Nation's Capitol and here at home. The Speaker's Chair in the House of Representatives wore a mantle of black. Silent lines of people, plain and powerful, filed into the State House. If there are times when symbols and individual physical presence to each other are more expressive than words, surely this is such a time. Mrs. O'Neill (Millie), Susan and Rosemary, Tom and Michael and Kip, the presence of each person here this morning is an expression of deepest respect and esteem for Speaker O'Neill; but it is even more an effort to ease your grief because we respect you so much in your sorrow and because your grief is ours as well.

On Wednesday evening, the Speaker wearily told Tom of the irresistible tiredness over him and peacefully closed his eyes for the last time. His sleep awakened not only the brilliance of the nation's writers; they responded with their hearts as well. Every step along the upward route of his public career has been carefully retraced. But it was clearly the man himself—in his humor and his inexhaustible desire to help, his courage and his compassion and his sheer goodness—that came through to his chroniclers and inspired them to masterfully faithful portraits that those who loved him will always cherish.

Those portraits I will not attempt to recreate this morning. There is, however, one feature of the background in each of those portraits that perhaps could not have been painted in, until this morning—in this sacred place. Every captivating account of the Speaker's momentous achievements in public life, of his easy familiarity with the world's greatest leaders, remarked that he never lost touch with his roots. And this was no mere metaphor. Those roots remained the source of his lifeblood and his identity as a person to the very end. The friendships of Barry's Corner, his love for Boston College, the comfortable streets of North Cambridge were as much a part of him as were his Speaker's gavel and his intense loyalty to his staff and colleagues in the Congress. But perhaps older than any of these—this parish, to which he returned this morning, has been a figure in the background of every change in family and political fortunes. It is just not a matter of ritual that in this parish he received the name of Thomas Junior at baptism; before this altar as a young man he knelt with Millie to pronounce their marriage vows; and for 35 years in the Congress, he returned humbly to reaffirm his worship that God was his origin and his destiny and that what he did with his enormous talents and his opportunities mattered to God as well. The truth is that God was as real to Speaker O'Neill as were you or I.

The Role that faith plays in any of our lives is as elusive to describe as it can be powerful and pervasive. It was not something that Speaker O'Neill often put into language. (He was not a man given to self explanation, but to action.) And yet faith was a recognizable dimension of everything he did in public and in private life. It was never a badge or an ornament to make others uncomfortable, but always a star he checked before setting his own course. Nor was his understanding of faith ever woodenly fixed, incapable of growth and development. Those of us who have lived through the decades since the 30's of dramatic change in the moral dilemmas that modernity brings, in the crises of wars and threats of war, in more nuanced understanding of our own religious convictions—those of us who have lived through these changes realize that Speaker O'Neill's legendary sense of loyalty, either to old friends or to God, was no dull or wooden conformity. It has been a creative fidelity to values pledged in his youth that he kept relevant to a world of constant change by dint of effort and imagination and at the cost of personal sacrifice.

What did the Speaker gain from his faith? A vantage point that gave him lifelong perspective on himself and his relationship to the world around him.

One of the most important ingredients to a portrait or to a human life is perspective—a sense of priority and of proportion among the parts. Over the past several days, countless commentators have remarked upon the extraordinary balance Speaker O'Neill maintained within an almost limitless range of commitments. Indeed, his spontaneous enthusiasm could easily have swept away any sense of proportion or perspective. For Speaker O'Neill was large-hearted in his every approach to the world around him. He was large-hearted in his compassion and in his humor; large-hearted in his understanding of people; large-hearted in his love of all things human, from family and friends to work and politics and sports. To Speaker O'Neill everything was important—but nothing was so important that it was worth sacrificing fairness to one in need or a favor to a friend or the honor and integrity he owed God.

How many stories have been told and retold of Speaker O'Neill's walking with royalty but never losing perspective on himself or on every person he befriended. Each of those stories recognized that leadership in high public office invariably confers power and power has a potent magic twist perspective and turn the heads of those who hold it. Speaker O'Neill possessed the antidote to that powerful magic. He did not frame it in abstruse theological language, but in the simple realization in faith of who he was and where he came from. He lived it in his unwavering sense of gratitude for his roots—in his recognition that his most valuable traits were gifts from family and friends and teachers and fellow workers—and ultimately were gifts of God himself. And for the person who knows his roots, for the person who knows gratitude, power and high position and large-hearted love pose no dangers. They are, rather, even more effective instruments to be of service to the least.

The luminous sketches of the Speaker that have appeared this week are almost complete. In the foreground stands a grateful Commonwealth and a grateful Nation of countless individuals who owe their job, their education, their citizenship, indeed, their life to the friendship or the wisdom or the simple encouragement of this great man. In the background of the portrait stands the Christ, the measure of his own self-understanding and for his unabashed humility and the guarantor of the infinite importance of everything he did for the least of those he met.

But there is one more stroke of the brush that has been left unnoticed. If the Speaker's faith gave him perspective, the love of a great woman gave him the confidence that he could do whatever the Nation and whatever God asked. The pride of the Speaker's life was not the Medal of Freedom nor the Legion of Honor; it was the love of his beloved Millie who gave courage to his struggles and measure to his success and loving understanding through his illness.

Those of us who live among the terraces of mountains are too close to their grandeur to take an accurate measure of their height. And during these many years and you and I who have known him and all of the staff and colleagues he esteemed so highly, have been like those individuals so familiar with their landscape that we are unable to grasp its dramatic proportions.

But this morning, with the gavel finally silent, and the last story told, and the last anxious heart put at ease, we now know that his stature rose higher than all the rest. And we know the blessing of having known him as a friend and we ask only that his generous soul enjoy the presence of the Risen Lord, whom he worshipped.

POEM READ BY THOMAS P. O'NEILL III AT TIP O'NEILL'S FUNERAL

AROUND THE CORNER

(By Charles Hanson Towne)

Around the corner I have a friend,
in this great city that has no end.
Yet days go by and weeks rush on
and before I know it a year is gone.
And I never see my old friend's face,
for life is a swift and terrible race.
He knows I like him just as well
as in the days when I rang his bell
and he rang mine. We were younger then
and now we are busy, tired men.
Tired with playing a foolish game,
tired with trying to make a name.
Tomorrow, I say, I will call on Jim
just to show that I'm thinking of him.
But tomorrow comes and tomorrow goes,
and the distance between us grows and grows.
Around the corner yet miles away,
here's a telegram sir, Jim died today.
And that's what we get and deserve in the end,
around the corner a vanished friend.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Madam President, as of the close of business on Monday, March 7, the Federal debt stood at $4,547,792,538,698.51, meaning that on a per capita basis, every man, woman, and child in America owes $17,443.81 as his or her share of that debt.

BUDGET SCOREKEEPING REPORT

Mr. SASSER. Madam President, I ask unanimous consent to submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of Senate Concurrent Resolution 32, the first concurrent resolution on the budget for 1986.

This report shows the effects of congressional action on the budget through March 4, 1994. The estimates of budget authority, outlays, and revenues, which are consistent with the technical and economic assumptions of the concurrent resolution on the budget (H. Con. Res. 287), show that current level spending is below the budget resolution by $4.4 billion in budget authority and $0.7 billion in outlays. Current level is $0.1 billion above the revenue floor in 1994 and below by $30.3 billion over the 5 years, 1994–98. The current estimate of the deficit for purposes of calculating the maximum deficit amount is $312.1 billion, $0.7 billion below the maximum deficit amount for 1994 of $312.8 billion.

There has been no action that affects the current level of budget authority, outlays, or revenues since the last report, dated March 1, 1994.

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

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, DC, March 7, 1994.

Hon. JIM SASSER,
Chairman, Committee on the Budget,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the 1994 budget and is current through March 4, 1994. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the Concurrent Resolution on the Budget (H. Con. Res. 64). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, dated February 28, 1994, there has been no action that affects the current level of budget authority, outlays, or revenues.

Sincerely,

ROBERT D. REISCHAUER,
Director.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, FISCAL YEAR 1994, 103D CONGRESS, 2D SESSION, AS OF CLOSE OF BUSINESS MARCH 4, 1994

[In billions of dollars]

	Budget resolution ((H. Con. Res. 64)[1]	Current level[2]	Current level over/ under resolution
ON-BUDGET			
Budget authority	1,223.2	1,218.9	−4.4
Outlays	1,218.1	1,217.5	−0.7
Revenues:			
1994	905.3	905.4	0.1
1994–98	5,153.1	5,122.8	−30.3
Maximum deficit amount	312.8	312.1	−0.7
Debt subject to limit	4,731.9	4,455.9	−276.0
OFF-BUDGET			
Social Security outlays			
1994	274.8	274.8	.....
1994–98	1,486.5	1,486.5	.....
Social Security revenues:			
1994	336.3	335.2	−1.1
1994–98	1,872.0	1,871.4	−0.6

[1] Reflects revised allocation under section 9(g) of H. Con. Res. 64 for the Deficit-Neutral reserve fund.

[2] Current level represents the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full—year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information public debt transactions.

Note.—Detail may not add due to rounding.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 103D CONGRESS, 2D SESSION, SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1994 AS OF CLOSE OF BUSINESS MARCH 4, 1994

[In millions of dollars]

	Budget authority	Outlays	Revenues
ENACTED PREVIOUS SESSIONS			
Revenues	.....	.....	905,429
Permanents and other spending legislation[1]	721,182	694,713	.....
Appropriation legislation	742,749	758,885	.....
Offsetting receipts	(237,226)	(237,226)	.....
Total previously enacted	1,226,705	1,216,372	905,429
ENACTED THIS SESSION			
Emergency supplemental appropriations, fiscal year 1994 (P.L. 103–211)	(2,286)	(248)	.....
ENTITLEMENTS AND MANDATORIES			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted[2]	(5,562)	1,326	.....
Total current level[3,4]	1,218,857	1,217,451	905,429
Total budget resolution	1,223,249	1,218,149	905,349
Amount remaining:			
Under budget resolution	4,392	698	.....
Over budget resolution	.....	.....	80

[1] Includes budget committee estimate of $2.4 billion in outlay savings for FCC spectrum license fees.

[2] Includes changes to baseline estimates of appropriated mandatories due to enactment of Public Law 103–66.

[3] In accordance with the Budget Enforcement Act, the total does not include $13,608 million in budget authority and $8,896 million in outlays in emergency funding.

[4] At the request of committee staff, current level does not include scoring of section 601 of Public Law 102–391.

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

PEACEKEEPING AND THE U.S. NATIONAL INTEREST

Mrs. KASSEBAUM. Madam President, I recently cochaired a working group with Congressman LEE HAMILTON, sponsored by the Henry L. Stimson Center, on peacekeeping and the U.S. national interest.

Clearly peacekeeping is an issue which has generated much discussion and debate over the past year. Following the experiences of Somalia and Haiti, uneasiness about United States involvement in U.N. peacekeeping has grown. Some have called for the United States to abandon U.N. peacekeeping altogether and focus our efforts solely on unilateral U.S. action.

Madam President, the Stimson working group rejected this view. We believe that U.N. peacekeeping can serve U.S. interests. However, recognizing the failures of the past and growing financial constraints, we also believe that the United Nations needs a new approach to peacekeeping, with greater selectivity, tougher mandates, financial reforms, and better training, equipment, and support.

The working group also emphasized the importance of Congress and the Executive working together to form a more constructive and cooperative approach to U.N. peacekeeping. Recent

experiences in Somalia, Haiti, and Bosnia underline the importance of close consultation with Congress on this issue.

I ask unanimous consent that a summary of the Stimson Center Report, "Peacekeeping and the U.S. National Interest" be printed in the RECORD. I hope our report will contribute to the important, ongoing discussion about the U.S. role in U.N. peacekeeping.

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

SUMMARY OF THE STIMSON CENTER REPORT

"Peacekeeping and the US National Interest," a report from a bi-partisan group led by Senator Nancy Kassebaum (R–KS) and Representative Lee Hamilton (D–IN), makes far-reaching recommendations that would overhaul the UN's troubled operations. The group concludes that strengthening the United Nations' peacekeeping operations is both urgent and directly in America's national interests.

Hoping to forge a consensus between parties and between branches of the federal government, the group warns: "As the world's predominant power, the United States cannot disconnect itself from the international environment. . . But . . . the United States does not have to act alone. . . Effective United Nations peace operations offer an alternative for the United States to share the burden of world peace with like-minded nations."

The report notes that the UN's record in peace operations has been mixed, with a few clear successes, a few outright failures, and many uncertain outcomes. However, unlike those who urge the end of US participation, the Kassebaum/Hamilton group urges a series of reforms to make the UN more effective in its security role. The group concludes that strengthened UN capabilities "would provide a new security option to the United States, to be used at the US Government's discretion, permitting us to avoid the necessity of choosing between unilateral action and standing by helplessly when international atrocities occur."

In its deliberations, the group insisted that a strengthened UN must not in any way compromise the United States' rights to self-defense and to completely independent armed forces, nor diminish in any way the power of the United States to veto any UN operation of which it does not approve. If these principles are maintained, a stronger UN will serve American interests, as well as those of the international community.

The panel includes members of Congress, experienced diplomats and military officers, former UN officials, and experts. Kassebaum and Hamilton led the other members of the group in calling on the administration to begin urgent consultations on a reform package to be presented to the UN. Their report outlines a three-point plan to strengthen the United Nations' system, improve US participation, and create a role for Congress in US decision-making.

A STRENGTHENED UNITED NATIONS

With three former UN under-secretaries among its members, the group was in a unique position to understand the needs of UN reform. Among the reforms recommended by the group are cuts in the size of the UN bureaucracy and a consolidation of responsibilities among fewer under-secretaries, the appointment of deputy-secretary-general to coordinate the activities of the UN's agencies, the immediate appointment of an independent inspector general, and the installation of an experienced management team and professional personnel system.

With respect to UN peacekeeping, the report urges:

Greater selectivity: Members must be more selective in authorizing new peace operations, avoiding situations not ready for solution or not vital enough to warrant the resources necessary to achieve success.

Tougher mandates: More realistic mandates are essential, in the group's view, with realistic deadlines, clear assignments of authority and responsibility to commanders, and rules of engagement flexible enough to permit the troops to carry out their missions.

Financial reforms: The formula used to assess peacekeeping costs should be changed, in the group's view, so that the share paid by the U.S. and the other permanent members of the Security Council is reduced, and the burden shared more equitably by other wealthy nations. Member states should be assessed only once a year for an integrated peacekeeping budget, rather than the many times each year they are currently hit up for individual missions.

Training, equipment, and support: Nations should designate units for potential service in U.N. peace missions and provide them with specialized training and equipment so that they can operate effectively with the peace forces of other nations. The U.N. should be given sufficient funds to continue modernizing its command and communications capabilities, and to maintain the professional staff required to coordinate modern military operations.

U.S. PARTICIPATION IN U.N. PEACEKEEPING

The group recommends that American participation in peace operations concentrate on those unique capabilities, like airlift and specialized logistical capabilities, which the U.S. and very few other nations can provide. When U.S. interests are clearly engaged, however, the United States should be prepared to make available combat forces as well. At such times, the United States must ensure that command arrangements are clearly described in the mandate and are appropriate for the situation. Whenever U.S. troops are involved in a U.N. mission, moreover, appropriate U.S. military commands should maintain contact with U.S. units and be prepared to assist the mission in a timely fashion should events turn against it.

THE ROLE OF THE CONGRESS

The past year had witnessed rancorous debates over the Congress' role in decisions on U.N. peacekeeping and the introduction of legislative initiatives that would curb the president's freedom-of-action. According to Senator Nancy Kassebaum, co-chair of the group, these debates have underlined the importance of building a new, more constructive congressional-executive partnership on U.N. peacekeeping. "The president should consult closely with congressional leaders whenever a new U.N. peace operation is being considered, particularly one involving U.S. forces," she says. "Such a move would help build a consensus for the president's policy and greatly aid the sustainability of American efforts."

The report notes that no new legislation is required to implement such procedures, only a commitment by both branches to act together to ensure the success of U.N. peace operations and the defense of American security interests.

JOINT EXECUTIVE/CONGRESSIONAL ACTION

The group calls on the Administration and the Congress to work out a comprehensive package of initiatives to present to the U.N. Secretariat and to other member states. Working together in this way, co-chair Lee Hamilton observes, "the two branches of government can ensure that there is no question about the United States' commitment to U.N. peace operations, so long as necessary reforms are taken in the United Nations' own procedures." Senator Kassebaum joins Representative Hamilton and the other members of the group in calling on the administration to begin urgent consultations on the contents of a package of reforms which would make it possible for the United Nations to serve world peace and the security interests of all nations, as its founders intended.

The Working on Peacekeeping and the U.S. National Interest is a project of the Henry L. Stimson Center, a non-profit organization devoted to research and public education on issues of national and international security. The project is funded by the Henry L. Stimson Center.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

NATIONAL COMPETITIVENESS ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the hour of 10:15 a.m. having arrived, the Senate will now resume consideration of S. 4, the National Competitiveness Act, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 4) to promote the industrial competitiveness and economic growth of the United States by strengthening and expanding the civilian technology programs in the Department of Commerce, and so forth, and for other purposes.

The Senate resumed consideration of the bill.

Mrs. KASSEBAUM addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Kansas.

Mrs. KASSEBAUM. Madam President, I rise to offer an amendment to S. 4, the National Competitiveness Act, which would establish a 15-year statute of repose for general aviation aircraft. I am offering this amendment on behalf of myself and Senators DOLE, DANFORTH, GORTON, HATCH, and MCCAIN. I would also like to mention, Madam President, that the general aviation revitalization legislation has 50 cosponsors.

In some ways I suppose this seems like deja vu all over again. We have been trying for many years to get this particular piece of legislation to a vote on the Senate floor. This is identical to the legislation that was introduced earlier this year, which, as I mentioned, now has 50 cosponsors.

I believe this amendment is germane to the underlying bill because, if passed, it will create thousands of well-paying engineering and manufacturing jobs in the United States which is the very purpose of S. 4.

Madam President, if I may, I would just like to go through a bit of a history on why there are so many of us who feel so strongly that this legislation is important.

When I came to the Senate in 1979, the United States was a world leader in the production of piston-powered aircraft. At that time, the U.S. companies were selling 13,000 piston-powered airplanes annually. Today, U.S. companies deliver closer to 500 piston-powered planes per year. This reduction in sales has decimated employment in the industry. The President's Commission to Ensure a Strong Competitive Airline Industry estimates that more than 100,000 jobs have been lost in manufacture, sales, service, and related general aviation industries.

Madam President, when an industry that is important to our Nation's future collapses, we need to identify the cause of the collapse and develop a remedy. According to virtually every source familiar with general aviation, including an independent panel of experts assembled by the President, the industry's collapse is primarily the result of U.S. laws which, among other things, continue to hold domestic manufacturers liable for design and manufacture of planes that were built 30, 40, or 50 years ago.

Subjecting U.S. plane manufacturers to this indefinite liability significantly increases the cost of domestically produced planes and gives foreign manufacturers a competitive advantage over U.S. companies. I should like to suggest, Madam President, that we are losing what has been the cutting edge in many ways of our manufacturing sector in aviation, which is general aviation airplanes, to foreign development today simply because it has become so expensive for manufacturers to manufacture piston-powered airplanes and for most people to purchase them. Many first-time fliers learn to fly and have gone into the field over their lifetime to be contributors to aviation because they started with a piston-powered airplane they were able to afford.

Never-ending liability increases the cost of domestically produced planes by requiring manufacturers to pay the costs associated with insuring a very large fleet of older planes. As the cost of insuring the older planes increases, the only way to generate the money needed to cover that business expense is to increase the selling price of the newly manufactured planes. Industry surveys have shown that product liability costs paid by domestic manufacturers are approximately $70,000 per plane. That is as much as a piston-powered plane used to cost 20 years ago. Now just the insurance per plane is $70,000.

These high liability costs now make it virtually impossible for domestic manufacturers to produce airplanes that are affordable for flying clubs, aviation schools, and those, as I mentioned earlier, who are starting out and wishing to make a career in aviation or be able to just utilize a smaller, less expensive plane for communication. Many farmers, many people living in rural areas had these small piston-powered planes.

Foreign plane manufacturers, on the other hand, are not significantly burdened by high liability costs. These companies are relative newcomers to the general aviation industry so they do not have a large fleet of 20 to 50 airplanes to insure.

Consequently, the liability expenses they must build into the cost of their new plane is dramatically less than American companies. Foreign plane manufacturers enjoy an additional competitive advantage because the European Community and a number of other countries have established the 10-year statute of repose. Since foreign manufacturers sell a substantial portion of their planes outside of the United States, a large bulk of their aging fleet is shielded from indefinite liability expense. United States manufacturers are not so fortunate. Most of their planes are flown in the United States where the liability continues forever.

Even when U.S. planes were purchased and flown abroad, domestic manufacturers can often be sued in the United States under U.S. laws since this is where the plane was manufactured. Thus, domestically produced planes do not enjoy the full benefits of foreign statutes of repose.

Madam President, in case anyone is confused about what a statute of repose is, I would like to take a few minutes to explain it. For nonlawyers such as myself, it may be easiest to think of a statute of repose as essentially a statute of limitations. In effect, a statute of repose says that products which last a significant period of time prove themselves safe for their intended use. In other words, the product's durability proves the quality of its design and construction. Products with design or manufacturing flaws do not last long. Products without design or manufacturing flaws do.

A statute of repose says that once a product has proven itself over many years the company that produced it should not have to go bankrupt defending itself against charges that the product was poorly manufactured. The product may have been improperly maintained or improperly used. But when a product such as an airplane lasted for 15 years, it is not improperly designed or manufactured.

A statute of repose for general aviation aircraft that I am offering today would prevent lawsuits against general aviation airframes and component parts which are more than 15 years old. When a component part is replaced, the 15-year statute of repose must begin anew for that particular part. For example, a ball bearing on a piston engine airplane is replaced when the plane is 14 years old. Four years later, when the plane is 18, the plane crashes, and the ball bearing that was replaced is found to be the cause of the accident. In this situation, the company which manufactured the faulty ball bearing will be liable because it did not last for 15 years. However, companies which manufactured other parts on the airplane that have lasted for over 15 years cannot be sued by a plaintiff who is simply looking for deep pockets.

I cannot overstate the need for this legislation, Madam President. Lawsuits against manufacturers for planes that were built decades ago are killing the production of piston engine airplanes in the United States. Beech Aircraft has determined that it spends over $500,000 per case defending itself in lawsuits where the National Transportation Safety Board has already determined that its airframe was not the cause of the accident.

The amendment I am offering today, along with my cosponsors, who feel just as strongly and passionately about this issue as I do, is narrow in scope and would not change product liability laws related to the rules of evidence, joint and several liability, punitive damages, standards of care, or the allocation of damages according to comparative fault.

Instead, it would simply create a rolling 15-year statute of repose on civil actions brought against aircraft manufacturers or manufacturers of general aviation component parts. It is a very simple piece of legislation that will have enormous benefits for the public and for the general aviation industry.

It has been changed and revised through the years that we have attempted to offer it and get a vote on the Senate floor in ways that I think it has become a very precise and a simple piece of legislation; just a 15-year statute of repose.

U.S. airplane manufacturers should not be indefinitely held responsible for products that are operated, repaired, serviced, and modified by others. To do so is to punish domestic airplane manufacturers for the durability of their product. A 15-year statute of repose would limit the manufacturer's liability to a reasonable time period, reduce the cost of new planes, and create thousands of jobs. Cessna, the world's largest producer of piston airplanes, until liability exposure forced the company to cease its production in 1986, has already announced that it will hire 2,000 workers and immediately begin producing piston aircraft once a 15-year statute of repose is passed. Many other companies have expressed similar plans.

Madam President, just over a decade ago, U.S. manufacturers were the world's leaders in the production of piston airplanes, but as sales have de-

creased, tens of thousands of manufacturing jobs have been lost. The amendment now pending would add no cost to the Federal Government and would bring many of those jobs back.

The National Commission to Ensure a Strong Competitive Airline Industry calls the measure one of the most important jobs and international competitiveness issues in its entire report. John Peterpaul, of the International Association of Machinists and Aerospace Workers, has stated that this legislation "will restore our competitiveness at home and abroad. It will create thousands of new, high-paying jobs in the stable private sector without costing the U.S. Treasury a dime. It gives employment opportunities, without expensive retraining, to defense workers who are, or will be, seeking employment."

This amendment has the support of manufacturers, labor, and aviation consumer groups. This legislation is good for America, and I urge its adoption.

I yield the floor.

Mr. HATCH addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Utah.

Mr. HATCH. Madam President, I want to compliment the distinguished Senator from Kansas for her leadership on this issue. This is an extremely important issue. It has to do with whether or not our piston aviation industry is going to survive; frankly, whether thousands and thousands of jobs will be permanently lost in our country. And without her leadership I do not think it would be this far along.

I understand that the Judiciary Committee, upon which I sit and am the ranking minority member, has asked for a sequential referral on this. Ordinarily, I would agree with that. But frankly, I do not think we should delay this bill or this amendment by waiting for a sequential referral. I think we ought to go forward with it and face the problems right now. These are not complicated problems, these are not incomprehensible problems, and these are not problems that really should wait for a solution. It is really kind of a simple, straightforward, yet effective amendment.

Madam President, I appreciate the opportunity to speak on this very important issue, and as an original cosponsor of the General Aviation Revitalization Act of 1993 with Senator KASSEBAUM, I offer my strong support for Senator KASSEBAUM's amendment.

Senator KASSEBAUM's efforts have been stellar over the years in attempting to secure congressional approval for product liability reform for the general aviation industry. I commend her again for her leadership on this issue here today.

Madam President, as we debate the Kassebaum amendment, let us not forget the broader issue that has brought all of us here today, competition, and the ability we have as a nation to be competitive in a global economy. We have to ask ourselves whether or not we think that passing a 15-year statute of repose will help to increase the competitiveness of our general aviation industry throughout the world.

I am here to tell you that not only will a 15-year statute of repose improve the industry's competitiveness in both domestic and global markets, but it will also mark the first step toward realizing the importance of establishing a reasonable liability standard that serves to balance the rights of consumers with the ability of our Nation's industries to grow and maintain growth.

Madam President, if we do not realize the dire importance of liability reform to our ability to be competitive, we risk driving our country into economic ruin. In a recent poll by the Aircraft Owners and Pilots Association of its members, product liability was identified overwhelmingly as the most distressing issue facing its members.

This fact is extremely significant when you consider that the AOPA membership is comprised of consumers who are the likely victims of accidents involving general aviation. Therefore, although AOPA maintains strong interests in providing an adequate and fair compensation system, it recognizes the need for reform in this area and has strongly endorsed the 15-year statute of repose.

There have been strong endorsements for reform in general aviation product liability from virtually all aviation-related industry groups, including the International Association of Machinists, the Airplane Pilots Association, and other labor groups. In addition, the President's Commission to Ensure a Strong Competitive Airline Industry recommended in its report to the President that a 15-year statute of repose for the general aviation industry be enacted.

Madam President, let us look at exactly why there is so much support for a statute of repose. Telling indicators of the exponential growth in product liability for the aviation industry include the fact that from 1979 to 1986, damages and litigation costs paid by manufacturers of Federal Aviation Administration-approved aircraft increased more than 800 percent, going from $24 million to $210 million in that period of time.

In 1986, Cessna Aircraft Corp. stopped all production of piston airplanes due to high liability costs. And Piper Aircraft, a great company, declared bankruptcy in 1990, citing liability costs as the primary factor.

Madam President, we all understand that economic factors play a role in every industry in the country, and we also understand that it is not feasible or desirable to attempt to rescue every industry that experiences some hard times due to economic cycles. Yes, there have been ups and downs in the general aviation industry over the past decade, and there will continue to be ups and downs. However, product liability costs have risen quickly and steadily over the past 10 to 15 years, and since 1978 shipments of general aviation aircraft have declined 95 percent.

Contrast this scenario with what is happening to foreign production of piston aircraft. Certainly, piston aircraft are not becoming obsolete. Rather, production is shifting to other countries due to the unrelenting liability suits and their attendant cost increases in the United States.

For example, in 1980 there were 29 domestic piston airplane manufacturers and 15 foreign manufacturers. Today, there are 29 foreign manufacturers and 9 domestic manufacturers. It is interesting to note that the European Community has enacted a 10-year statute of repose. This becomes a very significant factor when you consider that over 90 percent of the total world production of piston aircraft now comes from Europe.

I could go into much more detail regarding the plight of the general aviation industry over the past decade or so. However, in the interest of accommodating many of my colleagues, who I know want to speak in support of the Kassebaum amendment, I would like to limit my comments to two specific areas.

First, I have the feeling that many Members of Congress may be harboring fears that creating a statute of limitations in the area of general aviation product liability will be opening a Pandora's box. Therefore, I want to make it very clear what this amendment will and will not do.

Let me state for the RECORD that the Kassebaum amendment does not create a Federal standard of liability; it does not limit the jurisdiction of any State court; and it does not attempt to change existing State laws regarding joint and several liability, comparative fault, or punitive damages.

It is no secret that I would like to see reforms in all of these areas. In fact, I cosponsored, earlier in this session, a much more comprehensive piece of legislation that attempts to deal with these very issues on a broader scale. However, I recognize that there is significant reluctance among many of my colleagues to support more drastic reforms. Therefore, the statute of repose offers a more than reasonable compromise while creating a needed boost to the general aviation industry—an industry that has lost 50 percent of its employees over the past decade.

This brings me to my second and final point, which is jobs. This is an issue in which everybody in this body is extremely interested. Mr. Russ Meyer, chairman and CEO of Cessna,

has recently indicated that if the statute of repose is passed, Cessna will increase production by 1,500 to 2,000 aircraft. This would mean the creation of several thousand jobs all across the Nation in the general aviation industry. That may not be counting the spinoffs that come from the manufacturing itself.

In my home State of Utah alone, it is estimated by one engine manufacturer that if the statute of repose legislation is passed, it will create at least 150 new jobs. And this is not to mention potential benefits at another Utah manufacturing facility and many other service-related facilities within Utah.

Madam President, in this time of increased business costs, increasing global competition, and general downsizing in many industries in this country—all resulting in job losses—I hope the Senate will realize the importance of supporting this amendment. It will not cost even a dime of the taxpayers' money. We do not have to struggle with offsets, or budget points of order.

It is time that we lift these barriers in our ability to compete, which is the very reason we are here today with this legislation.

I thank the Chair and yield the floor.

AMENDMENT NO. 1477

(Purpose: To add a title to the bill.)

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

The ACTING PRESIDENT pro tempore. The clerk will report.

The bill clerk read as follows:

The Senator from Kansas [Mrs. KASSEBAUM], for herself, Mr. DOLE, Mr. DANFORTH, Mr. MCCAIN, Mr. GORTON, and Mr. HATCH proposes an amendment numbered 1477.

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

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

The amendment is as follows:

At the end of the committee substitute add the following:

TITLE VII—GENERAL AVIATION REVITALIZATION

SEC. 701. SHORT TITLE.

This title may be cited as the "General Aviation Revitalization Act of 1994".

SEC, 702. TIME LIMITATION ON CIVIL ACTIONS AGAINST AIRCRAFT MANUFACTURERS.

Title XI of the Federal Aviation Act of 1958 (49 U.S.C. App. 1510–1518) is amended by adding at the end the following new section:

"SEC. 1119. TIME LIMITATION ON CIVIL ACTIONS AGAINST AIRCRAFT MANUFACTURERS.

"(a) IN GENERAL.—No civil action for damages for death or injury to persons or damage to property arising out of an accident involving a general aviation aircraft may be brought against the manufacturer of the aircraft or the manufacturer of any component, system, subassembly, or other part of the aircraft, if the accident occurred—

"(1) more than 15 years after—

"(A) the date of delivery of the aircraft to its first purchaser or lessee, if delivered directly from the manufacturer; or

"(B) the date of first delivery of the aircraft to a person engaged in the business of selling or leasing such aircraft; or

"(2) with respect to any component, system, subassembly, or other part which replaced another product originally in, or which was added to, the aircraft, and which is alleged to have caused the claimant's damages, more than 15 years after the date of the replacement or addition.

"(b) GENERAL AVIATION AIRCRAFT DEFINED.—For the purposes of this section, the term 'general aviation aircraft' means any aircraft for which a type certificate or an airworthiness certificate has been issued by the Administrator, which, at the time such certificate was originally issued, had a maximum seating capacity of fewer than 20 passengers, and which was not, at the time of the accident, engaged in scheduled passenger carrying operations as defined under regulations issued under this Act.

"(c) RELATIONSHIP TO OTHER LAWS.—This section supersedes any Federal or State law to the extent that such law permits a civil action described in subsection (a) to be brought after the applicable deadline for such civil action established by subsection (a).".

Mr. GORTON addressed the Chair.

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

Mr. GORTON. Madam President, perhaps this single amendment, more than any single other element in the wide-ranging debate over product liability and medical malpractice, illustrates better than any other the devastating impact that unlimited and unchecked litigation can have on an industry.

The general aviation industry—and particularly the industry which produces piston driven aircraft—has literally been destroyed by product liability litigation, litigation which often involves aircraft manufactured decades before that litigation has begun.

We have hurt our international competitiveness and our balance of trade. We have destroyed thousands of jobs, and we have almost destroyed a historic and important American industry by our inattention to this issue over the course of the last decade.

The amendment proposed by the distinguished Senator from Kansas will allow us to take a step in the right direction, a step which is backed not only by the business enterprises, the manufacturers, but by the labor unions and by the other people who work in this industry, and by the primary organization representing the owner's private aircraft.

Just look once again at some of the statistics. An industry which produced 18,000 aircraft in 1978 now produces roughly 900 aircraft—a tiny percentage; an industry which was faced with product liability costs of $24 million in the mid-1970's per year, 10 years later, had multiplied by almost 10 times that amount to $210 million.

One company is completely out of business. Another company is producing less than 20 percent of what it produced before. A third company is producing 2 percent of what it had produced before.

This is an interesting insight, Madam President. The National Transportation Safety Board, an organization we created to look into accidents, and in this case aircraft accidents, reported that in 203 accidents which resulted in litigation against the Beech Aircraft Co. between 1983 and 1986, design or manufacturing error was not a cause of any of the accidents. Yet the average cost of each one of those lawsuits to the manufacturer was $530,000—$530,000 multiplied by 203 lawsuits—in which the expert outside board determined that manufacturing and design defects were not the cause of the accident.

What do we have on the other hand, Madam President? Should we grant a 15-year statute of repose? One company says that within 5 years, more than 25,000 jobs would be created at no cost to the Government—25,000 jobs by this one piece of legislation. No wonder the labor unions who represent workers in that industry are in favor of it.

The members of President Clinton's Airline Commission last year unanimously supported the enactment of this legislation.

Manufacturers, labor, the primary use organizations all favor a reform of product liability in this field by a 15-year statute of repose. It is opposed only by one interest group, the Trial Lawyers Association, which has literally been the only group to profit from the kind of litigation with which we are faced.

This amendment in bill form is sponsored by exactly half of the Members of this body and by a majority of Members of the House of Representatives, including the committees which will be represented on any conference committee.

If this amendment is adopted by the Senate, the chances that it will be law are excellent.

But when we talk about a bill which will spend billions of dollars designed to increase American competitiveness, designed to see to it that we have good, skilled jobs in the future, let us take a step in connection with that bill that clearly will restore a dramatic and historic American industry that clearly will put people back to work and that clearly will reduce the trade deficit which has been created by this kind of litigation.

Let us give our private aircraft manufacturers a break. Let us let them get back into business. Let us create jobs for the American people. Let us pass the Kassebaum amendment.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. McCAIN. Madam President, I rise to speak in favor of the amendment proposed by the Senator from Kansas, and I would like to begin my remarks

by congratulating her for her many years' effort. I believe it is going on 10 years now that the Senator from Kansas has been attempting to get legislation, this type of legislation, before the Senate and the Congress.

I would also like to thank the distinguished chairman of the Commerce Committee, who although he is very strong in his opposition to this legislation, has allowed it to be reported out from the Senate and to the floor. I appreciate that, and I believe that legislation and product liability, which he is also allowing to move through the committee, are very important.

I want to thank Senator DANFORTH also for his many years of effort on this issue.

As a result of a law passed by Congress, Public Law 103–13, on April 7, 1993, a National Commission to ensure a strong competitive airline industry was created.

Madam President, this Commission was created because of the ongoing problems that we have in the aviation industry ranging, of course, from the lack of ability for certain airlines to compete, the global nature of the airline industry—all kinds of difficulties and challenges that we see facing what many of us view as the major thrust of commerce in the world in the next century. And that, of course, is aviation.

This Commission's mandate by the Congress and signed by the President "was to investigate, study and make policy recommendations about the financial health and future competitiveness of the U.S. airline and aerospace industries." The report was due 90 days after the appointment of the Commission.

The Commission's membership consists of 15 voting and 11 nonvoting members. Five voting members were appointed by the President, five by the Senate leadership and five by the House leadership.

The point is the Commission was bipartisan, with members appointed from "among individuals who are experts in aviation economics, finance, international trade and related disciplines and who can represent airlines, passengers, shippers, airline employees, aircraft manufacturers, general aviation, and the financial community."

The chairman of the Commission is a voting member of the Commission.

At the opening session, President Clinton and Transportation Secretary Peña challenged the Commission to review all aspects of the airline and aerospace industries to develop recommendations to ensure their strength and competitiveness in the domestic and global marketplaces.

President Clinton said:

I think there is a real consensus in America that the people who make airplanes and equipment and the people who run our airlines are critical to our economic future.

The Commission Chairman Gerald L. Baliles said the Commission "should be prepared to question some of the most basic assumptions that formed the foundation of policy toward this industry—and behavior within it—for the past half century."

Madam President, I ask unanimous consent that the complete names of the members of this Commission be printed in the RECORD.

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

MEMBERS OF THE COMMISSION

VOTING MEMBERS

Gerald L. Baliles, Chairman.
Bette B. Anderson.
J. Randolph Babbitt.
Charles M. Barclay.
Robert F. Daniell.
Sylvia A. de Leon.
Daniel M. Kasper.
Herbert D. Kelleher.
Russell W. Meyer, Jr.
John F. Peterpaul.
Sandra Pianalto.
John E. Robson.
Felix G. Rohatyn.
Abraham D. Sofaer.
Gina F. Thomas.

NONVOTING MEMBERS

Senator John Danforth.
Senator J. James Exon.
Senator Slade Gorton.
Senator Ernest Hollings.
Senator Patty Murray.
Representative Robert Borski.
Representative Maria Cantwell.
Representative Richard Gephardt.
Representative Newt Gingrich.
Representative Bud Shuster.
Dr. Laura D'Andrea Tyson, Chair, Council of Economic Advisors.

Mr. MCCAIN. Madam President, in August 1993, this Commission published a report to the President and Congress from the National Commission to Ensure a Strong Competitiveness Airline Industry, titled "Change, Challenge, and Competition." On page 26, the recommendation reads as follows:

The United States was once the world leader in the production of general aviation aircraft, those used other than by the military, the airlines, and the Government. Although the United States remains a world leader in production and sale of business jets, production of light piston aircraft have been reduced to a trickle by the enormous ongoing cost of open-ended product liability.

Madam President, this is not my view or opinion. This is the view and the opinion of the most distinguished people in America that we could find to come up with recommendations to ensure the viability of aviation, the future of U.S. general aviation in America.

I repeat:

Although the United States remains a world leader in production and sale of business jets, production of light piston aircraft have been reduced to a trickle by the enormous ongoing cost of open-ended product liability. Annual piston aircraft sales, which averaged 30,000 per year from 1965 to 1982, have increased barely 500 per year. Many factors are at play. But the added cost of liability insurance forced prices up, causing sharply increased cost for personal and short-range business flying. More than 100,000 jobs have been lost in manufacturing, sales, service, and related industries.

I repeat, the Commission states their view, not mine:

More than 100,000 jobs have been lost in manufacturing, sales, service, and related industries.

Historically, at least 30 percent of the general aviation aircraft produced in the United States have been exported. This country has lost this important contribution to its trade balance. The enactment of legislation limiting the liability of general aviation manufacturers to 15 years from the date of manufacture would help regenerate a once healthy industry and help re-create thousands of jobs.

We recommend enactment of a statute of repose for general aviation aircraft which would limit the liability of manufacturers for these aircraft to 15 years from the date of manufacture, exactly what Senator KASSEBAUM's legislation says today. This is the recommendation of a Commission which was appointed by the President and created by Congress, the members of which were appointed by the President and Members of both House and Senate in a bipartisan fashion, and their recommendation was enactment of a statute of repose for general aviation aircraft which would limit the liability of manufacturers of these aircraft to 15 years from the date of manufacture.

Madam President, it is hard for me to justify the appointment of a Commission of some of the best minds in America, who meet for months, who come up with a recommendation which is very—I might say pretty—documented here, which I am sure is an enormous expense to the taxpayers of America, and for us to completely ignore their recommendations.

I think it is also important to point out that following their August 1993 recommendations, there was a staff report which was presented and which, interestingly enough, on October 28, 1993, the staff proposals for civil aviation was sent to the President. Now, the National Airline Commission, taking exception to some of the staff proposals for civil aviation, stated as follows:

The need for action on these issues—a 15-year statute of repose for general aviation aircraft and ratification of the Montreal Protocols—seems clear to the Commission.

On the issue of a statute of repose, it is clear that this once competitive sector of our manufacturing industry cannot be revived unless this step is taken.

I repeat, the members of the Commission state:

It is clear that this once competitive sector of our manufacturing industry cannot be revived unless this step is taken. This is one of the most important jobs and international competitive issues in our report. It is a limited and targeted response to a demonstrated problem. The Commission helped set the political stage for this issue to be viewed as

such, rather than just another tort reform issue. For the staff draft to remand it to an overall liability study with no ending date is unsatisfactory.

The President was quite interested in this issue during our meeting with him, and the statute of repose bill has attracted wide support on Capitol Hill. Since publication of our report, the House version has attracted such significant support that 255 Members of the House have now signed on as cosponsors. Several manufacturers have indicated they will start production and add jobs upon enactment. That is why this proposal has support from both manufacturers and labor. The time is right, right now.

I can only echo the words of the members of the Commission on airline competitiveness that said the time is right and it is right now. And that is why Senator KASSEBAUM's legislation needs to be approved.

I would like to also make mention of the comments of John Goglia, who is the president of the International Association of Machinists and Aerospace Workers, speaking for the IAM.

I have been asked by John Peterpaul, IAM general vice president for transportation, to represent the IAM at this morning's rally. . .

John Peterpaul and the IAM leadership wants Congress to know that the IAM enthusiastically supports legislation establishing a 15-year statute of repose for general and business aircraft and component parts manufacturers.

In the past, the IAM has been reluctant to support various measures which would amend manufacturers' legal responsibility for manufacturing defects. However, an extensive review of the general aviation industry and the work of the President's Airline Commission, of which Mr. Peterpaul was a member, has firmly established that a statute of repose will assist in revitalizing America's once great general aviation industry.

Equally important to the IAM, we believe that this legislation is fair to the aircraft users. Alleged claimants will always have an appropriate party to properly pursue their legal remedies. There are no caps on awards or attorney's fees. Everyone in the industry, including operators, support this bill.

I repeat:

Everyone in the industry, including operators, support this bill.

Obviously, this legislation is good for America. It will restore our competitiveness at home and abroad. It will create thousands of new, high-paying jobs in the stable private sector without costing the U.S. Treasury a dime. It gives employment opportunities, without expensive retraining, to defense workers who are, or will be, seeking employment as factories and military bases are reduced or closed in the wake of new national budgetary priorities. We can unshackle American technology and know-how and once again lead the world in aircraft and equipment innovation.

Today, the IAM is asking Congress to join with industry and labor to support this important legislative initiative to establish a 15-year statute of repose for general aviation and business aircraft and component parts manufacturers.

Now Madam President, I would just like to demonstrate one of the reasons why this issue is long overdue. In keeping with the remarks of the statement I just read from the International Aviation and Machinist Union and Aerospace Workers Union, this legislation of Senator KASSEBAUM's has been endorsed by the Airline Commission that I talked about, all general aviation consumer groups, the National Aviation Association Coalition, the national and local labor unions and a broad based coalition of Members of Congress. As I mentioned, 255 Members of the other body have already cosponsored this legislation.

Why are there so many in such support and why did the Airline Commission make this such a high priority? Because of the product liability's toll.

Over 100,000 jobs have been lost in general aviation over the past 10 years. As far as aircraft manufacturers are concerned, employment is down 46 percent; piston engine manufacturers, employment is down 74 percent; FBO's, the number is down 55 percent; and student pilot training is down 61 percent. There are no two-seat training aircraft being made in the United States.

Madam President, if 30 years ago we had said there are no two-seat training aircraft manufactured in the United States of America, they would have said you are crazy. And, of course, piston airline exports naturally are down 93 percent. Those that are concerned about the trade deficit we have with foreign countries should be interested in the fact that our piston airline exports is down 93 percent and the market has been taken over by foreign manufacturers.

I believe we have that chart.

In 1980, there were 29 U.S. piston airplane manufacturers, 15 foreign. Today, there is 29 foreign and 9 United States.

Airplane shipments are down 95 percent since 1978. This not only translates into hundreds of millions of dollars but thousands and thousands of jobs. And this is part of the reason of how you come up with a loss of 100,000 jobs in this industry.

I believe, Madam President, this amendment will restore some justice and it will restore jobs. I also would note that the dire consequences of this once healthy industry has other serious consequences and that is if we do not provide new training aircraft for our future pilots, what happens to our air transportation system?

There is no doubt in my mind, Madam President, that the commercial aviation will continue to grow and expand despite the difficulties and problems we see in the short term. We are in a global economy. The way that we will see goods and people transported from one place to another will be primarily through aviation. Sometime in the next century, an aircraft will take off at Tokyo Airport and 2½ hours later land in Los Angeles, Phoenix or even Washington, DC. Aircraft manufacturers are working on this very aircraft as we speak.

The president of Cessna has said the company would resume production of piston-powered aircraft and have manufacturing plants to immediately start production at a rate of 2,000 per year if this legislation is approved by Congress.

Madam President, there is one very powerful organization that opposes this legislation. We know who it is. It is the American Trial Lawyers Association.

I will never forget twice in hearings that we held in the Aviation Subcommittee when I asked the witness from the American Trial Lawyers Association if he would be willing to sit down and talk about how we could possibly reach a resolution of this issue, they refused to do so; one of the few times I have seen a witness before a congressional committee who has said they would not even talk about trying to do something together in order to alleviate this very serious situation.

Madam President, there are facts and there are anecdotes and I will probably indulge in both. Nearly half of the cases against the light aircraft manufacturers are brought by just 16 law firms that routinely employ the same 9 expert witnesses. These firms rake in huge dollars. Yet, I would note, only 14 cents out of every dollar goes to the accident victims or their families. It is a fact that only 14 cents out of every dollar goes to the accident victims or their families. Where does the settlement money go? I think we all know.

I am told that of one such attorney who recently won a plane crash judgment as high as $107.3 million.

I think all individuals in America ought to be compensated for damages caused by the wrongdoing of others and that is our system. But, sadly, the system is not about justice anymore. I do not believe it is justice when we are depriving people of work, depriving our economy of much-need revenue, and preventing people from receiving fair and honest adjudication of the results of an unnecessary or unpleasant accident.

The general aviation industry is caught in the crossfire between the business community and the trial lawyers. If we pass this legislation, which is endorsed by the President's airline commission, we will create a lot of jobs and we will enhance competitiveness. But if we allow the gridlock to continue, we will see the demise of the general aviation industry in the United States.

Madam President, several years ago before the Aviation Subcommittee, of which I am a member, of the Commerce Committee, Mr. Frank Borman testified, a man who is respected and revered by many of us. He is a former astronaut, former president of then Eastern Airlines, and a man admired by all us.

At the end of the hearing, Mr. Borman said, "I would like to make a

few comments about an issue that is not related to this hearing." Of course we were always pleased to hear from Mr. Borman. He stated when he was a young man growing up in New Mexico, the way he had learned to fly was to go out to the local airport and bum rides, and through the generosity of others he had become trained as a pilot. He later entered the military and of course went on to fame as an astronaut.

He said the present generation of Americans have been deprived of that. The present generation of Americans are unable to take advantage of the opportunity to learn to fly because the costs are so high. They are prohibitively high for anyone but the richest in our society, generally speaking. He believed, and stated this as forthrightly as he could, that we have an obligation to provide this generation and future generations of Americans that opportunity to become aviators, pilots, both men and women, so they can have the same opportunities that he and, indeed, many of us—some of us in this body—also had.

I again thank Senator KASSEBAUM for her efforts on behalf of this legislation. I hope we will get a vote on it. I hope we will then move forward with this much-needed legislation. All the other aspects of product liability reform have been taken from this bill. There are some of us who would like to see a lot of other issues raised in order to enhance the competitiveness of the aircraft industry in America. But, frankly, we think this is so simple and so straightforward and so supported by business, labor, the airline commission, everybody, literally, who has been associated directly with general aviation in America with the exception of the American Trial Lawyers Association. I can only echo the words of the President's commission when they said: "It is right, and the time is now."

Madam President, I yield the floor.

Mrs. KASSEBAUM. Madam President, if I may just respond for a few moments, I would like to express appreciation for the comments of Senator HATCH, Senator GORTON, and particularly the Senator from Arizona, Senator MCCAIN, who himself is a pilot. He has spoken over the years on this issue with great dedication and has strongly held views about what would be best for the general aviation industry.

I think we speak more out of sorrow, to a certain extent, than anger—and frustration that we have not been able to get this issue to the floor for a vote. We have modified this over the years in such a way we feel it really is a piece of legislation that now has been honed to its most important point and one that, as I said earlier, speaks in very simple terms to something that will significantly revitalize the general aviation industry. It is an industry that is modified each step of the way with certification requirements by the Federal Government. For these reasons we feel this lends itself particularly to being addressed for general aviation product liability.

Mr. BURNS. Madam President, I rise today to voice my support for what I believe is one of the most important issues facing the general aviation industry in the United States today.

Over the past two decades, we have endured warning after dire warning that some American industry or another was about to be slaughtered by foreign competition. However, one industry, the general aviation industry, was not destroyed by foreign competition. Americans did this to Americans, using the power of the judicial system.

For most of this century, U.S. manufacturers dominated the world in small aircraft production. However, in the last decades, American's producers have all been ravaged by product liability law suits. Current product liability laws hold manufacturers liable for planes built years, even decades ago, and these laws pose bigger problems for American plane manufacturers than their foreign competition by driving up the price of American-made aircraft at an astronomical rate.

Even though the industry's safety record has improved steadily for four decades, and even though aircraft must meet the certification standards of the Federal Aviation Administration, product liability costs for airplane builders have soared in recent years—jumping from $24 million in 1977 to $210 million in less than a decade.

I commend my colleague Senator KASSEBAUM for recognizing the need to revitalize the all-but-dead general aviation industry in the United States, and I fully support her legislation to amend the Federal Aviation Act of 1958 to impose a 15-year statute of repose to block product liability suits in cases involving most existing general aviation aircraft. Such suits would be prohibited if an accident occurred more than 15 years after the aircraft was manufactured.

This is an important issue to our small pilots in Montana. If we cannot get the right small aircraft manufactured to meet our needs in Montana, then we cannot function in the vast distances of our State. If the general aviation industry suffers, small business suffers, agriculture suffers, and transportation suffers.

I think it is wrong for U.S. airplane manufacturers to be held responsible, indefinitely, for products that are operated, repaired, serviced, and modified by others. The 15-year statute of repose would limit the manufacturer's liability to a reasonable time frame, reduce the cost of new planes, and create thousands of jobs.

The absence of reform in this area is just another glaring example of who is running the show in Washington: lawyers. They, and the frivolous lawsuits that have made them rich, are hurting people like you and me. I want changes in these laws that are good for small business, good for Montana farmers, good for those of us who have to travel across our State.

Mrs. KASSEBAUM. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER (Mrs. MURRAY). Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mrs. KASSEBAUM. I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Madam President, our colleagues have spoken with distinction but with tremendous folly. What we have here is yet another exercise in lawyer-bashing. But to claim that the injured party, or the deceased party, gets only 14 cents on the dollar of the average verdict is pure nonsense.

We had hearings on this matter. We had the benefit of an expert study by the National Insurance Underwriters—which is included in the report of the Commerce Committee on product liability. That report concluded that the trial lawyers, with their contingent contracts—under which they are not paid at all if they do not win the case—are paid an average of one-third of the verdict award. They are not like this Washington lawyer crowd that gets paid by the hour just for sitting around.

The same National Insurance Underwriters report found that of the overall verdicts and costs, defense attorneys received the greatest amount. So this caricature of trial lawyers as predatory ambulance-chasers is way off base.

Now, this Washington lawyer crowd is a different matter. I have worked with them. They get fees not for knowing the law, but for knowing the right people in this town. Consider the extravagant fees charged by Washington lawyers for representation in recent ethics cases. Some of our colleagues have been charged and later vindicated, but they also found themselves devastated financially—one owing $600,000; another one owing almost $1 million.

I have always told my staff that politics is entirely different from business. Public office is a public trust. The records here are open to the public. Anybody who has any inquiry, just tell them, "There are the files." All I want is a record of the documents they have copied—that is the agreement.

But to come up with the figure of 100,000 jobs is absurd. We will give the hearing record on this matter. The 14 cents—that is how they get into extremes and bring unsupported charges.

Specifically, Madam President, on this particular initiative, I feel like Red Buttons: "Strange things are happening." Why do I say this? Because this amendment is not germane and the distinguished Senator from Kansas

knows that. What we have is S. 4, a bill passed 2 years ago by unanimous consent without the objection of the Senator from Arizona, without the objection of the Senator from Kansas, without the objection of the Senator from Utah or the others. The bill was sent over to the House side and we worked out the differences. Then we had it here in the Senate during the closing weeks in 1992. But for certain partisan political reasons we never could get it to a vote. There was never any objection. We heard there was a hold.

I went around like a rat in a maze; running all over on the other side of the aisle, with each Senator putting me off to another Senator. It was quite obvious they just were playing a game of delay. You could not find out any objection to the bill. The objection was, perhaps, to the author, who was in the midst of a reelection campaign. They didn't want me to get credit in an election year for passing the bill.

So, again we took up this bill. At that particular time in 1992 there was not any general aviation product liability even under discussion. In fact, going right on back to 1988 when we started, in the 1988 trade bill—I authored it and put in the amendment for the advanced technology program, for the manufacturing centers, for the outreach and extension services to facilitate the commercialization of our technology. That was an amendment on the 1988 trade bill.

At that particular time, all the way back 6 years ago, there was never any discussion about this important bill and its being germane and we have to solve product liability. If they do, the bill, as they have indicated, has been reported out. It is on the calendar. I know I got a missive from the Senator from Delaware, the distinguished chairman of Judiciary, because it does go to tort, to product liability, a tort subject, not necessarily confined to commerce, and rightfully belonging in the Judiciary Committee. It never should have been reported to us.

But in any event, it is on the calendar now and the Judiciary Committee is interested in it, as they were before. It had a reference to the Judiciary Committee, but never on this particular bill.

Then again this past year in May we passed this technology bill out of the Commerce Committee and there was no mention of product liability or general aviation or charts by my distinguished colleague from Arizona about 100,000 jobs. None of that at all. It was not on any of those bills because it is not germane. You might as well try to amend welfare reform to this bill. Under the reform, in 2 years you are kicked off welfare, you are going to get retrained or get a new job, so welfare reform creates jobs so we better get our Finance Committee friends on down to the floor here if they want to move adroitly this month on welfare reform, because it is a jobs bill, like they say this is a jobs bill. Therefore, with that strained interpretation of what is germane, they know differently.

And I say, strange things are happening because first out of the box was an objection that this bill is related to GATT and international trade. That objection had nothing to do with the technology development, nothing to do with the commercialization of our technology, nothing to do with the manufacturing centers, expertise being furnished small business, or any of those things; rather, it was a nongermane amendment related to GATT.

Now, I argued against fast track consideration of the GATT accord. In fact, I said wait a minute here. Let us start first with fast track. I said fast track I am opposing because I think, yes, in the end we could look at GATT. Given that the Congress of the United States is designated under article I, section 8 of the Constitution with responsibility to regulate foreign commerce or international trade, it was our responsibility and not the U.S. Trade Representative's and not the White House's and the executive branch's, and I did not like that arrogation to the executive branch of our responsibility. I still think it is unconstitutional when you sign off on a trade agreement and you cannot even amend.

But at that time my distinguished colleague here, also the leader on our committee, was arguing for fast track to bar any amendments on GATT. By the same token, don't try to make GATT amendments to this bill. If there are related amendments, germane amendments, fine business. Let us bring them. That is what we are here for. We do not have a perfect bill. I do not know of any bill that is perfect that has ever been presented in my years here. So let us get those.

The rule is open sesame, sooey pig, everybody who has an idea, come forward and we will look and see and debate it appropriately. But therein is the frustration in trying to get things done here. There seems to be a good government award for not getting anything accomplished. And here we have been working for 3 years on a bill and we are working with all the relevant committees, Commerce, Labor and Human Resources, Education, the National Science Foundation, the NTIA over in the White House, the White House staff itself, the Vice President's staff because he has been a leader in championing our information superhighway, working there with him, working with the Small Business Administration, working with the House colleagues, working with everybody around the clock, and here we have a unanimous bill and now we start the monkeyshines of let us go to international trade and the GATT treaty. I do not like the way we concluded GATT in December. I am not particularly prepared, and none of us are, to debate that, but we tried our best on yesterday. I do not know what will occur on that issue. But now we have come with general aviation product liability.

Now, general aviation product liability, like all product liability, is working extremely well. You have to get a feel for what is really going on and what is at issue.

When I say that, I go back to a time when I introduced, oh, 25, 30 years ago, Scott Carpenter, the astronaut, at the beginning of the space program. I will never forget his being asked, "Mr. Carpenter, how does it feel being blasted off in space? Can you tell us?" And he said, "Well, how would you feel being blasted off 17,000 miles an hour, 100 miles up into space, laying on your backside with 22,000 moving parts beneath you, all 22,000 made by the lowest bidder?"

Well, we saw at Christmastime the parts made by the lowest bidder. It was a refreshing series on NBC because it was Christmastime and they were buying toys for the kiddies, and they devoted three mornings in a row—and we will have to get that when we want to debate product liability—three mornings in a row to the various unsafe, poorly produced products—all of them market oriented, backed by investor venture capital and everything else like that trying to make a quick profit. Likewise with the automobile industry. I could mention verdicts ensuing from the auto industry's penchant for cutting corners in production here, there, and yonder.

But as a result of the people's representatives here in the national Congress instituting the Consumer Product Safety Commission, as a result now coming along under the common law practice of product liability, we find lives are being saved, not 14 cents on the dollar for the injured party in a plane crash and all the money going to lawyers and that kind of crazy talk.

But, rather, let us see what they have just put out for 1993, they being the National Transportation Safety Board.

I am sure we cannot reproduce a chart in the CONGRESSIONAL RECORD. I wish we could. But it shows here in this chart from the National Transportation Safety Board that the fatal accident rate dropped to 1.67 per 100,000 hours from 1.87 in 1992. So it is a general decrease there, with less than 500 fatalities. The chart's headline reads, "General aviation sees safety improvement in 1993."

Now, that is in relation, of course, to automobile accidents, highway accidents, all the other things going up, serious crime in America, all the other things show an increase. But what happens in general aviation is that product liability is working.

The companies, Madam President, are not going broke. The industry is doing extremely well, and I only refer to my conversations. Also, we will use Russ Meyer, the president of Cessna, as a witness because the distinguished Senator from Kansas and I have been working on this for 10 years. Revenues were up some 16 percent to $2.1 billion in 1993 as compared to 1992. Cessna has been bought out by Textron. I remember the time they said, oh, Cessna was going broke, the whole thing. Like one of the Senators just said a minute ago, literally, the industry has been destroyed. There is no industry. Yet you have Cessna being bought for $600 million. The buyers thought it was worthwhile, and their profits are up.

Their sales are up—Cessna is the most profitable segment, I am told, of Textron—these are only 1991 figures—are up $100 million profit.

Beech Aircraft, Raytheon bought it, and that is $106 million on $1.1 billion in sales; another 1991 figure.

Others are entering the field. We know it well. I have had Avtech, a producer of small planes, come to me looking for a location. We are working on that in South Carolina right now.

We have American General Aircraft Corp. beginning production, Mooney Aircraft is boosting its production.

So we know, with the economy reviving, that the general aviation business now is beginning, as other industries, to come back. For heaven's sake, do not say since IBM lost all its money and the stock is down and those kinds of things, that we ought to get out of the computer industry or that IBM is in any wise a bad company. It is an outstanding corporation. We can mention all these others. There have been particular changes with respect to all of industry in the recession that we have experienced.

But Piper, I want to read here what the Aircraft Owners and Pilots Association wrote: Piper filed for bankruptcy because "* * * there were many questionable business decisions." I quote: "Overzealous production schedules,"—overzealous production schedules—"expensive experimental projects, some bizarre * * *"—that is not my word. That is the word of the Aircraft Owners and Pilots Association—"* * * bizarre management practices * * *"—and it went on to report that the company had significant orders when it shut down, but the aircraft were priced below cost.

That same periodical comes out, the Aircraft Owners and Pilots Association, and says now Piper is once again back in the business. They expect to build 120 planes this year, and they expect to introduce a new plane this year.

So the picture really is one of 6 to 8 years ago in the middle of the 1980's. It is the same talk that we heard at that particular time, 6 or 8 years ago in the hearings before, and the markup before this particular bill.

I want to show what really happens if we cut it, because we had that particular measure before the Commerce Committee on September 19, 1991. We had that hearing. We just turned to the witness, and said, "Suppose product liability costs are cut in half and the liability is reduced from $200 million to $100 million." And we use those figures because the industry liability figure was in the hearing record. The cost would be affected only 5 percent, Madam President. Even if the entire savings were passed on, sales would not jump from 1,000 to 10,000 planes.

Evidently, they have used these anecdotal figures out of the air—purely out of the air—on really trying to prove their case, and they get them from these downtown lawyers; not trial lawyers. They have not tried anything except a new restaurant. They will take you to a new place to eat. I can tell you that right now. That is what they try. They do not try cases. They find nice, wonderful places to eat, and beautiful warm spots to repair to at this particular hour.

Let us see what Russ Meyer and the General Association of Manufacturers in their article here back some time a couple of years ago—I am trying to get the exact date for the record—

The American Owners and Pilots Association is closely studying a proposal by the General Aviation Manufacturers Association, and supported by the aircraft manufacturers that would require—

This is very important.

numerous inspections at currently undetermined points in the light aircraft.

Though few details of the proposed supplemental inspection documents have been released. The Aircraft Owners and Pilots Association President, John L. Baker, recently met with Cessna Chairman, Russell W. Meyer, Jr., and Beech Chairman, Max E. Bleck in Wichita—

That is in Kansas.

to assure them that the American Owners and Pilots Association is interested in keeping the aging general aviation fleet safe, but at the same time the association will carefully monitor the program and resist any unnecessary burden on the owners.

You see, I will refer rather from the article to the point made that the average age is 27 years. They produce a good, sound product, and the average age of these small general aviation planes is 27 years now. This article reports it 21 years, it is a couple of years old. But the updated article says 27 years. And they want to cut it back to 15 years.

So back at the factory, if we pass this, they say, "Look. We don't have to make this part sound. We did buy this cheaper part because it will wear out. But who cares?" And everything else of that kind, and you start cutting corners.

Then some Congress will come up 10 years from now and say, "Look how many lives are getting lost," rather than as reported by the National Transportation Safety Board that the safety is improving by the hour. It is one of the few items you might say of concern in our society that has a favorable trend.

Going back to the particular article, Baker said:

The problems facing aging airliners in no way equate to the situation with the vast majority of the general aviation fleet. We are anxious to see just what the SID's will encompass.

SID's, of course, being the supplemental inspection documents is what they are trying to go for.

A statement released by Bleck, who also is Chairman of the General Airline Manufacturers Association noted that the average age of the 220,000 aircraft in the general aviation fleet is 21 years.

One quarter of the fleet is more than 30 years old. According to Bleck, the light, single-engine aircraft were "overbuilt * * * and will not wear out in the lifetime of an owner—provided they are meticulously maintained and inspected."

Is that a problem? Maybe it is a problem of somebody making money, but it is not a problem for air travel safety. Heavens above, I hope that what we are here for is not, by gosh, to get a subsidy for the aircraft industry. They have all the subsidies you could possibly use coming out of the Pentagon, with billions spent to build up the finest industry in the world.

I have part of Lockheed in my backyard and am proud of it. I hope I can get some more. I went to the west coast as Governor 30 years ago. I can never forget the executives who showed me around in Sunnyvale. I got back to Charleston and I got another Lockheed facility up in Greenville, SC. We do not denigrate in any way McDonnell Douglas, or Boeing, or Lockheed, in the aircraft industry. But be that as it may, they say "overbuilt and will not wear out."

Bleck noted that any inspection program will not succeed "without the cooperation of the owners and operators and the FAA."

The General Aviation Manufacturer's Association is helping manufacturers develop supplemental inspection documents that will recommend increased inspection vigilance for older airplanes. "Supplemental inspection documents go well beyond the normal maintenance checklists and maintenance manuals provided by the manufacturers at the time of purchase. They are individualized by each company for a particular airplane," Bleck said. "By combining laboratory and field tests with detailed inspections * * * we are able to develop a specific set of inspections * * * and timetables for replacing specific parts," he continued. The Federal Aviation Administration will be considering the supplemental inspection documents for adoption through the air worthiness directive route.

Pressurized and commuter aircraft will require more thorough inspections because of the effects of pressurization and the number of takeoffs and landings they are subjected to. Of greater concern for light aircraft are the effects of weather and aging, according to Bleck.

Cessna Chairman Meyer, meanwhile, has said that his company has completed a set of supplemental inspection documents for the 200 series of single-engine aircraft. "We intend to develop supplemental inspection documents for all models of aircraft, including the 150 and 170 series," Meyer said in a speech before the Society of Automotive Engineers. "Supplemental inspection documents must be a mandatory part of every annual inspection." Cessna has not yet released the supplemental insurance documents.

Meyer characterized a typical general aviation accident as one that "involves an aircraft that is at least 20 years old, which is flown infrequently, is probably not hangared, receives minimal maintenance, contains antiquated equipment, and is flown by a low-time pilot.

Let me quote him again:

Meyer characterized a typical general aviation accident as one that "involves an aircraft that is at least 20 years old, which has flown infrequently, is probably not hangared, receives minimum maintenance, contains antiquated equipment, and is flown by a low time pilot."

If we pass a particular amendment, it is built to last 15 years. That is what they want the Congress of the United States to do on their own bill. We ought to be debating here in a separate bill. But if you go with the Kassebaum amendment, you are saying let us build the planes to last 15 years. Come, come, come. I do not know what chance the Congress is taking in this pell-mell rush to please the lawyers downtown here.

Let me go back to the article. This is a key point if they want to save money on product liability costs and hire thousands of jobs. This is a quote:

With tougher airworthiness requirements, implemented aggressively by the FAA, and with type-specific flight standards, I believe it is realistic to reduce the level of accidents by at least 50 percent.

That reduction in accidents would reduce product liability costs by at least 50 percent.

Meyer said, "a point at which production of new single-engine aircraft once again becomes economically feasible."

If you want to reduce the product liability costs, I use Russ Meyer as my witness. I like the gentleman because I think he talks sense. I have had him, incidentally; we met together. He would go along with a 20-year statute of repose. I talked to him at length. I can quote the gentleman. They got it down to 15 years. If you had to wait downtown with these Washington lawyers, they would have a 5-year or 6-year statute, like the regular statute of limitations. You would take this Senator and he would get out of general aviation and any kind of flight of that kind, because we are comforted in knowing if you can check out the pilot and maintenance, you do not have to worry about the equipment, because it is built to last—to use their words, "perhaps overbuilt." I am delighted that it is overbuilt. I will quote Russ Meyer again, and I ask unanimous consent that this article be printed in the RECORD.

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

G.A. MANUFACTURERS PROPOSE NEW INSPECTIONS—OWNERS SHOULD NOT BE UNNECESSARILY BURDENED, SAYS AOPA'S BAKER

(By Thomas B. Haines and Marc E. Cook)

AOPA is closely studying a proposal by the General Aviation Manufacturers Association (GAMA) and supported by aircraft manufacturers that would require numerous inspections at currently undetermined points in the life of aircraft.

Though few details of the proposed Supplemental Inspection Documents (SIDs) have been released, AOPA President John L. Baker recently met with Cessna Chairman Russell W. Meyer Jr. and Beach Chairman Max E. Bleck in Wichita to assure them that AOPA is interested in keeping the aging general aviation fleet safe, but, at the same time, the association will carefully monitor the program and resist any unnecessary burden on owners.

"The problems facing aging airliners in no way equate to the situation with the vast majority of the general aviation fleet," Baker said. "We are anxious to see just what the SIDs will encompass."

A statement released by Bleck, who also is chairman of GAMA, noted that the average age of the 220,000 aircraft in the general aviation fleet is 21 years. One quarter of the fleet is more than 30 years old. According to Bleck, the light single-engine aircraft were "overbuilt . . . [and] will not wear out in the lifetime of an owner—provided they are meticulously maintained and inspected." Bleck noted that any inspection program will not succeed "without the cooperation of the owners and operators and the FAA."

GAMA is helping manufacturers develop SIDs that will recommend increased inspection vigilance for older airplanes. "SIDs go well beyond the normal maintenance check lists and maintenance manuals provided by the manufacturers at the time of purchase. They are individualized by each company for a particular airplane," Bleck said. "By combining laboratory and field tests with detailed inspections . . . we are able to develop a specific set of inspections . . . and timetables for replacing specific parts," he continued. "The FAA will be considering the SIDs for adoption through the airworthiness directive routes."

Pressurized and commuter aircraft will require more thorough inspections because of the effects of pressurization and the number of takeoffs and landings they are subjected to. Of greater concern for light aircraft are the effects of weather and aging, according to Bleck.

Cessna Chairman Meyer, meanwhile, has said that his company has completed a set of SIDs for the 200 series of single-engine aircraft. "We intend to develop SIDs for all models of aircraft, including the 150 and 170 series," Meyer said in a speech before the Society of Automotive Engineers. "SIDs must be a mandatory part of every annual inspection." Cessna has not yet released the SIDs.

Meyer characterized a typical general aviation accident as one that "involves an aircraft that is at least 20 years old, which is flown infrequently, is probably not hangered, receives minimal maintenance, contains antiquated equipment, and is flown by a low-time pilot.

"With tougher airworthiness requirements, implemented aggressively by the FAA, and with type-specific flight standards, I believe it is realistic to reduce the level of accidents by at least 50 percent." That reduction in accidents would reduce product liability costs by at least 50 percent, Meyer said, "a point at which production of new single-engine aircraft once again becomes economically feasible."

Baker disagreed and challenged Meyer to support the statement with facts. Weather, not airframe or engine problems, contributes to more than 50 percent of accidents, and better pilot education and weather dissemination are the keys to reducing those accidents, Baker said. Further, he noted that the "concept of a 20-year-old airplane is a myth. As a result of annual inspections, 100-hour inspections, routine maintenance, service bulletins, and airworthiness directives, 20-year-old airplanes are actually a collection of parts which range in age from weeks to a few years, and frequently the only 20-year-old part is the overbuilt main spar."

Mr. HOLLINGS. Quoting Russ Meyer again: "With tougher airworthiness requirements"—that is not product liability—"implemented aggressively by the FAA, and with type-specific flight standards,"—that is not product liability —"I believe it is realistic to reduce the level of accidents by at least 50 percent." That is at least 50 percent, the gentleman says. "That reduction in accidents would reduce product liability costs by at least 50 percent," Meyer said, "a point at which production of new single-engine aircraft once again becomes economically feasible."

I am to understand that some of that is going on now. That is the reason the small engine or small plane production is strong and healthy in America. That is why it has come back. We have tried our best—you have to comment on this, and I am going to have to yield to our distinguished colleagues in the Judiciary Committee because they are more familiar with this problem than I. It goes to a tort problem and not to a technology problem.

S. 4 is a technology bill. It is not the GATT international trade treaty, not the general aviation product liability bill, which is on the calendar to be referred to the Judiciary Committee, or whatever differences they have to work it out or something, and let us vote on it up or down and debate it. One of the things—this goes to health care—is to find out the cost, Madam President, of the insurance and the payout. I organized an insurance company called General Guaranty and Insurance Trust—we call it GGIT. It was a wonderful little company that had the override on S&L contracts, savings and loan contracts.

It was a reinsurer, and I had to S. 1 that company, so I do not speak casually. I had to come up before the Securities and Exchange Commission, and Manny Cohen was the Chairman of the Securities and Exchange Commission back at that particular time, and we S. 1'd that corporation within 13 days. He told me it was a national record.

The reason we could do it was we did not have any water in there for the lawyers or water in the stock or fees for the lawyers.

I got together with some friends on the street down in my own hometown, and I could do the work and did not mind doing it and getting it organized. When they went through to find where the water was or the exorbitant fees or tricky language, there was none because you can make a profit in insurance. It is guaranteed.

Where they have lost, they got all bullish like you find right now these bail companies. They have so much money they are all running around trying to buy movie houses and everything else of that kind. They do not know what to do with their money. They are off in New Zealand, down in Buenos Aires, down in Mexico. They organized and made their profits on common carrier universal service. But that is not enough for them, and now they have to invest hither, tither and yon, and they had a problem.

But I know from insurance companies that you look at the actuary tables and you pull out your profits and the actuary tables will tell you when they are all going to die or the actuary tables will tell you when they all are going to pay and what the schedule is with respect to that and if there is any kind of fluctuation and our actuaries watch these things that affect the premiums, bam, you increase the premium. They cannot say anything about it. We all do it.

Insurance companies are organized and all you have to do is take care of the State insurance commissioner, and they are not the most astute group. I think mine is in South Carolina. I am sure yours is in the State of Washington.

But we found out when I came in as a Governor of the State that in order to really sell insurance you had to file certain securities. We went over and opened up a closet door and there were $332 million in securities filed that were thrown on the floor and the coupons had never been clipped or anything else of that kind. I had to clean out the commissioner and everything else in that, and they said I was worse but never worse than the State of Texas.

I say that advisedly, if they want to argue that point, and I am not trying to demean Texas. It is a wonderful State. Some of my best friends—in fact, the best friend that stood at my first wedding lives there right now. So Texas is wonderful.

But they were just like they operated S&L's. We lost the $500 billion, $250 billion in one State.

Yet they are running around on the Senate floor about how we should handle things, and we have the little Joe Six-Pack fellow.

But, in any event, if you take care of that little commissioner as they were doing at that particular time, they cannot hire the super-duper actuaries and watch the trends and all to the other things of that kind. They did, by the way, as members of legislature give us a tie for Christmas. I never forgot that. The commissioner did that. It was a nice thing.

The point is that the States do not have the capability to regulate insurance, period. But I say in the same breath the Congress of the United States does not have the ability to regulate insurance because we have tried. We have tried.

I can see the Rockefeller amendment. I suppose that the distinguished Senator from West Virginia will be coming forward because we kept bringing in the big insurance companies relative to product liability and say: Wait a minute. Now you tell us what your costs are, what the payout is, and everything, because we heard these wild figures being given by the trial lawyers who get lawsuits going. The injured party gets 14 cents and the trial lawyers are running away with all the money and everything else of that kind. We have yet to find the facts. We have asked them time and again.

Some of the documents that have been given to us are most totally worthless and would not give us the picture or anything else.

What we find, Madam President, is that what we really are going to do, and perhaps it will happen maybe in my day. I resisted it because I am a States' rights fellow and have been in charge of that primary responsibility within the committee. But maybe we have not been meeting up to our responsibility.

There was a bill put by the distinguished colleague here from Ohio to federalize parts of insurance. There were two bills over on the House side when they brought this forward to finally federalize interstate commerce. We are the Congress. Nothing is more in interstate commerce than the insurance industry.

Of course, that is the plea and argument that we can save 20 percent of the costs on health insurance by getting rid of 1,500 forms from 100 and some companies, and give you one form for all the companies to use and get rid of all that administrative bureaucracy going to all these different State insurance commissioners. We can do it with legislating reform. We can do it with product liability. We can do it with anything.

If you really want to get at it and know what we are legislating for federalizing insurance—and perhaps that is where it belongs because we do not know what we are talking about. No Senator does. I say that in a most respectful fashion because we have tried again and again, and we have asked in one product liability with the Rockefeller amendment that they file certain records or at least we have the Commerce Department trying to get them, but we have not been able to do that.

I could go on at length. I know that the so-called runaway verdicts they talk about are not the case at all. They never talk about business.

I never forgot it was Pennzoil that sued Texaco and got a $12 billion verdict down in Texas. Twelve billion dollars is more than all the product liability verdicts since the history of product liability since the history of man, add it all up. That was one business verdict. Time and again we see these folks suing each other and everything else.

That is where the lawyers come in and they got all the depositions and interrogatories in computers now and they get paid for not settling, not terminating a case.

The poor trial lawyers are the ones in there fighting, and they know they have to win that case or there is nothing. It is a contingency basis. There are IOU things or anything else. You are on your own and assuming all of those things.

It was a good thing for society because when we get to product liability we go down a group of cases because I represented the power company and I represented corporations and organized them. I have done it. When you go in a small town like my hometown of Charleston, SC, you practice general law. I know about crime, because I represented the murder. I never heard of this three strikes and you are out fever that you have. I told my client: Look, you better level with me and let us see what the truth is because if you lose, you are going to the electric chair.

We do not tell them back in South Carolina you got two more murders now under the Federal policy and the policy in the State of Washington I understand and the policy in the State of California. They think they are accomplishing something. You have to put fear in the body politic. There is no fear. There is no cost. Crime pays, and we will debate that sometime. Crime pays in America. That is the problem. I will be glad to debate that.

But when it comes to product liability and these casual figures thrown around, the truth of the matter is that the recent case I have just on Lexis basis tried to find out and there is one over in Pennsylvania here just the end of the year. This was a $107 million verdict, Continental Teledyne. There was a faulty engine in that particular aircraft. The presiding judge reduced that to $1.7 million.

That is exactly what will happen in the State of South Carolina.

I have been in the business of attracting industry. These talks about jobs and creating industry that has never been in the game. As Governor, I put in technical training. We got the AAA credit rating.

We got a little plane. In fact, it was from Mrs. Beech of Beechcraft. I bought her used plane for $25,000, and the reason I could get it she told me "Do not worry about this plane, Governor. It will fly you anywhere just like a brand new plane."

I said, "Thank you, ma'am."

She was here a couple years ago. She was a wonderful friend out in Kansas. She sold me that plane. It was a twin-engine Beech Bonanza. We would fly up to New York. It took us at that time with winds and everything with a light plane 4 hours or 4 hours and 45 minutes.

Now all my Governor friends have jets. I am envious of them because if I even ride in one I am considered not ethical, or something.

But I worked with corporations. They are close to me, and I am close to them. And in all the attraction of industry, and we have the blue chips, we have duPonts. I have five Westinghouse plants. I brought in four General Electric plants. We have the most productive General Electric plant in the entire system. It is making magnetic resonance images, MRI's, in Florence, SC, and the majority of production is shipped to Tokyo. So this crowd that bashes Japan—we are doing business with Japan because that is the most productive.

I could go right on down with the duPonts and all the other perfect circle, Timkin roller bearings. I can go with all the great names of American industry.

But I want to emphasize I have 47 Japanese industries and over 100 German industries, and I met with the head of BMW because that is another trade argument, incidentally, from this crowd that is talking now about a new philosophy about the old philosophy of comparative advantage.

David Ricardo, back in England in the earliest of days, said "Use your comparative advantage."

I went to the Renaissance Weekend, where they bring together, supposedly, the best minds of America, down at Hilton Head at the first of the year here only a couple months ago. I was astounded, Madam President, to hear two former members of the Economic Security Council talk in terms of the comparative advantage and we ought to make the things we can make best, talking totally of the manufacturing process and not the Government.

And I asked, I said, "How in the world do you think we got BMW? We have never produced an automobile in the State of South Carolina. How in the world do you think Alabama got Mercedes? They have never produced an automobile in the State of Alabama."

Under that particular rationale, you would have the automobile companies coming in from Europe, as they are, and they would be located in Detroit. They do not understand the Government and the participation thereof and the training that we provide and these various other things of that kind.

So we have never had, is my point, a meeting with the head of BMW, meeting with any corporate head. They say they all endorse, they will endorse, they all want to make profits, make more money. I have never had any of them say, "Wait a minute. What about product liability?"

In fact, in the product liability debate, they will use the European system. Until now, under the European Economic Community, they are adopting our system of strict liability. And we will get into that particular debate.

But product liability is not the productivity hurdle that they talk about in this land or the job creator that they talk about. It protects the American public. They like our product liability. Just like in Pennsylvania, we do not have these runaway juries or anything like that.

(Mr. BREAUX assumed the Chair.)

Mr. HOLLINGS. And as a result, they say no organizations, Mr. President, endorse it.

Well, I see other Members are ready here. My distinguished colleagues from Alabama and New York want to address this particular subject.

We have here the Consumer Federation of America is against this measure. They do not make a profit one way or the other. They are interested in the safety of the traveling public, you and me. Public Citizen, Citizen Action, and right on down the list.

So if you want to know who endorses this, the impartial groups who are interested only in individuals and individual traveling safety, they are the ones that say we oppose this particular measure. It is a tried and true measure, product liability, in America today. Admittedly, it does not work too well in some States.

And, in fact, in my solicitation as Governor and now as Senator, I said, "Well, you want to move that industry from State X because you know right now I can tell you, with product liability and all the other problems they have, you want to come down to my State of South Carolina, because we do not have problems like that."

Ask any Republican judge. And I can name names, as Martha Mitchell used to say. I have asked them all to a man, and that is most of them, because I only got, after 14 years, a chance to recommend a judge last week. So all of them are Republicans.

I said, "What about product liability. I hear all of this up in Washington." They said, "Oh, that is just the Washington crowd. They are paid to get that. If they can make money out of this, they will make money out of it."

But when if comes down to actual product liability, whether it is general aircraft or otherwise, it is working well. It produces safety. It is a very valid procedure and it is something in the interest of the general safety of the general public itself.

So with that in mind, Mr. President, I yield the floor.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama [Mr. HEFLIN] is recognized.

Mr. HEFLIN. Mr. President, I ask unanimous consent that, regardless of how many different speeches I may make on this amendment or bill, they be considered only as one speech.

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

Mr. HEFLIN. Mr. President, this amendment which follows the language of S. 1458 that was introduced, is a completely new bill on the issue of general aviation revitalization or product liability or whatever name it might be given.

This bill, as it is now framed, has never been referred to the Judiciary Committee. The Judiciary Committee has never held a hearing on the contents that are contained in this bill.

It is obviously a legal matter. This bill has one provision and that is, it creates a statute of repose. A statute of repose is a legal and judicial term. It does not deal with safety, where the Commerce Committee normally gets bills that are referred. This is strictly a judicial issue, a 15-year statute of repose. That is all that is in the bill as to what it might do or what effect it might have.

What is a statute of repose?

A statute of repose differs from a statute of limitations. A statute of repose says that, regardless of circumstances, regardless of whether a plaintiff is a minor where, in many States, there is a right for the minor to wait until he reaches an age of majority before he can bring suit, a statute of repose says you cannot, under any circumstances, bring a lawsuit or a claim for compensation regardless of how egregious may be the circumstances. It cuts off a cause of action where there is intentional fault. It says that under no circumstances can you bring a lawsuit.

The Judiciary Committee, in my judgment, ought to consider this and have an opportunity to review it. It ought to have been entitled, in my opinion, in the first instance to have it brought before the Judiciary Committee. But it was not. It should, however, be entitled to a sequential referral in order that the Judiciary Committee can hold hearings and do some of the things Senator HOLLINGS talked about that ought to have been done, and the Judiciary Committee ought to go into this in somewhat detail.

In the past, there have been general aviation bills that contained a great number of other provisions. But this

bill contains only a statute of repose. Under no circumstances can you bring a lawsuit after 15 years. There was testimony in the Commerce Committee that 80 percent of all of the planes flying today that would fall under this category are 15 years or older. The average age, according to the Commerce Committee's report, in one place it says it is 27 years and in another place 26 years, or something like that, in regard to the average age of the general aviation plane that is flying today.

What is a general aviation plane? Under the definition, it is a plane that was built and designed, when it was manufactured, to hold less than 20 passengers. That means it is a plane—in fact, it cannot be more than 19 passengers. But it does not affect those that have more than a 19-person capacity. It does not affect the aviation planes that we know today that are jets that are flying around. For example, if a small plane is hit by a jet and it is the fault of the small plane, then the passengers on the large aircraft that he injured or killed can recover. But the people on the small plane cannot recover.

I think the Judiciary Committee needs to look at this.

We are hearing a lot about the need, because the general aviation industry is in bad shape and they need a shot in the arm to produce more planes and to have a healthier economy. I have before me the "Annual Industry Review: 1993 Outlook & Agenda." Presented by Edward W. Stimpson, President, General Aviation Manufacturers Association. Let me read the opening lines.

As an industry that has been challenged in recent years we believe we have a reason for optimism. Today's manufacturers have learned to be profitable in spite of lean times. We have improved our product lines by focusing on stronger markets. We have expanded export marketing. We have successfully marketed our products to the military. We have expanded and improved our services for the 200,000 aircraft already in the U.S. fleet. Within the next 5 years, airframe manufacturers will spend more than $1 billion on R&D [research and development]. As the U.S. economy recovers, general aviation manufacturers are well positioned for growth.

In that speech, the President of the General Aviation Manufacturers Association also says:

In 1992, despite a sluggish economy and poor business confidence, the general aviation industry managed to hold its own. Forecasts of an improving U.S. economy, increased capital spending, better U.S. corporate profits bodes well for our industry. These economic factors, combined with continuing exports, high customer interest and an aging aircraft fleet, leads us to conclude that 1993 will be a better year.

I have here in Aviation Week and Space Technology, dated March 15, 1993, by Michael A. Dornheim, entitled "Stable Growth Ahead for Business Aircraft," in which he says, "All business aircraft manufacturers agree that a healthy economy is a key to an improved market."

In this article of March 15, he states:

"Beech predicts a 35 to 45 percent increase in the dollar volume of its sales over the next 5 years and had record dollar sales in 1992," C. Douglas Mayhein, Marketing Vice President of Beech Aircraft, is quoted as saying.

I will have more to say about some of this as we go along because I know we have a caucus coming up; I only have limited time, and I will stop very shortly.

But this has also another aspect. Military aircraft, helicopters, fixed wings—our generals are usually flying in what I would believe you would call a C–20 aircraft, which is a jet airplane. You know, I stop and I think there were significant factors in regards to how we have won wars.

I do not think there is any question that two events in the Pacific saved millions of lives and brought victory to the United States. Those two significant events were the decision by Harry Truman to use the atomic bomb—but before that, when we only had one aircraft carrier in the Pacific, the deciding factor, in my judgment, was the breaking of the Japanese code by which we were able to decipher transmissions, and the plane of the commander in chief of the Japanese forces in the Pacific was shot down, as a result of this code-breaking technology.

I do not know whether many military aircraft hold more than 20 or not, but I do know that the military security of the United States can be affected by the adoption of this amendment. The fact that you are in a situation where you only have to worry about 15 years, and knowing after that that you cannot be brought to the bar of justice, can affect the decisions that go into matters pertaining to the selection of metal, the matter pertaining to the strength of metal because many aircraft crashes have occurred because of metal stress. If you lower the bars of research and the bars of to what you have to build as to the future and the reason for you to comply with that, it means, in my judgment, you will have a less safe product and you will have a potential danger that can apply to the military leaders of this country as they fly around in airplanes that contain less than 20 passengers.

Now, what is the cost to the United States as a result of this bill as it would apply to the military? I do not know. I did not know this amendment was coming up, and I had not had the chance to research this particular aspect, but I just wonder how many helicopters are in the armed services fleet. I do not believe I have ever been on a helicopter where there were 20 passengers or 19 passengers. It may be that there are some that can carry that many. But the vast majority of helicopters hold far less than 19 passengers.

Maybe this bill ought to be referred to the Committee on Armed Services. But certainly it ought to be sent to the Judiciary Committee for its consideration of what happens and what effects it will have pertaining to the future safety standards.

There is a movement in my State already in which we have two cities where the Federal Aviation Administration is considering taking away their status as an essential air service, which means, therefore, they cannot receive subsidies under the aviation deregulation bill and that essential service will not be allowed. The Federal Aviation Administration say they are having to do this because of decreased appropriations to the Federal Aviation Administration and their various aspects.

If that occurs, then it means more and more people, if they are going to use airplanes, are going to have to fly in small chartered planes from various communities where essential air service has been previously provided.

This raises the issue of safety, and it raises the issue of what happens in regard to plane crashes.

If the testimony before the Commerce Committee was correct that 80 percent of the planes today are 15 years or older—and I assume that is correct—you are going to have a situation arise in which many, many people will be put at risk. Just stop and think about this. There are some people who carry, when they have to for some reason, a baby 18 months, or 2 years old in their lap. They may know or they may not know about this statute of repose. Maybe they made the decision knowingly to take the risk, but the child should not be caused to suffer as a result of a bad decision.

In my judgment, if this bill passes, when a person gets on a plane, he or she is not going to know how old the plane is. They expect, when they go to an air taxi service, rent a plane, or when they are getting on a plane, there are going to be safety requirements and that the engine has been built to last; and that the assemblies which involve various things such as raising and lowering wheels or other aspects of subassemblies and others have met safety requirements. They are not going to know—and the vast majority of American people will not know—of this law containing a statute of repose and therefore they cannot make a fully informed decision relative to this matter.

Now, I am going to speak further on this issue. I expect we will have a rather extended debate on it. But to me this amendment is a real mistake. At least it ought to be referred to Judiciary since it is clearly a Judiciary matter. I think it ought to be sequentially referred to, let us look at it, and I am willing to limit the referral to a very brief period of time, 30 days or what-

ever it might be, some reasonable period of time. I think we ought to have a hearing in order that we might know more about the legal consequences pertaining to such an amendment.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President I would like to respond just for a couple of moments to the distinguished Senator from Alabama. I am not a lawyer, and it is with some trepidation that I rise to respond to a Senator who is not only a distinguished lawyer but a jurist, who has served with great distinction in that capacity in the State of Alabama, and as chairman of the Judiciary Committee, of course, has been a part of the hearings that the Judiciary Committee has twice had on general aviation, pilot liability language.

But I would just like to respond, even though I am not a lawyer, to a couple of the egregious errors and perhaps to correct some misunderstanding.

First, as an example that was given by the Senator from Alabama, he mentioned the small plane that would crash into a jet, and it would be the small plane's fault; but they could not sue under this legislation. That is just not true, Mr. President. If it was the pilot's fault, if there were other errors of judgment, they certainly could be sued. The only thing here that is required in this legislation is the manufacturer not being sued when it has nothing to do with the accident. Far too often, as we all know, they are viewed as deep pockets.

This is only saying that a manufacturer cannot be sued when there has been a piston-powered aviation accident if the particular part that is at fault is 15 years or less; they cannot be sued if it is 15 years or less. That is why there has to be some limitation. This in no way applies to a small plane, that it would be at fault crashing into another plane.

Second, the statute repose language has been addressed by the Judiciary Committee. At the time that it was last before the Judiciary Committee in 1990, it also included joint and several liability; it also included Federal preemption of other State liability laws. These are all things that were of great concern to many who viewed the language at that time.

Mr. HEFLIN. If the Senator will yield?

Mrs. KASSEBAUM. I am happy to.

Mr. HEFLIN. I noticed the Senator from Kansas mentioned piston-operated airplanes. I do not discover that in the bill that came out of the committee. Does the amendment of the Senator from Kansas limit it to the pistons?

Mrs. KASSEBAUM. Yes; it is.

Mr. HEFLIN. Is this the same bill that was introduced——

Mrs. KASSEBAUM. Mr. President, I would like to respond. I am sorry; I am incorrect. It is not just limited to piston powered. But I would suggest that this is what general aviation is. When the Senator from South Carolina, as well as the Senator from Alabama, mentioned the success of the general aviation industry, it has been the jet-powered planes, the top-of-the-line executive planes that have been so successful. There is no piston-powered production today, to speak of. That is what really we are addressing.

ORDER OF PROCEDURE

The PRESIDING OFFICER. The Chair notes that the hour of 12:30 having arrived, under the previous order, the Senate is scheduled to recess.

Mr. HEFLIN. Mr. President, I ask unanimous consent to have a couple more questions, and I ask unanimous consent that we be able to continue for 3 or 4 more minutes.

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

Mr. HEFLIN. Mr. President, if what the Senator said in regard to the analogy—I use it relative to a jet plane carrying more than 20 passengers, complying. I thought I made it clear. But if I did not make it clear, it would be where the fault was due to the manufacturer in regard to the large plane, and also it is the small planes. The causation would be because it was manufacturers' defects on both planes, the small plane or the large plane; therefore, you have a different situation.

I realize that you have the right, relative to pilots and other causes of actions, that you could sue. If I did not make it clear, I want to make it clear. The Senator from Kansas is correct on that.

Mrs. KASSEBAUM. Mr. President, I would like to make one other point that was raised principally by the chairman of the Commerce Committee, that this has been on the calendar. Indeed, it has been on the calendar. Unfortunately, it has not been able to be called up without objection.

So we have tried various avenues. As the Senator from Alabama has said, we will be back to revisit aspects of this at a later time.

Thank you, Mr. President. I thank the Senator from Alabama.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

ORDER OF PROCEDURE

Mr. KERRY. Mr. President, I ask unanimous consent that the time be extended prior to recess for such time as I may speak on the floor.

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

The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, when we voted on NAFTA last November, we made a promise to the American worker.

Whether we voted for NAFTA or against it, virtually everyone of us pledged our concern about the plight of the American worker.

Well NAFTA has now been enacted and its short-term goals are being implemented. The pressures of competition continue to be felt. The interest in the American worker really seems to have ebbed and waned in the public discourse perhaps because the economy has improved. Perhaps because some felt that NAFTA resolved all the problems the debate addressed.

Mr. President, I think it is time to make good on our promise. It is really time to ensure that the American worker, buffeted by the winds of international competition, is given the tools he/she needs to compete.

I think we have to resurrect the urgency that surrounded the NAFTA debate. And we should begin by passing the National Competitiveness Act.

This bill is part of a strategy to create high wage jobs. It will help our Nation to follow the lead of certain companies in my home State of Massachusetts, who have proudly made technology work for them and for their workers. Through aggressive research and development, advanced manufacturing technology, and continuous worker training and input, they have maintained and often increased manufacturing jobs in Massachusetts, a State where many said manufacturing would soon be dead and buried. These include the Bose Corp., a major player in the Japanese hi-fi and automotive parts market; and Modicon Corp., which brought jobs back from Asia when it radically upgraded its technology and workplace organization. In my State, you simply cannot create new manufacturing jobs with a low-skill, low-wage strategy. You must go the high-tech, high-skill route, and you must export.

I believe we must follow the Massachusetts model—more companies should emulate Bose and Modicon.

Mr. President, just how do we accomplish this?

Well, it isn't easy and it isn't simple. We need to funnel more money into our education budget. We must quickly enact Secretary Reich's Comprehensive Worker Adjustment Program, so that displaced workers can find out where jobs are, what kinds of skills they require, and how they can obtain them.

Through these steps, we can help ensure that our workers are the most technically adept in the world.

But this is not enough, Mr. President. A well-trained work force without jobs is no better than a poorly trained work force without jobs.

So we must, right now, through S. 4 make available support for the Department of Commerce's technology development and diffusion programs. By im-

proving U.S. companies' ability to use technology we can ensure that there are high-value added jobs to employ our workers at world-class wages.

The bill before us, S. 4, expands the acclaimed Advanced Technology Program. The ATP program lowers, shares, and spreads the risk of developing high-risk technologies—those technologies which will create the high-value industries of tomorrow. ATP offers cost-shared competitive grants to private firms. In other words, it uses market mechanisms to grow high-technology jobs.

S. 4 also expands the number of manufacturing extension centers—often referred to as Hollings centers for the distinguished chairman of the Commerce Committee. These centers work like the Agricultural Extension Program to bring technology out to small- and medium-sized companies who would not otherwise have access to new technologies. Many of these small companies are still using the manufacturing processes they first used when they opened their factories in the 1940's and 1950's. Sooner or later they will be driven out of business by companies who know how to use new discoveries to lower their costs or improve their products. The NIST extension centers try to bring them up-to-date before it is too late for them or their workers. It will help bring American companies up to world-class standards. And by doing so it will make American workers more competitive.

Similar extension centers have already helped companies in Massachusetts create more jobs.

In Massachusetts a hand tool plant could not manufacture enough product to keep up with demand and manufacturing costs exceeded profits until the local center helped them reorganize and boost production levels.

As a result of the help, the company decided not to move to the Sun Belt, as they had previously planned to do. In addition, they hired another 30 employees.

The advantages of this program are not abstract or distant. This program creates jobs right away, by helping small- and medium-sized companies do what they do better.

In addition to expanding the number of extension centers, this bill will add a new function to the centers: to help small- and medium-sized companies pollute less. It will do this by teaching these companies how to use innovative environmental technologies which promote "greener" manufacturing.

Studies have shown that businesses can eliminate at least one-third to one-half of their waste generation by implementing source reduction techniques. Further, one recent study showed that 25 percent of all source reduction activities require no capital investment for implementation and, of those that require capital, 50 percent of the investments are recouped in savings, on average, in less then 18 months.

This approach allows us to have our cake and eat it too. We will make our businesses more competitive by helping them reduce costs; We will make our environment cleaner by reducing the waste created in the manufacturing process; and we will create new markets for environmental technologies.

I applaud the chairman of the Commerce Committee for acting on the fact that lowering waste production and increasing energy efficiency is not just good for the environment. It is also good for competitiveness. Companies that adopt new technologies to save costs on waste disposal, regulatory compliance, raw material, and liability associated with transport and disposal will be better able to compete on the international market. I want to thank him for working with me and taking my suggestions in designing this provision of this bill.

I want to commend him as well for working tirelessly on these technology programs which will go a long toward making our Nation more competitive.

Some in the Senate proposed yesterday to correct some of the problems they see with the Uruguay round agreement on GATT on this bill.

They claimed yesterday that this agreement will force us to bankrupt ourselves matching foreign subsidies. There are a great many questions about the subsidies provisions of the agreement and I do not pretend to have all the answers.

I do know that one of the areas in which our Nation excels is basic research. We spend more on basic research than many of our major trading partners combined. But we need to do better at developing that research into commercial products. The GATT provisions on subsidies allow us to continue the research that we already do so well. And they allow us to expand programs like those included in S. 4 that will take that research out of the laboratory and into the marketplace. That is a noble goal.

It may be that we can accomplish it while closing more loopholes in the subsidies language, but S. 4 is not the place to do this. Nor to make a decision to renegotiate the GATT.

We will have plenty of opportunities to review the GATT provisions—which are scheduled for review after 18 months and then again after 5 years. And we should demand that the USTR monitor other countries practices and act aggressively to ensure that other countries to not take advantage of the new rules. Let us resolve to work hard on the implementing legislation to address the concerns Senator DANFORTH raises. But let us not damage our ability to respond now to the emergency facing the American worker.

Millions of Americans understand our stake in following the path of high-skill, high-wage jobs. By electing Bill Clinton, they indicated their belief that Government must play a role. We have the opportunity now to respond to the frustrations of the American worker. This bill will help put our economy back on the right track and restore the sense of economic opportunity on which the American dream was built.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, let me thank my distinguished colleague from Massachusetts for his very generous remarks and thank him, incidentally, for getting back on the subject of S. 4, namely, technology, its development, the commercialization of that particular technology, and making America more competitive.

Right to the point, the distinguished Senator from Massachusetts has been a leader. It is his backyard that had the technology. They have used it over the many years.

I know in our backyard we always had one misgiving. We did not have the skills and the technological capability, research, and everything else, that the State of Massachusetts and others in the northeast had had.

The Senator from Massachusetts is very familiar with it. He has worked with it closely and worked with us on the bill. I cannot thank him enough for his contribution and support.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I understand we are in morning business.

I ask unanimous consent that I may be allowed to speak for about 4 or 5 minutes on the Kassebaum amendment which I understand is pending and has been under discussion.

The PRESIDING OFFICER. The Chair will state that the Senate is not in morning business. We are proceeding under a unanimous-consent request to extend the recess time past 12:30.

Mr. DANFORTH. Mr. President, reserving the right to object, my understanding is the unanimous-consent request was it was an extension of 3 or 4 minutes.

The PRESIDING OFFICER. The Senator is correct.

Mr. DANFORTH. It is now 12:55 p.m. I have no objection to Senators speaking between now and whenever they want to speak, provided that is all they do. Therefore, I will object to further speeches unless it is understood the floor will be open solely for the purpose of making speeches and not for the purpose of any substantive move on this bill or any motions pertaining to the bill or amendments to the bill.

The PRESIDING OFFICER. Does the Senator from Alaska have a unanimous-consent request?

Mr. MURKOWSKI. The Senator from Alaska asks unanimous consent that I be allowed to speak for 3½ minutes on the Kassebaum amendment.

The PRESIDING OFFICER. Is there objection to the unanimous consent request?

If not, without objection, it is so ordered.

Mr. MURKOWSKI. I thank the Chair.

Mr. President, I am pleased to join my colleague, Senator KASSEBAUM, in cosponsoring this amendment which I think is going to breathe life into an industry that is almost dead, and that is the general aviation manufacturing industry.

This legislation creates a 15-year statute of repose limiting the time the general aviation manufacturer can be sued for a defective part, and it also applies to parts that are added or replaced later.

This is an important phase, and the reality is that the general aviation industry has been harmed dramatically as a consequence of no relief under the liability phase of the current interpretation. I am pleased to say that this statute does not apply to aircraft that are being used in scheduled, passenger-carrying operations no matter the size, type, or age.

This has a great impact in my State of Alaska which probably has 8 or 9 times as many pilots per capita and 15 times as many airplanes per capita as the rest of the United States.

Light airplanes provide the only means of transportation for approximately 70 percent of our communities bringing many of the necessities of life throughout my State. The type of aircraft we are talking about currently using are Cessna 185's, Otter 206's, Beaver 180's, and so forth, many of which are an average of 22 years in age. As a matter of fact, we are still utilizing the Grumman Goose, which is 51 years old now.

Design and manufacturing defects routinely show up in the first 7 years of an aircraft's use.

Therefore, this legislation more than doubles the timeframe where manufacturing defects would be imposed on the manufacturers' liability.

Innocent victims should not pay the price for defective aircraft. We all agree on that. But the manufacturers should not pay for defective maintenance, servicing, or operation or be permanently liable for planes that were never built to last forever.

This legislation has been endorsed by the airlines, pilots, manufacturers, and service providers. It was included in the President's Airline Commission initial report.

Unfortunately, the administration has backed off its support for this legislation at this time. It is my understanding that they are now proposing a whole products liability bill revision.

Obviously, the Trial Lawyers Association is opposed to this legislation. But it is really unfortunate because Americans are forced to buy planes from foreign manufacturers in South America and other areas.

Over a decade ago U.S. manufacturers were selling approximately 13,000 light planes a year manufactured in the United States. Today, they are barely selling 900. So I think those figures speak for themselves, Mr. President.

I urge my colleagues to support the amendment so we can again compete in an industry in which we were previously a world leader, and we can have the benefit of new safe single-engine aircraft in our general aviation industry.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

RECESS UNTIL 2:15 P.M.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Senate stand in recess until 2:15 p.m. today.

There being no objection, the Senate, at 12:57 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. CAMPBELL].

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from the State of Colorado, suggests the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

NATIONAL COMPETITIVENESS ACT

The Senate continued with the consideration of the bill.

Mr. DANFORTH. Mr. President, I believe it was a year ago last January when we had on the floor of the Senate a bill to create a commission to study the state of the airline industry in the United States, and the aircraft manufacturing industry.

During that debate I brought to the floor of the Senate boxes of existing reports on the subject of the airline industry and the aircraft manufacturing industry. During my speech, I was standing at this desk, and I took out volume after volume of existing reports, all since the mid-1980's, from various parts of the Federal Government on the question of airlines and aircraft. Some of them were DOT studies, some of them were GAO studies, and some of them were committee reports from various committees in Congress.

It was a stack of reports that reached from this desk just about to my nose. So at the end of the speech it was as though Kilroy were making the speech.

The point that I was trying to make was that we have had report after report after report on the condition of the airline industry and on the condition of the aircraft manufacturing industry and that nothing has come of those reports. The problem has not been lack of analysis; the problem has been lack of action. All we do is have reports. All we do is have commissions. All we do is make studies. So I attempted to make the point during that debate that this Airline Commission will just be yet another study and nothing will come of it, that it will take more time, and that the time has come for action.

That argument got nowhere, and we proceeded to set up the Commission that was headed by former Governor Baliles of Virginia. That Commission dutifully met and had a report, and it issued that report. As I recall, it was sometime last summer when the report was issued. After that report was issued, exactly what I predicted came to pass. I predicted that when the report was issued, the administration would then say that it had to study the study, and that is precisely what the administration did.

So the administration began studying the study. And having studied the study, the administration said with respect to the product liability issue on general aviation—the question that is now before us in the form of the Kassebaum amendment—the administration said, well, this issue should now be referred to the Justice Department for study. So, in other words, we had a Commission which was established a year ago January for the purpose of studying these major parts of our economy—airlines and aircraft—and the Commission recommended that we move ahead with product liability legislation, statute of repose legislation, for the manufacture of general aviation aircraft. And then that Commission's report, or study, was studied, and the administration has proposed a study.

Some people have commented on deadlock in Government. This is not just deadlock, because something is happening; there is some motion. At least papers are flying around. It is more like wheelspinning, I think, than deadlock. It is just studying for the sake of studies.

Now we have an amendment before us, and I believe that on a couple of past occasions this same issue has been before the Judiciary Committee. But now we are told that this matter should be before more than the Senate Commerce Committee; it should be referred to the Judiciary Committee. And this morning, the Senator from Alabama informed us that perhaps it should not only be before the Judiciary Committee, it should be before the Armed Services Committee, because there was said to be national defense implications.

So it could be that we have had a matter that has been studied by the Airline Commission, studied by the ad-

ministration, and will be studied by the Justice Department, and has been studied by the Commerce Committee, and will be studied by the Judiciary Committee, and studied further by the Armed Services Committee. There could be no end at all to the studies. So the lawyers that my chairman referred to today, during the lunches at all the restaurants they try, would have a lot to meet about. They could meet about who was going to conduct the next study of the same problem.

Mr. President, it seems to me that it is reasonable to assume that at some point in time, we in Government actually act, just every now and then. I am not asking us to do anything that would be viewed as precipitous, or going off halfcocked; just every now and then, after a few years of studying a subject, to actually do something.

Senator KASSEBAUM has offered an amendment to do something. I think that what she has asked us to do is very reasonable—a 15-year statute of repose. She has made a good argument for doing that. Shipments of new light-piston engine aircraft have declined from 17,000 in 1978 to 555 last year. The head of one company—Beechcraft, I believe, manufactures these planes—says that if we act and if this statute of repose problem is solved, 25,000 new jobs will be created. Those who argue for S. 4 say that it makes our economy more competitive. I do believe that it is germane to this legislation to try to make the economy more competitive by creating 25,000 additional jobs in the aircraft manufacturing industry, general aviation aircraft. It was an industry that has been in decline, and if a Commission appointed by the President has recommended how to fix the industry, I believe we should fix it.

So I understand the need to study things. But it really does get down to a point where the studies reach the state of being ridiculous, not to mention redundant. We have long passed that point.

I compliment Senator KASSEBAUM for offering the amendment. I especially want to pay my respects to Senator MCCAIN, who really made an excellent speech and had some very good charts explaining the situation with respect to general aviation aircraft. Here is a sector of our economy that could be fixed, and I believe we should fix it.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina [Mr. HOLLINGS] is recognized.

Mr. HOLLINGS. Mr. President, I would like to respond to my distinguished colleague relative to the Airline Commission report, and his call to get something done. Right to the point, there was in the morning news mention of a proposal to create a private entity, a special commission. Just get rid of the Government in this.

In essence, if you can get that private commission, what you really can do is spend more money. If you think that politicians can spend, you ought to go to the private sector. I have worked with them.

I will never forget the role I had as Governor. We did not have those automatic signature machines back then, so I would spend Saturday mornings on the State bonds that we issued, whether for highways, colleges, universities, the public buildings, and so on.

I know the private lawyer group plus the aircraft lobby that made up this commission. Sure enough, one of the big recommendations, that incidentally they have accepted, is to create a private group empowered to issue bonds and spend more money.

That is repugnant to this Senator, who has been trying to pay the bill with spending freezes, with Gramm-Rudman-Hollings and, now, with a value-added tax to pay for health care. I have had a bill on file since January of last year, for a value-added tax to pay for health care, the deficit, and the debt.

I will never forget when the distinguished leader made such a good talk. I was voting on the other side. I did not want to disturb him. He said that none of those voting for the balanced budget amendment had proposed a way to pay for it. There is at least one exception, I can assure you, because I have voted and will continue to vote for spending cuts. I will vote against new initiatives such as the Community Service Program. And I will also champion new taxes because we are into that particular financial fix in this country.

You need to cut spending. You need to withhold otherwise well-considered programs but programs not needed at this time.

I helped start the Peace Corps—and we can go into that record—but a domestic Peace Corps. I will never forget. I regretted having to vote against President Clinton's Community Service Program. But the White House gentleman called me and with persuasion said, "Well, Senator, now we've got 2,000 people volunteering in this particular program."

This was during the terrible Midwest floods, so I said, "Son, you got 2 million volunteering not in your program."

I know from Hurricane Hugo in my own backyard that volunteers came from 38 different States, all down there to South Carolina to help us after Hugo.

Americans similarly volunteered when they had the earthquake out there in Oakland, after Hurricane Andrew, after the Los Angeles earthquake most recently. After Hurricane Andrew, South Carolinians were the first on the scene with the police force from my Charleston area. We did not need a special program to volunteer. The people of America know all about voluntarism.

We have to withhold programs that are popular but unaffordable. They never ask that in a poll "Do you want to pay for it?" They just ask whether you are for this or that. You can get a majority vote. Of course, in a poll you will never find the word "taxes" because the Reagan-Bush crowd made tax a poison word in politics.

That is finding its way down to my local level, which I regret. I find now that they are trying to cut the revenues, and when you ask how are they going to compensate for it down in South Carolina, they say growth, growth, growth—the same disease we had in 1981 and 1982 with Kemp-Roth. I can go back to where Senator DOLE even opposed that initially, and then came out leading it, calling it Reaganomics, and growth, growth. What grew, the growth we had and continue to have, is in the deficit, the debt, and the interest costs on that national debt.

I am ready to vote at any time, because I want to move this bill forward on those things related in the bill and not adopt every little nuance and interest that people have. General aviation does not even belong on this particular technology bill.

A more relevant issue is the abuse of the highway and airport trust funds. Moneys from these trust funds are allocated to the deficit and debt and not to the highways and airports of America.

If I bring the figures up to date, I would say that we might get about $19 billion from the Federal highway tax and we spend about $12 billion on the highways and the other $7 billion we spend on the deficit and the debt.

Similarly, with the airport and airways improvement fund. We spend less than $2 billion a year of what we need. I asked the FAA Administrator, after attesting to that fact. I said, "Give me your program and I will be glad to try, and we will get the money and let us go with it."

The White House never would let the FAA Administrator do it. But if you can at the White House now appoint a separate commission, you cannot only continue to spend the moneys but then you can go—now it becomes clear—you can issue bonds, you can really spend way more money than you ever spent before.

I held up out here the National Airport and Dulles that particular Commission for 4 years running because what we needed at the time was $250 million. Instead, with the Commission that we got, I had to finally yield because nothing was going to be done. They are going to spend anywhere from $750 million to $850 million issuing bonds.

So there is one thing to do, something that they recommended that I hope I can block because we do have an FAA Administrator. He is going into the records now and finding out the tremendous waste in the contracts that

have been given out over there over the years during the past administration. He is cleaning up those contracts, and if we can take the tax revenues that the air travelers are being charged in air travel each day and allocate them to the airport airways and improvement, we do not need a commission and we can get the program. It is well conceived. But understand, these commissions do not give any sanctity because the private crowd they say, well, nothing is getting done. When we get it away from the Congress, we can issue bonds. When we issue bonds we can spend more money. That is exactly what has happened.

Another finding that they failed to make was that the problem was deregulation. Everyone knows deregulation is the culprit. The fetish and fever in this Congress has been for several years now competitiveness, competitiveness; competition, competition. You do not invent competition on the floor of the Senate or the House. You have it out there where you want to compete. I can tell you that right now.

And that was proved by the deregulation of airlines in America. Once we deregulated, yes, competition went in for the long hauls, and the short hauls and the connector routes were totally abandoned or priced out of the question.

And so it is that when I came here almost 27 years ago, I had three direct flights from my hometown Charleston to Washington National. It was $34 at that time, so it was $68, round trip.

I get a Government rate, but my wife, in order to travel coach class from Washington, DC, to Charleston, SC, and back, pays $698. Usually, instead, we get one flight coming up, rather than three flights, so usually we have to go through Charlotte. Maybe I ought to run for mayor of Charlotte, because I am in Charlotte more than the people down there, just sitting around waiting making that particular connection.

My point is, the long hauls pay the money and that is where the competition went. Yes, you can fly from here to Frankfurt, Germany, and back for $279. We will find you the ticket. We got hold of one of them and I kept it on my desk to show how you could do it for the long hauls.

But what really occurred, then, was 85 percent of America—small- and medium-sized communities—was subsidizing and financing the long hauls. Along with that long-haul competition went everything that you could think of, from movies, to chances for a bottle of champagne, to bigger and better meals, to bigger and newer equipment that they started ordering, and they all thought they had a wonderful idea. We are going to put all the new equipment in, and we have the clean planes and all the different services and the prizes you can win and the contests and the free flights that you can win, and they all just went overboard. We looked around, and the airlines are broke.

Do you know what, Mr. President? The regulated have taken over the deregulated. KLM is financing Northwest. British Air is financing U.S. Air. Here comes the regulated airlines out of Europe—this is meeting yourself coming around the corner now, and still you get 50 different commissions in Washington.

They do not want to speak the truth and have any hearings on really what is happening. But, they are trying their best to recover with the financing of the regulated. They went right back to where we were regulated. It was a wonderful situation. We had the local communities financing and building the air fields.

I know, I was a lawyer at that particular time. We would make appearances and help the communities get the service. So once we had the facilities built by the local community, we then went to an airline that was willing to provide the service. And on the basis of public convenience and necessity, on the basis of the public interest—not competition, competition, competition—on the basis of public convenience and necessity, we would come to the Civil Aeronautics Board and prove our case and say, "Here are the facilities. Here is the airline. Here are the services they are willing to provide for us."

That is how air travel developed in America. Generally speaking, the banks and insurance companies owned the equipment and good operators operated the thing in a very competitive way. We had hearings. You had competitive prices. They were all solvent, they were all strong, until the disease and virus started here up on the floor of the National Congress that somehow they were not competitive. If we could get competition into it instead of public convenience and necessity, we really could let those market forces and venture capitalists come in.

Now no venture capitalist wants to invest in the blooming thing and they are going to employees, saying, "Please, if you want to save your job, why don't you put up some money? Go to your little piggy banks, employees, and put up your money, because we have done it. We have cleaned their clock with so-called venture capitalists and market forces."

Now why did they not recommend this and why does the White House? Nothing happened because it should not happen. They did not have at this particular commission any testimony whatsoever from consumers. They had no testimony from those who handled or are involved in aircraft accidents.

They had the aircraft people there who were writing out their ticket. Of course, they wrote down this thing because, yes, in 1978, what was it, 17,000 planes. The 17,000 planes are still around. With prosperity and the way they built them, thank heavens, they are still here and they are all ready to fly. We just do not have the need.

Air travel has gone down with the recession. It is coming back now. It is back up from the 1993 figure given by the distinguished Senator from Missouri over 1992. We have given the facts on how they are all coming back, Beechcraft and Cessna and all the rest of them.

But that is not to say that we here are trying our best to produce airplanes. I think our primary responsibility—salus populi suprema lex—the safety of the people is the supreme law. That is old common law from Roman days.

Yes, we have made it safe with product liability, and product liability has worked. We have put in the facts and figures from the National Transportation Safety Board how they finished in accidents and got greater safety and greater confidence.

Now we are creating that and we have airlines that are trying to recover. Some have got the employees to come in. Like I say, some others have got the regulated Europeans financially to save them.

The one in my back yard is on the front page of the business section this morning, trying to regroup before British Air puts its money in. It was going to put in millions and millions more. They are holding up because my particular airline that serves my backyard did not retrench with respect to the employees. They made a representation, as I understand it, not to have any discharge or what they call downsizing, layoffs.

Downsizing is the polite word for firing the poor folks. But that is what is going on. Hundreds and hundreds and thousands and thousands of jobs. They are having to downsize on account of the monkeyshines of the National Government, namely deregulation.

That is what wrecked the airlines. I have been here. I have seen it. I have worked with the airlines. I have helped represent them. I have represented others. I know from hard experience, deregulation—and you will not find it in these nice pretty magazines or the glossy little charts that they use at the Airline Commission. They brought the glossy charts and the glossy pictures, but did not hear from anybody in the business that was really handling these accidents and saying we ought to do something about product liability. They sneaked in this particular endorsement.

Well, I am glad the White House has got better sense on this particular score. They met with the preordained conclusion. And one of the conclusions that upsets this particular Senator is a matter of begging the question when it comes to deregulation.

My distinguished friend, the former Governor who chaired the commission, Governor Baliles, wrote an op-ed piece for the Washington Post. When I read that, I said, "Katie bar the door. He has been taken over," because that is not the case at all.

They need money, and why they need money is that they went immediately for where the competition was, the long hauls, and they just had a free for all, like the Katzenjammer kids falling all over each other. Like you see the Bell companies doing right now, trying to invest hither and yon. They are saying, "We got to hurry up. We understand there are only going to be five of us left, and we want to be one of the five."

They keep putting in the money for the new equipment, and ordering the planes, and putting on the prizes, and putting on the free champagne and the free trips and everything else that they could think of. Now they look around and they are all broke. If we had kept the regulations on we would have a strong airline industry like they have had in other countries, and like we had in the United States of America. So as we are waiting for the negotiations, I do not mind discussing, at any time, the airline industry because I have been on this committee 20-some years. We have worked with them. We have heard; we have watched these reports.

The product liability has achieved at least that. We might not have all the equipment we want at the airfields; we might have a pilot—and this Senator fought alongside the distinguished Senator, side by side, to have random drug and alcohol testing in transportation: Railroad conductors, bus drivers, truck drivers; and, yes, airline pilots.

Yes, we fought and we fought and we fought, and we finally got random drug and alcohol testing. We had to pass it 11 times, over there, to the House side. Finally, we only got results when we put a rider under the appropriations bill.

But I worked with my colleague here and I admire him greatly. We have the safety with respect to the pilots. We definitely have safe equipment as a result of product liability. Now we need to go to work on the airports, which we are doing in Denver. We are behind the curve there on that particular billion-dollar development. I welcome it. But we need that. It is the first one in 20-some, 30 years, almost. We need, all over this country, new airport facilities of that kind. But it has not been because we just get something done. That is a pretty good plea, to get something done. That is what our plea is with respect to the subject of this bill. This bill has to do with the advanced technology program. It is peer reviewed; industry initiated; and, in the major part, industry financed.

We do not pick winners and losers. That industry has to come. It is not us picking anybody. Once they come with a particular idea, they have to say they are going to finance at least 50 percent. And the practice has been over 50 percent, over half of it. And we say, still, that is fine business, but we have to have the National Academy of Engineering peer review this thing. There is to be no political decision of winners and losers. And once that is done, it has been highly successful.

Similarly, with the regional research outreach of the manufacturing centers. Now we have seven; we hope to start catching up more with the Japanese. That is the global competition. They have 170. This administration talks about, by the end of the century, they hope to get 100. We do not know whether we are going to get the money. But we know, moneywise, this is less than 2 percent of what the Federal Government expends on research. Less than 2 percent of the $70 billion the Federal Government spends—$40-some billion over in Defense; so much over in Energy; so much in Agriculture, and so on. This is the least amount: Tested, tried, and true; checked off by the Small Business Administration; checked off by the National Science Foundation, and checked off by the National Academy of Engineering. And in a very deliberate, positive, tested way.

It passed unanimously the year before last. It went to the House. We had in the committee, Republicans and Democrats, signed off on the conference report. But it was held up politically here on the floor of the Senate.

We came back again in May of last year and it passed unanimously: Every Republican vote, every Democratic vote in the Commerce Committee. It was put on the floor. And now, when we should have passed this last night by unanimous consent, they have instead turned it into open sesame: Let us put everything and anything we can think of on this particular bill.

That would be most unfortunate. There has been a lot of reconciliation, giving and taking. There has been a lot of good study, and predominantly the overwhelming support of the business, science, and technology competitiveness community. I do not know of any who oppose it. They have all worked on this hard. Staff worked around the clock over here. Over the last several years, they have worked developing this.

Now, when we want to do something, they want to muck it up with any and every little pet bill they have in their minds. Whatever the dispute is with the Judiciary Committee—fine. Let them settle it. Whatever dispute they may have on their particular bill, they have a vote in our committee and it has been out for quite some time. Whatever dispute they might have on international trade and GATT—fine. Let them take that up. But I am getting reports through the staff that they have all kinds of amendments coming up here. That would be disastrous.

I am given a list. They tell me that they have—I do not know, but that is what we are talking about: A Danforth amendment on greenlighting subsidies on GATT; a Grassley amendment on product liability reform; a Cochran amendment on EPA regulations; a Wallop amendment on regulatory flexibility analysis; a Nickles amendment on transportation-related regulatory reform; a Kassebaum amendment on general aviation liability; and a Simpson substitute that is inclusive, all wrapped up in one. If you want to know why nothing gets done, here is where you can bet your boots nothing will happen on this bill, or it could go anywhere—Brown, Davis-Bacon and service contract repeal; Coverdell, U.S. Postal Service intrusion bill, Paperwork Reduction Act; Wallop-Boren, Rural Community Reinvestment Act; Kempthorne, Hero Act; Nickles-Reid, Economic and Employment Impact Act; Dole, Private Property Regulation Act; Hatch, Regulatory Accountability Act; Gramm, to be announced. And on down the list. On down the list.

I plead with the common sense and understanding and fraternity of the body that we just withhold these. Let them come up in their normal order, or whatever it is, because it is quite obvious, if that is the strategy—let us call it that—if that is the strategy, nothing is going to happen on this bill or any other bill.

If we passed all these measures and put it on the bill, that would never pass muster on the House side. It would kill the bill. I do not know if you would have a majority vote for this bill even though you had a unanimous vote for it on two occasions from this House and out of the committee and on a bipartisan basis.

Those who talked eloquently—and the reason I comment as I do is because I have not had any of my Republican colleagues who worked on this bill come forward and talk in favor of these bills. All we had was, "Hush, don't you say anything. We have all these other amendments, and that is what we will put up." That will destroy this bill; and if that is the argument of why we cannot do something, that is the best example. It is all political; not germane whatsoever. We considered everybody when we were within the committee, Republican and Democrat. They never mentioned GATT; they never mentioned regulatory reform; they never mentioned general liability on aircraft. They never mentioned any of these things.

So we know our bill. We know our measure. And we know also how nothing can get done if that is their wish.

Mrs. KASSEBAUM. Mr. President, I wonder if the Senator from South Carolina would allow me just a few comments to express——

The PRESIDING OFFICER. The Senator from Kansas [Mrs. KASSEBAUM], is recognized.

Mrs. KASSEBAUM. I am not part of any strategy. I have greatly respected the chairmanship of the Senator from South Carolina of the Commerce Committee. For a number of years, although I know he has not been a supporter of general aviation product liability——

Mr. HOLLINGS. Will the distinguished Senator yield?

Mrs. KASSEBAUM. He has tried to be accommodating to at least let me have a voice. I would be happy to yield.

Mr. HOLLINGS. What the Senator does is give prestige and dignity and credibility to the statute because she is known as one of the outstanding bipartisan Senators, ultimately fair. And when the Senator comes with her particular amendment, they all sort of join in and she gives credibility and dignity and prestige to the strategy. That is what is occurring.

Mrs. KASSEBAUM. Mr. President, I very much appreciate those comments. I would just like to say all I really want is a vote and for some time have tried to make the case why we do need to have general aviation product liability.

I would make the case also, Mr. President, it is germane to S. 4. S. 4 is an effort to speak to technology, to speak to the needs of competitiveness in this country in the future. The general aviation product liability bill speaks to the same means except it does something—it really will add production.

This morning there were comments made about how well the general aviation industry was doing, and it has had a rebound, Mr. President, that is true, but not in piston-powered planes. It has been the top-of-the-line jet planes that obviously have done well in recent years.

But that is not where we are losing the industry. Where we are losing the industry is most Americans really want to be able to buy the smaller, light planes. So I think it is germane. I think it speaks to jobs. I think it speaks to technology. I think it speaks to the ability of workers who may be dislocated for one reason or another, even those who may need retraining, to be able to find a number of jobs in an industry that has lost a lot through the years.

I believe the case can be made in fact that it has largely been lost because of cost, cost that is directly due to having to meet the high price that comes from settling a case, many times settled when it has not been the fault of the manufacturer but money having to be spent in order to address the issue that has been raised.

It has a logical place on this bill, Mr. President. I hope we can continue the debate. I think it has a great deal of merit. I would be the first to say, as would everyone else, that if there is defective manufacturing which has caused an accident, then those victims certainly should be compensated—if it is due to manufacturing within the 15 years. Any plane that has withstood for 15 years, solid design and manufacturing, is not going to face that kind of situation.

But I would also say manufacturers should not pay for pilot errors, and they should not pay for air traffic control errors. These are things over which they have no control. But because they have the deep pockets to pay, they are then sued. This is why I believe it is important for us to address this now. Manufacturers should not pay when their planes are improperly maintained or repaired or modified by others. There are strict standards that have to be met.

For those who are fliers and have not flown but kept a little plane in the hangar that has not been properly maintained, have not flown for a couple years and decide to take the plane up and because of their own errors have had a crash and lives have been lost or serious injury occurs, it is not the manufacturer's fault in that instance, and that is the difference. It is a difference which I think needs to be clearly understood and clearly made.

There should and would be just and fair compensation if it would be the manufacturer's fault within the framework of the limitations that would be imposed on a manufacturer. But where there is a faulty part, any good pilot is going to replace that part, and a whole new 15-year cycle starts once a part has been replaced.

So there are many just and fair reasons why this should be a part of this bill, S. 4. We have debated this many times.

I further add, Mr. President, only 1 percent of all general aviation accidents are caused by design or manufacturing defects, and almost all of those accidents occur within 8 years from the time the plane is built.

An analysis by the National Transportation Safety Board shows that from the years 1983 through 1990, 99.9 percent of all general aviation accidents were caused by something other than a design or manufacturing defect in a plane that is over 15 years old. Nevertheless, the manufacturers are constantly being sued for their older planes.

I feel very strongly, Mr. President, that we end up debating these points which I believe most of us would feel are very logical points, but there are those in the legal profession who view this as a camel's nose under the tent and see this as an opening in tort reform that they do not wish to address.

It is not that. I think we should take it for what it is. It is a fair way to address a problem that has existed for the manufacturing of light airplanes and, if we can pass this legislation, will mean exactly what the chairman of the Commerce Committee is trying to address with S. 4, stronger industry, advancing technology, jobs for those in a field that will again make the United States a leader in general aviation aircraft. I believe that in a very simple way we have answers here that will mean a great deal to the very issues the Senator from South Carolina has been addressing.

I yield the floor.

Mr. DANFORTH. Mr. President, will the Senator yield for a question?

Mrs. KASSEBAUM. I would be happy to do so.

Mr. DANFORTH. I ask the Senator to respond to a point that was made just before the break for lunch with respect to the effect that this amendment might have on safety in manufacturing general aviation aircraft. The point that was made by opponents was that this really is a safety issue and that somehow manufacturing would be less safe if this amendment were adopted.

But what I hear the Senator saying is that most accidents in general aviation are not related to the construction or the design of the aircraft, and that the overwhelming percentage of those accidents that are related to manufacturing/design occur in the first 8 years of the aircraft's operation, and that a tiny percentage have to do with anything that happens after 15 years.

So my question to the Senator is: In the real world of manufacturing and the exercise of care in putting a product on the market, is it the Senator's view that this amendment would have anything at all to do with the real world of safety?

Mrs. KASSEBAUM. Mr. President, I appreciate the question from the Senator from Missouri, the ranking member of the Commerce Committee.

It would not jeopardize safety at all. The aviation industry and general aviation is guided each step of the way from the beginning design to the completion of the plane by Federal safety guidelines. There are various steps of certification that have to be met. There are manuals that lay out exactly what needs to be done to maintain a plane, approval along each step of the way. In no way will safety be placed in jeopardy.

The Senator from Missouri is exactly correct when he said that 99.9 percent of all general aviation accidents were caused by something other than design or manufacturing defects. As you say, those would be with 8 years or less.

I think this is an industry that has to meet such stiff requirements for safety all along the manufacturing process that the safety will never be placed in jeopardy. One of the reasons that we have a higher safety record today is that we have imposed and continue to impose such high standards for safety.

We have lights on runways now, we have the ability to project with the highest technology from the air traffic control system—we are constantly seeking to improve that—plus pilot training.

Those are things that we can continue to do. Hearings have been held many times over the years in the Commerce Committee regarding aviation and the safety of aviation. Those are things that will not be affected at all by this legislation.

Mr. President, I yield the floor.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama [Mr. HEFLIN], is recognized.

Mr. HEFLIN. Mr. President, I am delighted to agree with Senator HOLLINGS on his evaluation of Senator KASSEBAUM. We all have the highest respect and regard for her.

She, of course, says that she is not a lawyer and does not have legal training. I think she does a great job of articulating her position. But she may not, therefore, be in a position to evaluate certain aspects of this bill.

It was interesting to me to see that she did admit that the general aviation industry is on the rebound and is doing well, but that the piston-powered aviation is in trouble. She recited the number of instances where there has been a reduction in the number of units that have been manufactured.

It would appear to me that this bill might not have as much opposition if it was limited to piston-powered aircraft. But included in it are jets, helicopters, military planes, Medivac. I do not believe you would have a choice if a Medivac plane came to you, and it had a big sign on it: "Enter at your own risk because this plane is 15 years old," and therefore no one can recover if there are manufacturer's or design defects.

This bill has been changed tremendously. That is one of the reasons why I think it ought to be referred to the Judiciary Committee for a sequential referral. Nothing really in previous bills is contained in this bill. It is entirely new. There was a previous bill with a much higher statute of repose. There is nothing in this bill to prevent frivolous lawsuits, as the argument has been made many, many times that we must stop these frivolous lawsuits.

There is nothing in this bill; only one thing: The statute of repose. If there is a frivolous lawsuit brought when there is a defect, a design or manufacturing defect, failure to warn defect, whatever it might be, if it is 10 years old, if it is a frivolous lawsuit, there is nothing in this bill that stops it.

We hear a lot about punitive damages; that they have gone out of control, and we have these punitive damages. I thought Senator HOLLINGS was very much on point when he pointed out that, not personal injury, business versus business is where most of the punitive damage lawsuits arise, and the big verdicts such as he cited in that case in Texas.

There are no caps on damages. We hear a lot about a need for caps on damages. There is nothing like that in this bill. We hear that there is a great danger today, and it is an injustice some people say in regard to joint and several liability—there is no joint and several liability limitation in this bill. It is still a 15-year statute of limitation.

We hear a lot about, there ought to be caps on noneconomic damages such as pain and suffering, and that therefore that is where a lot of the ills and product liability suits have occurred, and the juries have awarded money that causes noneconomic values. There is no effort made in this bill relative to that.

We hear a lot in regard to the English rule, that the loser ought to pay. There is nothing in regards to that.

You start tracing the history of the legislation that has been proposed, and the reasons that came out about it, and you have seen drastic changes take place.

Now we are down to just one issue, one issue, and that is the issue of the statute of repose, which is different from a statute of limitation. It says under no circumstances can you bring a lawsuit to recover for manufacturer's defects or manufacturer's design problems. Any of those things can occur.

Regardless of age, they are talking about the number of years. I am trying to remember. Maybe I have it somewhere. I think I have, and I will refer to it later. But it is something like this: That in 1958, a manufacturer of a small plane, which would have been under the classification of general aviation, had brought to its attention that the design of that plane could cause the plane to break apart. They did not do anything about it. They sat back, and they were willing to gamble rather than recall the planes that they made and change the design.

A jury case was brought, and the verdict was against the manufacturer for its failure to heed the warning of its own people that the airplane's design could cause it to break apart. They did not do anything about it. Finally, after a verdict, they did something about it. But it was, if I remember, something like 29 years after they had knowledge of it, before they did anything.

I want to get the facts of that case, and bring it up. When they did not do it, you have a situation where you are asking that, therefore, if we discover something that is in the design, or the way one part of it reacts with another, we are in a situation where you should have known and should have done something to correct it. And they did not do it. But they say, all right, after 15 years we just sit back and wait until the 15 years run, and we will not have any problems with it. We will not do it.

I listened to the colloquy, and I really think they are a little naive in regard to the fact that they would take out all safety and there will not be any problems in aviation. But there are many instances in the manufacture of others. I remember an automobile manufacturer in a case where it was brought to their attention that the gas tank was located in a certain locality and it would be very dangerous, particularly in a rear-end collision. The evidence was that there was a memorandum that: We can save money by going ahead and paying the costs of those who get injured or killed and who, therefore, sue us.

They calculated what the recovery would be, as opposed to what it would have to be to take the automobile off the market and make a redesign. And on a pure dollars-and-cents basis, they said: We will pay the damages, suffer the lawsuits, and it will come out a lot cheaper if we follow that. There was a complete disregard to the deaths, the injuries, the family suffering, and the consequences which could have occurred.

There are things that, as we think about this, cause us a lot of concern. I think that we are going to have to look sort of carefully as to what may happen in the military. I discussed this briefly before, but the helicopters, the fixed wings today that are being used—if you go to a military base and you see the planes that are generally being used, particularly the training planes, they are practically all over 15 years of age. We do not know what had gone on pertaining to the design; we do not know whether there is metal stress, which is a matter that occurs after years; it does not occur during the first 8 years or 10 years. Most of those planes are sold under the idea that they can be used for 30, 40 years. I wonder how many planes we could look at in the military today and find they are not at least 30 years old.

We have a situation in which you in effect are saying, all right, if you go into the service and get into this helicopter, then because of a defect that occurred in the design, or a manufacturing defect, or metal stress, or numerous other instances, a person is injured; but they do not have any right of recovery against the manufacturer who has designed it or whose manufacturing activities created the problem that caused the death. Those people usually will end up costing the Government money.

We are downsizing the military today, and I do not anticipate that we are going to be buying a great number of new planes. We are going to have to rely on the older ones. It seems to me that the safety of the various people in the service ought to be of paramount concern to the Members of this Congress.

I will have other things to say. There may be others who want to speak on it.

I yield the floor at this time.

Mrs. KASSEBAUM. Mr. President, to make a couple of points in answer to the Senator from Alabama when he asks whether or not there would perhaps be a separation, and does the 15-year statute of repose cover piston-powered planes, and not jet-powered.

I just suggest, Mr. President, that the 15 years, when you have gone without manufacturing or design defect, applies the same to piston-powered or jet-powered. I think that whether it is the military or civilian, if you have flown a plane for 15 years and there has not been a defect, then clearly the plane is going to survive. I grant that there would be an exception, but are we going to close down one aspect of an important industry that has always been at the cutting edge of aviation just because of those exceptions? There will be those and they will have to be answered.

I feel that we are missing the point here when we try to bring in all these other aspects. I am not quite sure about the military. I think the military is going to keep their planes in good repair. They are constantly being flown. During any stress tests, if they show a part needs to be replaced, it will be replaced, and a new 15-year statute of repose would go into effect. So it is a rolling sort of limitation.

I think just in answer to the sequential referral and the comments about the Judiciary Committee—and perhaps I mentioned this this morning, Mr. President, but I know what would happen in the Judiciary Committee. It has been there twice before, and both times it was reported out unfavorably. While the Senator from Alabama mentioned this is very different, the statute of repose has been addressed before in the Judiciary Committee. Yes, I think in 1990 it was a 20-year statute of repose. We have changed that to 15 years because we have given up a lot of other things that were in that bill at that time, such as joint and several liability and the ability to have Federal standards. These were things that we gave up.

We certainly did not address punitive damages because that was clearly objected to. That is why we decided to make it as narrow and specific and as reasonable as possible. That is what I think we have done, Mr. President. I do believe the Judiciary Committee certainly has addressed itself and has said in the past that statute of repose was not something that most of the Members of the Judiciary Committee could support in any form. So I know well what the views of the Judiciary Committee would be, and I think they have been expressed in the past.

That is why it seems to me the debate really comes down to the fact that a plane manufacturer, whether jet-powered or piston-powered, after 15 years, should be sued for a design or manufacturing defect. If it has been flying for 15 years, I think it is proven that there is not a manufacturing or design defect.

I yield the floor.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER (Mr. WELLSTONE). The Senator from South Carolina is recognized.

Mr. HOLLINGS. Mr. President, I will complete the record with respect to the cases that were cited by my distinguished colleague from Alabama, because these things continually occur. It has been my contention throughout that product liability is working, is necessary, and should not in anywise be weakened or diminished with respect to verdicts being had against clients.

I will elaborate on that, because that is not the case, and manufacturers should not be held responsible, as the distinguished Senator from Kansas points out, with respect to maintenance. But that is not the issue. The issue is about the manufacture itself. I read from an article December 8, 1992, of the Washington Post, and I ask unanimous consent that this article in its entirety be printed in the RECORD.

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

[From the Washington Post, Dec. 8, 1992]

INVESTIGATION OF GM TRUCKS

(By Warren Brown)

The government will open an investigation today into allegations that General Motors Corp. made pickup trucks with improperly positioned gas tanks that can rupture and burn in side-impact collisions, sources said yesterday.

At issue are GM's 1983–87 C/K model pickups, which some consumer and auto safety advocates say have caused 300 deaths in fiery crashes. An estimated 8.8 million of those trucks were made; some 5 million remain in service today.

The trucks in question, such as the GMC Sierra and Chevrolet C/K 1500 series, are equipped with "sidesaddle gas tanks," whose location on the trucks contribute to crash hazards, the safety groups claim. The tanks are positioned outside of heavy metal, ladder-frame rails, and those rails support the truck's cab and cargo bed. By locating gas tanks outside of the rails, GM made them more prone to explode when the trucks are struck from the side, the consumer groups contend.

Two of those groups, the Center for Auto Safety and Public Citizen, both based in Washington, have petitioned the National Highway Traffic Safety Administration (NHTSA) to open an investigation into the matter. Today, according to government and industry sources, NHTSA will announce the beginning of an engineering analysis, the first phase of a federal probe into potential auto defects.

GM has denied that its 1983–87 C/K pickups are defective and has issued detailed rebuttals of the consumer groups' charges, which have been aired on several network television news shows.

The opening of an engineering analysis does not mean NHTSA actually has reason to believe a defect exists. The agency opens up dozens of such investigations annually, sometimes in response to intense public pressure, as in this case. NHTSA has until next Monday to answer the consumer groups' petition and decide if it will proceed with a study of the C/K truck charges.

GM in 1988 changed the location of gas tanks on its pickups, placing them inside the ladder-frame rails. But GM officials said yesterday that the change had more to do with an overall redesign of the trucks than it had to do with safety.

GM's newer pickups have wider spaces between the frame rails, which allow for easier placement of gas tanks inside the rails, GM officials said. Also, the wider stance of the newer trucks helps them to ride and handle more like cars, a characteristic desired by consumers nowadays, GM officials said.

GM's older C/K trucks are safe, spokesman Ed Lechtzin said. "The chances of being involved in a fatal accident in that truck" in which a fuel tank explodes "are about the same as being in a fatal accident in any truck, which is pretty small," he said. The consumer groups' claims that C/K trucks caused 300 fire-crash deaths are "vastly exaggerated," he said.

NHTSA officials say there is no official confirmation of the cause or the number of deaths cited in the consumer groups' claims.

However, the consumer groups claim that much of the safety information regarding the C/K pickups is contained in volumes of court documents filed in conjunction with a 1990 product liability suit in Fort Worth, Tex.

The suit by Rose Zelenuk of Arlington, Tex., alleges that her husband burned to death in a 1989 accident in which his 1987 C/K truck was struck in the side.

NHTSA's safety investigation could lead to a court-ordered recall of GM's trucks. But such recalls are rare. More often, the investigations have been dropped for lack of evidence, or the agency and the automaker have agreed on a voluntary recall.

Mr. HOLLINGS. I read as follows:

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Then following that particular article, Mr. President, I ask unanimous consent that a November 5 article in the New York Times, be printed in the RECORD in its entirety.

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

[From the New York Times, Nov. 5, 1993]

SETTLEMENT BACKED IN TEXAS ON G.M. PICKUPS

(By Barry Meier)

A Texas state judge approved a settlement on Tuesday under which the General Motors Corporation will give $1,000 coupons to 645,000 owners of older pickups that Federal safety officials say may pose a fire hazard.

The settlement resolves a class-action lawsuit bought in 1992 on behalf of Texas owners of full-sized G.M. pickups built between 1973 and 1987. The plaintiffs claimed that the fire

risks posed by the vehicles' side-mounted fuel tanks had reduced their resale value. A similar case involving 5.7 million G.M. pickup owners nationwide is pending on Federal court in Philadelphia.

In April, the National Highway Traffic Safety Administration made a preliminary finding that G.M. pickups with side-mounted tanks were more prone to catch fire when hit in the side than competitor's pickups made in the same years. G.M., however, said the trucks were safe and rejected the agency's request to recall the pickups voluntarily and repair them.

$500 CERTIFICATES

Under the Texas settlement, the coupons can be used by owners of the pickups toward the purchase of a new G.M. pickup or light truck. The coupons can also be exchanged for $500 certifiicates that pickup owners can sell.

In approving the settlement, Judge Bonnie Leggat said she believes it was fair and reasonable. Pickup owners who accept the offer do not lose their right to sue G.M. in case of a product-related accident, nor are they prevented from taking part in any future recall to repair safety defects, should the Government eventually order one.

In Philadelphia last month, Judge William Yohn Jr. of Federal District Court heard arguments in support of the $1,000-coupon settlement from lawyers representing G.M. and pickup owners. Dozens of lawsuits from around the country were consolidated in the Philadelphia case.

Though some consumer groups oppose the coupon settlement, only 11,653 of the 5.7 million truck owners who were notified of the proposed settlement in the Philadelphia case have formally criticized or rejected it.

A formal investigation of G.M. pick-ups by Federal highway safety officials is continuing.

Mr. HOLLINGS. Mr. President, I cite from that:

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Then, of course, Mr. President, these are cases that come down to the safety officials having to go into them that act like manufacturers are being found against and damages awarded.

There is the case, of course, very recently here in October, the fall of last year, where:

One of the world's largest health care products companies has pleaded guilty to violating federal statutes governing the safety of medical devices and agreed to pay a record $61 million fine, federal officials said yesterday.

C.R. Bard Inc. of Murray Hill, N.J., deliberately sold faulty surgical devices and used unsuspecting heart patients as "guinea pigs" to test new products, federal health and justice officials said.

I ask unanimous consent that the entire article be printed in the RECORD.

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

[From the Washington Post, Oct. 18, 1993]

FIRM FINED FOR SELLING FAULTY SURGICAL DEVICES

(By John Schwartz)

One of the world's largest health care products companies has pleaded guilty to violating federal statutes governing the safety of medical devices and agreed to pay a record $61 million fine, federal officials said yesterday.

C.R. Bard Inc. of Murray Hill, N.J., deliberately sold faulty surgical devices and used unsuspecting heart patients as "guinea pigs" to test new products, federal health and justice officials said. According to federal grand jury indictments handed up late Thursday and announced yesterday in Boston, the products failed in about 50 operations, causing one heart attack and one death.

In one of the biggest health care fraud investigations in the history of the Food and Drug Administration and the Department of Justice, Bard agreed to plead guilty to 391 counts of conspiracy, mail fraud, lying to regulators and shipping "adulterated products" that were not approved by the FDA. The $61 million in criminal fines and federal civil claims is several times larger than any in the history of FDA enforcement cases.

The charges concern angioplasty catheters manufactured by Bard's Massachusetts-based USCI division. The devices use tiny balloons that are inflated to push open clogged arteries and then deflated before removal.

In the plea bargain, the company admitted that from 1987 to early 1990, it violated the Federal Food, Drug and Cosmetics Act and other statutes by distributing catheters that had not been properly tested or approved, and by routinely making changes in the materials and design without notifying the FDA, as required by law. The company admitted it did not tell doctors, their patients or the FDA about problems they encountered with the products.

The company covered up problems, including arterial damage and a tendency of the tips of some devices to fall off. The defects created a risk of heart attack and in 22 cases required emergency bypass surgery—the very procedure angioplasty is usually intended to avoid.

William G. Reilly Jr., a spokesman for Bard, said "The management of C.R. Bard Inc. sincerely regrets the activities that led to this plea agreement. . . . Bard and USCI products, including all angioplasty products, have received all necessary FDA approvals. All Bard products on the market today can be used with confidence." The company earned $75 million in 1992 on sales of $990 million.

As part of the plea bargain, the company has agreed to a series of stringent remedial measures, including scrutiny by an outside consultant who will report to the FDA. The company said it "reorganized and restructured its management team" in 1990, and withdrew all products deemed out of compliance.

U.S. Attorney A. John Pappalardo, who investigated the case with the FDA, said yesterday in Boston that "this extraordinary settlement with Bard is a reflection of both of the severity of the criminal conduct of [USCI] . . . and Bard's desire to assure that this unfortunate episode in its past is never repeated."

The Boston grand jury also handed up a 393-count indictment charging George T. Maloney, chief executive officer of Bard, and five other former officers of the company with violating federal laws. If convicted, the defendants face sentences totaling more than 1,000 years in prison and millions of dollars in fines. Maloney has left Bard "to help prepare his defense," the company said yesterday.

Balloon angioplasty is one of the medical success stories of the 1980s, allowing obstructed arteries to be treated without opening the chest. Making only a small incision in the groin area, a doctor snakes a catheter through a large blood vessel in the leg to the blocked artery. The balloon is then inflated, flattening the obstructing material on the artery walls and opening the passageway.

Between 1980 and 1990, the number of angioplasties increased ninefold, according to a report in the Journal of the American Medical Association. In 1991, doctors performed nearly 300,000 of the procedures, according to the National Heart Lung and Blood Institute.

Bard rode the angioplasty wave. From 1980 until 1985, it was the only U.S. company with FDA permission to market heart catheters. By the mid-1980s, however, other companies had jumped in; by 1988, Bard's share of the burgeoning market dropped to 50 percent.

The federal indictment alleges that from roughly 1987 to 1990, Bard began to "improve" its product—but without following the FDA's complicated procedures that are intended to ensure safety and effectiveness. The indictment alleges that by around 1988, the company had received at least 62 complaints that its balloons weren't deflating or were wrapping themselves around the catheter. The company changed the design, creating the "B Probe," and distributed about 30 of the new devices to hospitals and clinics around the country for evaluation, again without notifying the FDA. Meanwhile, the company had applied for FDA approval for the B Probe.

By December of 1988, complaints began to come in about the B Probe's tips breaking off, but the company again did not tell federal officials, the indictments said. In January 1989, the FDA approved the B Probe for human use. By May 1989, tips had broken off in about 50 procedures. By September of 1989, Bard had sold approximately 18,000 of the B Probe and newer devices.

The indictments also state that company officials hid the existence of an entire plant from the FDA, packaging and distributing catheters from a Haverhill, Mass., plant that had not been inspected or approved by the agency. The company told federal officials the devices were coming from an approved plant in Billerica, Mass., and labeled them accordingly, according to the indictment.

FDA Commissioner David A. Kessler said yesterday "for a company to engage in a pattern of using unsuspecting patients as guinea pigs and operating rooms as laboratories for unapproved products shows a blatant disregard for the health and safety of the patients who literally entrusted their lives to the company's products."

Mr. HOLLINGS. Mr. President, one other little one—I am just getting up to a recent one. We have a whole glossary of these. But here again in the midyear of last year a Wall Street Journal article entitled "Jury Awards $11.3 Million In Fatal GM Truck Fire," and I read the little article in its entirety.

A federal court jury took less than three hours to return an $11.3 million judgment against General Motors Corp. for a truck fire that killed a woman.

Jurors decided Friday that gasoline spilling from a defective fuel pump caused a 1985

Chevrolet S–10 Blazer to explode on Feb. 23, 1990. They also ruled that the explosion, not a preceding head-on collision, killed Beverly Sue Garner of Bevier.

The lawsuit filed against GM on behalf of Ms. Garner's two teenage sons claimed GM knew the fuel pump was defective.

For the first time in a case against GM, jurors were shown a 1973 company report that estimated that "for GM it would be worth approximately $2.20 per new model auto to prevent a fuel-fed fire in all accidents."

GM attorneys declined to comment after the verdict. They had argued that the fire was caused by fluids from the other car involved in the crash.

You see these show the jurors are looking at those facts and studying them very carefully.

I ask unanimous consent that a November 1993 article of Business Week be printed at this point in the RECORD.

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

[From Business Week, November 1993]

SHOULD BUSINESS BE AFRAID OF JURIES? THE STEREOTYPE OF OUT-OF-CONTROL ROBIN HOODS MAY BE OUTDATED

(By Linda Himelstein)

What do an investment bank, an auto maker, and a law firm have in common? The answer: They all suffer from some strain of juryphobia.

Salomon Brothers Inc. asks business partners to waive a jury trial should a disagreement arise—preferring instead to face only a judge. General Motors Corp. settles disputes with its Saturn dealers before an arbitration panel made up of Saturn employees and retailers. Its decisions are binding. And the New York law firm of Paul, Weiss, Rifkind, Wharton & Garrison paid $45 million in September to settle a civil case with the government—even though the firm's lawyer contends his client would have fought the charges had the government agreed to drop its demand for a jury trial. These companies and many others are working hard to sidestep juries—a legal vehicle considered by many to be too costly, too time-consuming, and just too risky. "It's like playing with loaded dice, and you're on the wrong side," says Jonathan A. Marshall, a New York patent attorney.

Much of the uneasiness has been fueled by megaverdicts and the publicity that follows. Remember the $1.2 billion award Litton Industries Inc. won in September from Honeywell Inc. in a patent case? Or when GM was hit in February with a $105 million verdict awarded to the parents of a teenager killed in one of its pickup trucks—of which $101 million was in punitive damages? Or the granddaddy of them all, the $10.5 billion awarded to Pennzoil Co. in 1985 in its fight with Texaco Inc.? "The jury is probably the No. 1 factor that swings all of the parties to look at alternative means of settling disputes," says Julie A. Welborn, litigation management director at Liberty Mutual Insurance Co.

Overblown? Corporate fears are explained by one viewpoint perennial in the business world: Juries are sympathetic to plaintiffs, and they distrust defendants. They maintain that jury trials too often are used to force monied defendants to redistribute the wealth. "A lot of people feel that if you can't win the lottery, maybe you can win a good lawsuit," observes Donald Vinson, chairman of Decision Quest, a consulting firm that helps lawyers analyze jury pools.

But Corporate America's fear of juries may be overblown. Three independent studies of jury verdicts and jurors' attitudes completed within the last year suggest that the litigation explosion is on the wane. In fact, the studies show that plaintiffs are actually losing a greater proportion of cases today than they have in many years. Plaintiffs won 63% of all personal injury claims against businesses in 1988; in 1992, they won only 54% of them, according to a study to be released in November by Jury Verdict Publications. In every category of personal injury litigation over the past five years, except those involving automobile accidents, the percentage of plaintiffs' victories have decreased.

Jury Verdict's study, which looks at everything from product liability to sexual harassment in the workplace, also refutes the popularly held notion that juries' monetary awards are increasingly out of control. On the contrary, awards have remained relatively constant in the past five years. The notion that juries are wild, unpredictable, and capricious is just not true," says Marc S. Galanter, a professor at the University of Wisconsin Law School. "People have very distorted views about what juries do."

In the area of product liability, the most controversial and high-profile legal arena, the data are even more startling. Defendants last year won 57% of those cases brought by individuals, compared with only 46% in 1989, the study shows. The number of product-liability suits filed is also down. Excluding asbestos matters, cases filed in federal court dropped to their 1985 level in 1991 with 12,413 filings, down from a high of 18,679, another study reveals. For many plaintiffs' lawyers, the news on juries merely supports what they have known all along. "Juries don't give away the kitchen sink," says Lee S. Kreindler, a New York plaintiffs lawyer. "Plaintiff bias has been overstated."

The apparent trend away from skyhigh verdicts and escalating litigation is so palpable that even tort reformers, whose arguments are undercut by evidence of sane juries, are acknowledging it. In fact, they are taking credit for it, pointing to their campaigns to educate the public about the economic consequences of excessive verdicts. But William D. Fay, executive director of the Product Liability Coordinating Committee, cautions his allies from getting too excited. "The trend we see can always reverse the other way," he says.

For now, it appears that jurors are indeed focusing more on the financial implications of their decisions. Valerie P. Hans, a professor of psychology at the University of Delaware, interviewed hundreds of jurors and concluded that they are generally probusiness. Hans says jurors are very concerned about what role plaintiffs may have had in contributing to their injuries as well as the economic impact of verdicts on the marketplace and their own wallets. "Jurors are not Robin Hoods," she says. "Americans generally believe that what's good for business is good for the country."

A third study dispels yet another widely held view—that judges are more prodefendant than juries. A Cornell Law Review study of verdicts in federal courts reveals that plaintiffs in product-liability cases win 48% of the time before judges, compared to only 28% with juries. The evidence is much the same in medical malpractice suits, with judges ruling half the time for plaintiffs, while juries find liability in only 29% of the cases. The study finds little difference between the outcomes of other types of cases tried before judges and juries. "I attribute the results to the fact that plaintiffs' lawyers have too much faith in juries and defendants' lawyers have too much fear," says Theodore Eisenberg, a Cornell Law School professor who cowrote the study.

Still, no academic endeavor can provide the definitive word on how fair—or unfair—juries are. They don't take into account suits that may be frivolous but are settled anyway by defendants to avoid costly and protracted litigation. They don't reflect the diverse attitudes of jurors from different geographical areas. And, as with any disputed theory, studies can be found to show that business is in as much legal trouble as ever. Vinson, the jury consultant, says his research indicates that more than half of all jurors hearing product-liability cases come into court believing manufacturers are guilty of wrongdoing. In employment litigation, the presumption of guilt is about 70%. "Having been in the line of fire, working with real litigants on real cases. I can tell you that Corporate America has a lot to be worried about "Vinson says.

Maybe so. But if these studies are any indication businesses are becoming more adept at overcoming many of the innate biases of juries. That's one sign that the system, flawed though it may be, is working—welcome news for anyone heading to court, no matter which side they're on.

Mr. HOLLINGS. Now, Mr. President, just not the entire article, but it is in the RECORD here:

Corporate fears are explained by one viewpoint perennial in the business world: Juries are sympathetic to plaintiffs, and they distrust defendants. They maintain that jury trials too often are used to force monied defendants to redistribute the wealth. "A lot of people feel that if you can't win the lottery, maybe you can win a good lawsuit," observes Donald Vinson, chairman of DecisionQuest, a consulting firm that helps lawyers analyze jury pools.

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Then going on, and we could use other quotes here:

The apparent trend away from sky-high verdicts and escalating litigation is so palpable that even tort reformers, whose arguments are undercut by evidence of sane juries, are acknowledging it.

Going down further:

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The reason I include those in the RECORD is I am in agreement with the statement made by the distinguished Senator from Kansas that manufacturers should not be held responsible— she is exactly right—for faulty maintenance or other cases that are not proved by the preponderance of the weight of the evidence to the satisfaction of all 12 jurors. They must allocate to the defense counsel in America the role of stupidity or morbidity, or whatever, because when you get a case the burden is on you with respect to it because you can bet your boots any lawyer worth his salt, and heaven's above, the manufacturers of aircraft are certainly astute as shown by the record of the life span now of these particular planes, which averages 27 years. They necessarily would have the best of the best attorneys. But the assumption is that all you have to do is bring the case and show the jury and walk away with the money.

I know with respect to one particular medical malpractice case in my own backyard they tried that for 3 weeks. It was a famous helmet injury case. The distinguished Senator from Missouri had an earlier debate relative to helmets, and they are still made. In fact, I once brought one here to the floor. But I remember that particular case where they tried to make a product liability case of a defective helmet and after 3 weeks the jury said, "No way, Jose." They found for the defendant.

So, I know how jurors work. You have to come in and prove by the greater weight of the preponderance of the evidence.

This is not a tie-tie case, where you put in enough proof to give them money for the injury, but you have got to prove it by the greater weight of the preponderance of the evidence to every one of those 12 jurors; not just to 9, or not just to 10, but to all 12 of the jurors' satisfaction.

So that is why I read these cases in there, because you can see they are egregious kinds of cases that could easily have been avoided by corporate America. Thank heavens, the general aviation industry is avoiding them. They are producing a sound, safe product.

Which brings me, Mr. President, to the statement made by our distinguished colleague from Kansas that this bill does exactly what the chairman of the Commerce Committee wants done; namely, this particular Senator. Not at all.

I know what we have now. I know what we have is the highest degree of care on a manufactured product technologically lasting 27 years. And the amendment of the Senator from Kansas says, go in the other direction and reduce the technological safety of that particular device; namely, here, an aircraft, to 15 years. It goes in the wrong direction.

What we are trying to do is get advanced technological programs—that is the name of it, ATP, advanced technological programs—to have greater safety, to have greater, higher quality. That is the global competition.

When we are talking about those products that we are in competition with in the global economy, in the global competition, we are always being told quality, quality, higher quality products. So the advanced technological program is to take regularly produced products and make them advanced technologically, not retrenched technologically from 27 years down to 15 years. That is not what this Senator or the chairman of the Commerce Committee wants at all.

No, this amendment is not germane, and if it were germane it puts us really in the wrong direction. Here we have come through with the National Science Foundation, we have come through with the best of the best of American industry, we have come through with all of the entities looking at the manufacturing processes and trying our best for improvement in quality, improvement in safety, and here comes an amendment that says, "Let's not improve. Let's retrench. Let's cut from 27 years to 15 years. Whoopee, after the 15 years, you can put in any kind of part. Don't worry about it lasting. You are home free." That is what this particular amendment says.

So it is not in consonance with the subject matter of the bill. This never was brought up in 1992 when we unanimously passed it out; never even considered; even though we considered separately general aviation liability, never a suggestion that it be on this bill.

Again, in 1993, when we discussed and went over everything in this particular bill, all Republicans, all Democrats, never a suggestion about general aviation liability, even though that very same committee, all Republicans and all Democrats, reported out the general aviation liability bill. But it was not on this one.

Now they come and say it is germane. And now they come and say it is in the direction of S. 4. Not so, Mr. President. Not at all. This is not germane. It is political strategy when you put it together with the rest.

They have to send the distinguished Senator from Kansas downfield blocking with her prestige. Yes, she has the prestige, but she does not have the bill. She does not have the amendment. It is not germane. This is not in the direction of advanced technology, whatever. It is a retrenchment, at best, and certainly a subject matter that ought to be treated separately, because it goes into fundamental tort law; namely, the statute of repose.

You can read this voluminous bill here and you cannot find anything that says "repose" or "statute" in this particular bill—121 pages. There is nothing that alludes to any kind of statute of repose or bringing tort action and so forth.

To come now and say this is germane is begging the question. They really ought to be ashamed to put these amendments up because they know that, but they just try to make the connection by using the word "jobs." As I stated earlier today, you might as well put in welfare reform, because we are going to give those on welfare jobs.

So, yes, we hope that this will have quality production and that we can begin to commercialize America's technology and thereby create jobs. Over here, we hope we get them off of welfare and get them onto a job. So let us bring up welfare reform.

I yield the floor.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. DANFORTH. Mr. President, I would like to compliment Senator KASSEBAUM for her persistence in attempting to get this general aviation product liability legislation enacted by the Congress of the United States, or even past the Senate.

It really has been a tremendous act. Like Sisyphus pushing the rock up the hill, she has pushed and pushed and pushed and she has never gotten it up the hill.

This is not a new idea which Senator KASSEBAUM has sprung on the U.S. Senate. This has not been a question of Senator KASSEBAUM stealthily lying in wait to pounce on the Commerce Committee when it least expected it.

Rather, this is legislation that goes back to the 99th Congress. This has been before us now five consecutive Congresses. This is not a matter that has not been studied. As I pointed out earlier, it was studied by the Presidential Commission on Airlines and on the aircraft manufacturing industry, and it was recommended by that Commission.

But leave aside the Presidential commission that recommended this, and leave aside the various supporters of it, various parts of the aircraft manufacturing industry, the Owners and Pilots

Association, the General Aviation Manufacturers Association, the International Association of Machinists—all of which support this legislation. Leave aside all of the groups that have studied it, and the commission that studied it. The U.S. Senate has studied this, now, ever since the 99th Congress.

In previous iterations, this statute of repose was incorporated in broader legislation dealing with various aspects of general aviation product liability. Senator KASSEBAUM has tried mightily to get the broader version of this legislation enacted into law. She has not succeeded.

So now she is making an effort to enact a stripped-down version of her previous legislation dealing only with one subject and that is the subject of the statute of repose. But this issue, the issue of the statute of repose, was also included in the legislation that was introduced in the 99th Congress, in the 100th Congress, in the 101st Congress and the 102d Congress, in addition to this 103d Congress, the only change being that the statute of repose was 20 years in the earlier versions. It is 15 years in this version. But the subject is the same. The issue has been before us repeatedly.

Now it is said we should not rush into this just on the basis of the Commerce Committee legislation. This should be a matter that has been before the Judiciary Committee. Let me describe the history of this legislation. In the 99th Congress, a hearing was held in the Commerce Committee and the bill was reported out of the Commerce Committee.

In the 100th Congress a hearing was held in the Commerce Committee and the bill was reported out of the Commerce Committee and the bill was referred to the Judiciary Committee. The 100th Congress, the Judiciary Committee got this issue, including the issue of the statute of repose. It was referred to the Judiciary Committee. What did the Judiciary Committee do with this in the 100th Congress? The answer to the question is it did not do anything. It did not report out anything, to the best of my knowledge. It did not vote on the subject.

Then came the 101st Congress. Again, it was a bill that was introduced. It was referred to the Commerce Committee, a hearing was held yet again in the Commerce Committee. The bill was reported out of the Commerce Committee and again it was sequentially referred to the Judiciary Committee. On this occasion, the Judiciary Committee was moved to action. It was not a positive action. Two votes were held in the Judiciary Committee in the 101st Congress. The first vote was on a motion to report the bill without recommendation. That lost 6 to 7. Then there was a vote to report the bill with a negative recommendation. That was agreed to by 10 to 2.

So it is not that the Judiciary Committee has not had opportunities to deal with this. The Judiciary Committee just does not agree with it. Fine.

Then in the 102d Congress the bill was introduced. It was referred to the Commerce Committee. A hearing was held and the bill was not reported.

And then in the 103d Congress, the bill was reported.

So I compliment Senator KASSEBAUM for her patience and for her persistence in repeatedly bringing this before the Congress, ever since the 99th Congress. What would that be, 10 years ago or so? She has been at this for a decade. And now it is said, oh, my gosh, what is this irrelevant matter doing on this bill? I think it is relevant to the whole question of how we do create jobs in this country. But beyond that, I think Senator KASSEBAUM is now in a position, having tried for over a decade to get her legislation passed, of attempting to put it on some bill that might have some prospect of going somewhere. That is precisely what she has done.

The Judiciary Committee has had its chance. It has had its chance, not in one Congress but in two Congresses. It has had its opportunity to deal with this issue. It does not like this issue. Fine. But that does not mean we keep on this endless process of wheel-spinning toward nowhere.

I know Senator HOLLINGS is attempting to pass his legislation and the chairman feels this is excess baggage as far as his bill is concerned. I have spoken with Senator KASSEBAUM about this issue. She would be willing, at least she has expressed it to me, and I certainly would be willing, to work out a time certain to vote on this amendment. Let us just vote on it at a time certain. Then we can get on with other amendments that other Senators might wish to offer.

So I simply make that suggestion to my chairman, that perhaps we can figure out some definite time to bring this up.

There are now 51 cosponsors of the bill that gave rise to the Kassebaum amendment—51 cosponsors of this legislation. So I think there is a pretty good chance it will be adopted. I hope it will be adopted. But as a matter of attempting to work this out with the chairman, maybe we can set a time certain and just vote on it.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. HEFLIN. Mr. President, I listened to the logic of arguments against the referral to the Judiciary Committee. It has long been a practice in the Senate when there are overlapping jurisdictions that you have sequential referrals to another committee. For some reason or another that tradition, that custom, that part of the Senate procedure just does not appeal to some of the proponents of this legislation. But it has been done historically. It is done because of the fact that a committee that has jurisdiction may not have all of the staff expertise to look into certain specialized areas. And the Commerce Committee, while it may have some lawyers, it is not like the Judiciary that looks into the legal aspects, the legal ramifications in regard to it.

This is a completely new bill. There never has been a 15-year statute of limitation, statute of repose, that has been in a bill that has been before the Judiciary Committee.

There have been statutes of repose but they have been different. This is much shorter. This would deprive a great number of people of the right to recover if they are injured negligently, or injured willfully or wantonly, or injured under any concept of recovery. It is entirely different and it is limited to that.

Other times when you had referrals, you had referrals that were over the overall bill. Most of the time it was spent on other issues, like punitive damages, caps, joint and several, and other things other than just the statute of repose.

I think a matter of referral does not have to take long on this. It is a narrow issue. You would have to have it considered by that. It seems to me that would be the proper situation to take place relative to the sequential referral of this bill to the Judiciary Committee.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. HOLLINGS. Mr. President, inadvertently, I believe, my distinguished counterpart, the Senator from Missouri, has complimented me because he has complimented Sisyphus. Let one Sisyphus meet another Sisyphus.

I have been on this from the 99th Congress, the 100th Congress, the 101st Congress, the 102d Congress and now the 103d Congress. I got it by way of an amendment on the trade bill.

Right to the point, I have been trying to get the updated authorization that everyone could agree with. When the Senator says excess baggage on his bill, it is excess baggage on our bill

Oh, the Senator would smile because this was his bill, my bill. I worked very closely with him. There is no mystery to this. But what you see is the political maneuver here. That does not have anything to do with this bill, because he said let us get a time.

I would like to hear them say that they are not going to come up with all of these amendments. The Senator from Kansas knows with all of these amendments that there will be no bill, that this bill is not going to go anywhere. If they can say let us get together with the Judiciary Committee on some agreement and then go ahead, pass general aviation product liability in due time, just like we have done it

before—twice before, this particular bill, without any GATT amendment, without any general aviation amendment—but pass the Technological Competitiveness Act of 1994, if we could go ahead and do that, that would be something.

But we come in, like I say, with the downfield blocking of the prestigious Senator from Kansas. Of course, the general aviation amendment is not going anywhere. No amendment is going anywhere because the bill is not going anywhere. They must know that.

I see a distinguished colleague on the floor who has a very serious amendment that is germane. I have talked with those with respect to defense and the National Science Foundation and national education to hold off on that amendment, even though it is germane, because we know what can pass and not be controversial.

There has been one heck of a lot of work by staff and Senators conferencing, getting together with the Energy Committee, getting together with the Small Business Committee, getting together with the Labor, Health and Human Resources Committee and Education and all the other work we have done. There have been a lot of amendments held off on this side. But now comes the political shenanigans apparently of any and every amendment coming forward and trying to say, now, this has really been pushing and pushing and pushing. That is what happens to us.

Meet another Sisyphus. I have been working and have gotten unanimous consent on this side two Congresses in a row, and over there on the other side, the last Congress, with respect to even marking up the bill and have it reported and all signed in conference and ready to go. And then politics, unfortunately, added in, partisan politics. And now we hear about the Sisyphuses, which I compliment the distinguished Senator from Kansas on being one.

I know a Sisyphus when I see one because I am one. I have been doing the same thing. But then to come forward and say that we want to get something done and make that argument in light of the maneuvering to frustrate and thwart anything being done about competitiveness, about technology, about the advance technology or about the manufacturing, about the training, about helping small business, about the information superhighway, and those kinds of things.

Here we have a wonderful opportunity, and there is no objection, and there are no amendments to the real substance. But then they come on a well-considered, well-worked, well-heard bill, hearings and everything else in an orderly fashion as best that the body politic and the Congress itself can do, and then they start mucking it up with all of these amendments, just to come here and have an exercise in politics and show our strength of how we can really show that nothing can be done.

I yield the floor.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. DANFORTH. Mr. President, I really do not think that it is fair to the Senator from Kansas to represent that this is some kind of politics on her part or that it is some kind of plot or scheme on her part to affect the bill that has been brought to the floor by Chairman HOLLINGS.

I do not agree with S. 4 because I think that it is industrial policy. I believe that industrial policy is an issue which should be debated before our country, as well as before the Senate. I do not believe that the Department of Commerce should be operating what amounts to a slush fund of grants to specific businesses. I do not believe that the Federal Government should be in the business of picking winners and losers in the private sector. I think that the marketplace should function for that purpose, not the Federal Government. That to me is the big issue that is before us and should be before us and should be debated.

I have not asked Senator KASSEBAUM to bring her amendment before the Senate. This is her decision, not mine. It is not part of some scheme on the part of Republican Senators. It is not politics. I do not know of any Senator in the U.S. Senate who is better able to work with Members on both sides of the aisle than Senator KASSEBAUM. She is a person who is an established centrist in this body, a person who is respected on both sides of the aisle, a person who has worked very well and very effectively and very constructively with Senators on both sides of the aisle.

This was her decision. But I respect that decision because she has been working very, very hard on general aviation product liability. She believes this is real jobs. This is real jobs for her constituents. It is real jobs for people who work in her State. It is 25,000 additional jobs for our economy. These are not jobs created by Secretary Ron Brown, by grants doled out by the Commerce Department, and I have high regard for Secretary Brown. This is not the Government maintaining a fund to confer that fund on favored businesses. This is not industrial policy being advocated by Senator KASSEBAUM. This is real jobs by Government doing something that is constructive; not industrial policy, but simply shortening the statute of repose because Senator KASSEBAUM believes that the litigation explosion in this country has crippled an industry which was once one of the great industries in America.

I compliment her for it. But I do not think we should see in this some sort of political scheme. It is not politics.

I do believe that on the question of industrial policy there are political differences. I believe that they are bona fide political differences about the role of government. It is a matter of basic political philosophy as to the degree to which the Government should grant money to specific industries to weigh in on behalf of those industries. That is a bona fide political issue. It should be debated. It should be addressed in this deliberative body.

But I do not believe that the issue of general aviation is a political issue in that sense. I do not think that it is a matter of basic philosophy. I think that there are those who believe that the trial lawyers are correct. I think that there are those who believe that litigation is just hunky-dory. Let us file a lot of lawsuits. Maybe they make the world safer; maybe the lawyers really have the key to a safe and prosperous America.

There are people who believe that. But I do not think that is a matter of basic political philosophy, the kind of thing that defines people philosophically. The political question has to do with the role and the scope and the power of the Federal Government, whether we really have $2.8 billion of excess money to spend on favored industries. That is a political question. That is a philosophical question, not the one raised by Senator KASSEBAUM.

Senator KASSEBAUM simply wants to pass her bill. She sees a bill here which has already passed the House of Representatives. She respects the skills and the ability of the chairman of the Commerce Committee in getting legislation through, and she wants to put her bill on this bill. There is nothing novel about that. There is nothing novel or sinister about offering amendments in this Chamber. That is all Senator KASSEBAUM has done, and I respect her for it.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Right to the point, Mr. President. We have not said it was sinister. We said it was not germane. And the old saying is let the record speak.

Now, the record speaks with respect to general aviation liability. This measure was before the Committee of Commerce, and the record would show that it was reported out by an overwhelming vote as a separate bill. That is the fact; nothing sinister.

The record would also show with respect to the particular measure that the Senator from Missouri and I discussed all this before. We were absolutely admonishing, he to his group and me to my side of the aisle, that we were not going to have a slush fund, which he talks about now, the Secretary of Commerce slush fund. And it was at our insistence, the distinguished Senator and this particular Senator,

that we included the peer review process of the National Academy of Engineering; that it was not picking winners or losers; that it had to be industry picked. And we included it, and that is in the particular bill.

That is what the record says. And the record would show that the Senator from Missouri did not object when the bill passed unanimously. All of a sudden he is talking about a new particular argument now with GATT and something that happened in December of just this past year, 1993, with an international trade agreement. That is something separate and apart. This has nothing to do with this particular bill. All of a sudden S. 4 becomes industrial policy, but the record would show it was not industrial policy in 1992 when it passed. It was not industrial policy when it passed out of the committee without the objection of the Senator from Missouri.

That is why we are talking now of what is politically going on. I am talking now not about my distinguished colleague from Kansas being sinister. I do not know where he gets all that. I just said it is not germane. It does not belong on this bill.

I have the highest respect for the Senator from Kansas. But in essence, what really happens is the Senator from Missouri now argues for industrial policy and against industrial policy all in the same breath because if there is industrial policy in this land of ours set by the National Government, it is one for the aircraft industry. We take all of the research from the Department of Defense, all of the research publicly financed by politicians—winners and losers, yes, we pick that—the aircraft industry in NASA, the aircraft industry with respect to the Department of Defense and finance it, and say you take all of that particular research and put it into your private production. And, by the way, general aviation, if you want to sell, as you do, overseas, the Export-Import Bank is there as a matter of industrial policy to finance you.

And the very amendment says for general aviation we are going to give you a special statute of repose. The amendment by the distinguished Senator from Kansas is industrial policy, yet the Senator from Missouri is against industrial policy, all in the same breath.

Let me yield to my distinguished colleague who seeks the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, I was just reading about Sisyphus as the Senator was speaking. I heard references to it several times. As I was standing here, I was thinking about how I missed serving in the House of Representatives. In the other body, when a bill was considered on the floor, the rule provided 9 or 10 amendments and a time limit for general debate and on the amendments. There was some certainty about when the bill would be voted upon. I do not imagine that many people in the Senate miss the House, but there are certain aspects of service in the other body that I miss. Limited debate time is one of them.

I do not intend to discuss Sisyphus. Rather, I was thinking of C. Northcote Parkinson, who is a more contemporary reference who talked about time. Parkinson's law said that the time it takes to do things is generally equal to or exceeds the time available to do things. Since in the Senate we generally do not have time limits on anything, it is pretty hard to get things done.

It is interesting that for the very reason the Senator from Missouri said he is opposing this legislation, I am supporting it. I support this legislation precisely because I believe it does represent some kind of industrial policy. Is it massive new Government intervention in picking winners and losers? No, nothing of the kind. It does not even resemble that. But it does represent, finally, an understanding in our country that we ought to find out what is important to us and try to help it.

One of the things that has been so discouraging, I suspect, to everybody serving in the Senate is the adversarial relationship between the private and public sector. We seem to have all of these feuds back and forth between Government and business. The fact is that we are involved now in a much more intense international competition.

It did not used to be that way. When I was going to school in a small town in North Dakota, I walked to school in the morning knowing that we were the winners. We were not confronting a tough economic giant in Asia. We were not confronting a difficult challenge in Europe. We were No. 1. We were the biggest, the best, and the strongest. We outproduced everybody.

That is not true any longer. We have certain strengths but we now face shrewd, tough international economic competition. In most cases when we face that competition, our businesses try to sell their products produced in America by American labor.

The competition we face is often a combination of deliberate strategy by another government and their private sector working together hand in hand, cooperating to advance their economic interests.

Why should we not finally understand that we should work together as well? Why should not our Government and our private sector, instead of being adversaries, cooperate together because we are on the same team? We are in this together.

Does it mean that we develop some grand plan from Washington that represents what the private sector ought to do? No. I do not think so.

I asked former Trade Ambassador Carla Hills one day: "Is there anything in this economy the loss of which you would want to care about that you would move to try to stop? Are there any concentric economic activities in this country that are essential to the future of this country? If you saw certain sectors of our economy for various reasons being weakened, crushed and failing and falling, would you decide that there is some public policy reason to step in and help it because you cannot have a strong economy without that certain of a pillar? Is there anything that you feel that way about?"

"No. Not really. Let the private sector be the allocator of funds. Let the market system work." That was her reply.

I was asking Ambassador Hills about that because it seemed to me at the time that the market system was working. At the time we had old Milliken out there in Beverly Hills coordinating with New York City. He was pumping junk bonds out through every opening he could find in the financial scheme, loading up our financial institutions and investors with junk bonds. The fact is that this was not advancing this country's interest. It was weakening this country's interest.

My point is that we often get a lot of perverted results in the market system. What we ought to do is understand that market system is a good system but not a perfect system, and that we can help that system. That is what this legislation does.

It is why I support this legislation. This legislation says that the private sector is going to have to confront international competition. The question of who wins that competition provides the answer to who gets the jobs in the future of this world. Will we win or will we lose?

This legislation says let us help American industry win. Is it just big business, just the large manufacturing concerns that move out and confront competition? Not at all. Many of us serving in this Senate serve smaller, rural States. In my State of North Dakota we have over 200 manufacturers, many of which are small, employing, on average, about 50 employees each. They must meet international competition as much as any other manufacturer in the United States.

What this legislation does, and the reason I support it so strongly, is it says to small manufacturers, we want to provide a marketplace for new technologies. We want to develop manufacturing extension centers, based on the model of something that has been extraordinarily successful. Something the Senator from Kansas would understand and agree coming from a rural State. The model is the extension centers that 50 years ago moved knowl-

edge and information to the rural areas of the country. The result was a virtual explosion of capability in rural America.

The Senator from South Carolina brings to the floor of this Senate a bill that says let us provide the same opportunity in manufacturing technology to assist small manufacturers in this country, to be better, to be better able to produce, better able to compete, more efficient, and more effective. That, in my judgment, is a good investment. That is sound policy. That is not saying let us interfere, or let us interrupt. That is saying let us offer a helping hand.

If we have technology that works, that can make a small manufacturer better able to compete in selling in the international marketplace, why on Earth would we not want to share that? Why would we not want to strengthen those economic interests in the private sector?

If you ask manufacturing firms—and I have in my State—what they think of this, do you think they think that this is interference? They will tell you this is good news. This makes a whole lot of sense. At a time when they are talking about all the burdens we impose, all the troubles the Federal Government provides for them, they say this is a ray of hope. This is a Government that wants to help, not hurt.

I have great respect for the Senator from Missouri. I have always thought he is one of the legislators that sets an example in this Chamber. But I must say for the very reason he opposes it I support it. It is at least in some semblance, some notion of a plan. I have never felt that for the last 14 years that I have served here in Washington that it ought to be a source of pride for some one to stand up and say "we have no plan."

"Let me brag about that. We have no plan. We do not want an industrial policy."

I have not heard some one say with pride: "That would be central planning. So let us be the first to proclaim we have none."

It is pretty self-evident by what has been happening to us in international trade that we can do a lot better in this country if we decide that we are going to confront competition, competition from the Pacific rim, from the European countries, and elsewhere where it has become sharper, tougher, and more aggressive.

We need to say that we are going to finally decide that we are part of the same team in this country—the private sector and the public sector. We want the same things and we want to be able to succeed. Instead of working against each other, we need to start working together.

That is what, in my judgment, this piece of legislation does, and why I am so pleased to be here on the floor of the Senate saying that I would like to, in any way that I can, advance its interests.

I have not spoken to the amendment offered by the Senator from Kansas, and shall not. But there are, I understand, many other amendments waiting in the wings, many of which probably have nothing at all to do with this legislation.

I guess everybody has a right to do that. I am not suggesting that is the case with the amendment of the Senator from Kansas.

But I would say this: Notwithstanding the amendments that might or might not be offered, I would very much hope that in the coming hours and coming days we will advance the interests that are central to this bill. Those interests, in my judgment, are interests that will advance the interests of our country, provide economic growth and hope and opportunity again.

I want to credit the Chairman of the Senate Commerce Committee, who I think has done a wonderful job on this bill. I hope that as we move forward in the coming hours or days that we can finally see this passed and help create a semblance of policy that I think will strengthen this country.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DANFORTH. 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. DANFORTH. Mr. President, Senator KASSEBAUM has introduced Senate bill 1458. In addition to Senator KASSEBAUM, there are 50 cosponsors to that legislation. That bill is the substance of the amendment that has now been offered by Senator KASSEBAUM, and I ask unanimous consent that a list of the cosponsors of S. 1458 be printed in the RECORD.

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

COSPONSORS LIST, S. 1458

Senators Bennett, Bond, Brown, Burns, Coats, Danforth, Dole, Exon, Glenn, and Gorton.

Senators Grassley, Gregg, Hatch, Hutchinson, Jeffords, Kerrey, Kerry, Lott, Lugar, and Mack.

Senators McCain, Murkowski, Pressler, Rockefeller, Simpson, Smith, Thurmond, Warner, Boren, and Pell.

Senators Chafee, Mathews, Inouye, Nickles, Wallop, Faircloth, D'Amato, Lieberman, Durenberger, and Craig.

Senators Kempthorne, Gramm, Dodd, Cochran, Domenici, Helms, Hatfield, Coverdell, McConnell, and Stevens.

Total cosponsors: 50.

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

The PRESIDING OFFICER (Mr. FEINGOLD). The clerk will call the roll.

The bill clerk proceeded to 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.

Mr. SIMPSON. Mr. President, I support the Kassebaum amendment. Yet I am also a member, or was a member, of the Wyoming Trial Lawyers' Association. In fact, I was one of the founding members of the Wyoming Trial Lawyers' Association. I am very proud of that. I do not think that group should be suspect in any way, when they enter the debate on issues.

I have a great respect for the Senator from South Carolina. Senator HOLLINGS and I have often joined—I joined with him—to oppose various efforts of broad-brush tort reform. I strongly believe the area of tort law should remain the exclusive jurisdiction of the State courts. However, there are always exceptions to a general rule and this is just such a case. I hope I can make that distinction.

I have listened to the debate. It has been a very good debate. I admire the two participants in the debate so personally, Senator HOLLINGS, and Senator KASSEBAUM—who came here when I did to the Senate. But certainly the United States has always been the leader in aircraft technology. In the field of general aviation, that of course being the aircraft manufactured for use by the citizen pilot, the United States has been the world leader.

It is important to emphasize I said the United States has been the world leader. We are in danger of losing that important industry.

Foreign manufacturers of small aircraft enjoy a phenomenal competitive advantage over American manufacturers. They are reaping large profits. Rather than compete with American technology, they are simply buying it up in some instances.

American general aviation companies are disappearing. They are losing their profitability not because they have an inferior product, obviously, but because they face excessively burdensome liability laws and other factors, too. But make no mistake about it, the continued threat of liability is resulting in some phenomenal costs that are passed right on to the consumers. It is the threat of liability, not actually liability resulting from negligence or any wrongful acts by the manufacturers.

I listened with great interest to my friend, Senator HOLLINGS, comment that in the area of product liability few Members of the Senate really do know what we are talking about. After being through the efforts with him, I believe it. We have been, sometimes, on the short end of a vote where people just

did not care to educate themselves on the issue. But I understood him to mean in this context that we should pay very close attention to those who do work in this area of the law and heed their expert counsel on what we should do—if anything.

I agree with the Senator from South Carolina. I agree with him and I would also suggest we should heed the counsel of those in this body with special knowledge of specific matters. I remember so well our distinguished former colleague from Utah, Senator Jake Garn, who was a pilot, who spoke so clearly on the issue last session when he was a Member of our body. I recommend to my colleagues they have their staffs obtain a copy of Senator Garn's statement in the CONGRESSIONAL RECORD of last session before he left. He gave us a very real example of the costs—at least he attributed this to the costs of the current liability law.

He cited one which I thought was rather graphic. Most of us know what an oil dipstick is: A metal rod that dips into the oil reservoir of a piston engine. We pull it out and we check to see the oil level. It is a rather simple thing. It is just a stick, and it does not take a rocket scientist to use such a stick. A replacement dipstick in a high performance race car might cost you $10 or $15. I remember Senator Garn told us that in his small aircraft that same dipstick cost over $70.

If the dipstick can cost that much, how much for the oil filter or the spark plug? And we can also assume the costs have increased in the time since our colleague spoke to us on that issue.

So, clearly, if a company can be under the threat, just the threat of product liability to the point they have to pass along costs as absurd as that, something is wrong.

Senator KASSEBAUM has been working on this issue for many years. I have joined her each and every time. Each year this Congress has delayed in passing this legislation the United States has lost more of its competitive edge.

We are losing our competitive ability, not because American workers are producing an inferior product, but because some Americans see a very deep pocket out there to reach into when something goes wrong. That, too, is perfectly proper if there are reasonable protections against frivolous or stale claims. There are no such protections for this important American industry.

This legislation would provide a few sorely needed rules to even the playing field for general aviation manufacturers. It is not unreasonable to reduce the period to file a lawsuit. It is not unreasonable to say that there is some point in time, whether 10, 15, or 20 years, that a person must enforce their rights by litigating their own claim or that their claim is lost or expired.

In fact, I suggest that it is clearly very reasonable and I think quite correct to do that in light of the many hands that these products have passed through, over and through time. That, too, is what we are talking about, products that pass through many hands. Each time a modification is made or something is added that changes the very nature of the original product, if something goes wrong under the current system it is not the person who made the change who suffers the greatest threat of liability but the manufacturer of the original product, a product that has been modified and is totally outside the control of the manufacturer when these modifications are added.

I think that is unfair and it is wrong. It is not just. It is not what our system of justice was designed to do. You are dealing with a product that passes through various persons, people with various degrees of experience, expertise, mechanical ability. And of course all of that has been covered very thoroughly in the debate.

But as proof, I think, that the manufacturers of general aviation aircraft are doing a pretty good job, I refer to some of the comments that have been made by critics of the amendment. Each of our colleagues has pointed out the average age of a general aviation aircraft is nearly 20 years. That says something. That says that they make a pretty good product, and a pretty safe product. How many Members of the Senate or their staffs own a car that is over 20 years old? Many people do not even live in houses that are that old. Would we have an indefinite period to sue a homebuilder for something that happened to a home 20 years after it was built? I think clearly not.

Nor would we support a system that allowed a lawsuit over an alleged defect in a car that was over 20 years old, yet more people die in car wrecks with each passing year. In fact, thousands and thousands.

So, as I stated, I think if you stay in the legislative game long enough, you will come up with an exception to something you have held dear to in the past. I do not favor Federal legislation—that has been a consistency in my review—in the area of tort law, and product liability is part of that body of tort law. I think this is a unique situation. After thoughtful consideration when I originally supported Senator KASSEBAUM and, again, the same considerations now because of the unique nature, I again agreed to cosponsor the original bill offered by my friend from Kansas over, I think, 4 years ago.

I continue to support this legislation for the same reasons. It is fair, it is equitable, and it is crucial, I think, to protect the future of one of the remaining areas where the United States remains the world leader in technology and in safety, and we should not, in my mind, allow an unfair system of product liability laws to destroy this important and, again, as I say, uniquely American industry.

For those reasons I wanted to share with my colleagues and hope that there will be support for Senator KASSEBAUM's amendment. I thank the Chair.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, the distinguished Senator from Wyoming knows the tremendous professional respect and the personal affection that the Senator from South Carolina has for him. He is doing us a favor next week in coming down to speak to our friendly Sons of St. Patrick, the second oldest Hibernian in the United States after Boston. I was past president of that organization, and he really graces us by being willing to come down to our annual banquet and respond to the toast to the United States of America.

He and I have worked together on product liability. And listening to his delivery here, I want to try to update what is really occurring, because what the distinguished Senator is saying could perhaps have been pertinent or at least sustainable 5 or 6 years ago when we were arguing these things. But the recession is over and the industry is coming back.

We have citation after citation of the matter of the billings up over $2.1 billion now, an increase of 16 percent. We have Cessna that was taken over by Textron. They are making a great profit. The same with Raytheon. They bought out Beechcraft. They have $106 million in profits on $1.1 billion in sales. R Tech has come to South Carolina trying to locate the manufacture of small general aircraft. Mooney Aircraft is boosting its production. The American General Aircraft Corp. I caught the statement that the domestic manufacturers are drying up. I believe the record would show to the contrary.

With respect to the matter of the safety and the time period, I only suggest to my distinguished friend that that is not only necessary but wonderful. It is working. I look over here and I read the headlines every week now, one of these automobile manufacturers is having a recall, is recalling thousands of cars on account of a brake, or thousands of cars on account of the gear shift jumps into another gear and goes in the other direction, or thousands of cars more recalled for another reason. The reason for those recalls is product liability, and that is where, in general terms, the distinguished Senator from Wyoming and I agree. That is why they have been having those recalls, because they know they are going to, by gosh, get socked financially if they allow the defect to remain. And these recalls are saving many, many lives.

We are not afforded that luxury in general aircraft manufacturing. Yes,

there should be a much, much higher degree of care and, yes, there is, fortunately. You do not hear them recalling planes. They manufacture those planes now so the average life is 27 years. That manufacture is strong. We are not talking about the maintenance, we are not talking about the engine parts and some of the verdicts that we can talk about here. We are talking about basic general aviation manufacturing. It has worked, and worked extremely well. That is why we are in opposition to going in the other direction.

The general aviation safety chart, as enunciated by our National Transportation Safety Board, shows a steady decline, I say to the Senator from Wyoming, coming right on down. This is one of the few charts where you see improvement. Smoking is up, drinking is up, crime is up. The one thing that is working is product liability and the safety caution used in the manufacture of aircraft. We put that in at the very incidence of this particular debate on the Kassebaum amendment.

I know the Senator is a distinguished member of the Judiciary Committee. I yield to him on that particular score because we have heard it and we have reported it from the Commerce Committee. It is our Judiciary Committee friends who have a very valid interest in this regard. I am sure we will hear from them.

But I am really a little concerned about the basis upon which now the distinguished Senator addresses the subject, because product liability is working and safety is out there and, yes, the dip stick is going to cost more. I remember that wonderful talk that our friend from Utah made, the former Senator Jake Garn. He knew aircraft. He was an astronaut as well as a pilot. But when it comes to manufacturing, let us not start with a 15-year statute of repose.

The Senator was concluding and saying we do not have it in the automobile industry, so we should not have it in aircraft manufacturing. I think the contrary is true. We do not have the luxury of recalling an unsafe plane. Somebody has gone to the far beyond when that occurs. That is the real concern the Senator from South Carolina has with the Kassebaum amendment.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas [Mrs. KASSEBAUM] is recognized.

Mrs. KASSEBAUM. Mr. President, if I may just respond a moment to the figures again on what has happened as far as the numbers in the general aviation industry. In 1979, there were 13,000 piston airplanes manufactured per year. Today, there are 500. That is where the decline has taken place.

Even more importantly, and this has been said several times, but in 1980, the United States had 29 percent of the world market for piston-powered airplanes, and foreign manufacturers had 15 percent. In 1992, the United States had 9 percent of that market and the rest had shifted to foreign manufacturers. That is the concern.

The distinguished Senator from South Carolina was talking about recall. The automobile industry does not have the FAA as their watchdog at the gate, and the FAA has been a powerful guardian of safety in the aviation industry.

So I just wanted to reiterate those figures because I think that shows what has happened to piston-powered manufacturing. It is that which we focused on in this debate.

I yield the floor, Mr. President.

Mr. WARNER. Mr. President, I rise today to strongly support the amendment introduced by Senator KASSEBAUM.

Mr. President, we cannot ignore the fact that product liability remains an extremely serious problem for many industries. I recently did some research with respect to the impact of product liability in general aviation. The information available reveals without a doubt that product liability has been the greatest single obstacle to the success and survival of the American light aircraft industry.

General aviation has been seriously impacted. Production of new aircraft has plummeted from 18,000 just a few years ago to around 1,021 last year. Industry employment has been cut in half. Cessna Aircraft, which used to produce nearly 9,000 aircraft a year, has not produced a single- or twin-engine piston powered airplane since 1986. Piper Aircraft is in bankruptcy, largely due to product liability costs.

The dire state of this previously healthy industry has serious consequences. If we do not provide new training aircraft for our future pilots, what will happen to our air transportation system? The average age of the single-engine aircraft is now 26 years. Increased foreign competition is targeting the U.S. marketplace with a number of general aviation airplanes.

Mr. President, the general aviation industry is intensely regulated by the Federal Government. Every stage of design, production, and testing is scrutinized by the Federal Aviation Administration. The general aviation industry is in dire need of a uniform Federal standard of liability to dovetail with the existing system of Federal regulation. Senator KASSEBAUM has been a longtime leader in supporting legislation to create a national product liability law for general aviation. Senator KASSEBAUM has introduced S. 1458, the General Aviation Revitalization Act, as an amendment to the pending legislation. The chairman of Cessna has publicly stated that the company would resume production of piston-powered aircraft if the legislation introduced by Senator KASSEBAUM was approved by the Congress.

Mr. President, I urge that action be taken by the Congress to help this important industry to resume production.

Mr. President, I ask unanimous consent that a few articles from various publications be printed in the RECORD for all Senators to review this important issue.

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

[From Barron's, Feb. 21, 1994]

FALLING FROM THE SKY—UNLIMITED LIABILITY CLAIMS DESTROY AN AMERICAN INDUSTRY

(By Thomas G. Donlan)

Over the past two decades, we have endured warning after dire warning that some American industry or another was about to be slaughtered by foreign competition.

To save them, the United States has strong-armed other countries into adopting "voluntary" export quotas on steel and cars. Trade bureaucrats imposed "market opening" obligations on reluctant foreign purchasers of computer chips and cellular telephones. Trade managers even now are swinging into action against Japan and the yen, hoping to reduce the Japanese trade surplus.

What we have not seen is the collapse of any of the industries that pleaded for special treatment. We have, however, in these two decades seen one major American industry, the unquestioned leader in the home market and in every export market, driven almost to extinction. Unit sales by American firms in this industry are down 95% since 1978. Dollar volume is down by nearly half, not counting the effect of inflation, and in the higher-volume, lower-cost segment of the market, the dollar volume is down 90%. An estimated 100,000 jobs have been lost.

Yet this industry, the general-aviation industry, was not destroyed by foreign competition. Americans did this to Americans, using the power of the judicial system.

LAWYERS IN A TAIL SPIN

Filing lawsuits against Cessna, Piper, Beech and the other small-plane manufacturers has become a lucrative vocation for a small coterie of lawyers. About 40% of all plaintiffs in general-aviation liability cases are represented by one of 16 law firms, who in turn employ fewer than a dozen expert witnesses.

Their theory is quite simple: Something bad happened, so the manufacturer of the plane was at fault. Thus, Cessna was recently sued over an accident involving a plane that was built in 1946 and has been out of production for 40 years. Among other things, the suit alleged that the gas tank was defective—the plane ran out of fuel.

Most pilots are grateful that planes are so well built that they last so long, but their next-of-kin are more interested in creating an inheritance. So claims against manufacturers are not uncommon, even when a plane was obviously misused.

The Supreme Court recently refused to review a case in which a pilot making a movie seated himself backwards into the back seat of his old plane and tried to film and fly at the same time. Attempting to take off, he ran into a van parked on the runway, and he was severely injured in the crash. His lawyer successfully argued that Piper made an unsafe aircraft because there was poor forward visibility from the back seat.

Liability suits helped drive Piper into bankruptcy in 1990, and potential buyers have shied away from reviving it unless they can jettison the old company's old liabilities. Cessna ceased production of piston-engine planes in 1986.

"Even though we have not produced a single-engine aircraft for more than seven years, we continue to be sued in almost every accident involving one of our aircraft, regardless of cause," says Russell W. Meyer Jr., chairman of Cessna and of the General Aviation Manufacturers Association, a trade group.

How much would cars cost if every fatal accident resulted in a suit against the manufacturer, the dealer and every mechanic who ever worked on the vehicle? How much would computers cost if every sap who typed "del C:*.*" sued IBM and Microsoft?

A small Beechcraft aimed at the private recreational market listed for $26,550 in 1974. today, Beech's smallest plane is a little bigger than the '74 model, but it lists for $255,800. Consumer prices about tripled in that period; car prices about quadrupled; the price of computers has fallen by about 99%.

The big difference between a plane and a car is that juries and judges drive cars, and take a lot more convincing before they will believe that an alleged defect caused an accident. And computer accidents don't scatter wreckage or leave dead bodies and grieving heirs.

THE COST OF CLAIMS

From 1978 to 1992, American general-aviation manufacturers spent as much to defend product liability suits as they had spent from 1945 to 1978 to develop new aircraft. The result has been the same as any other allocation of resources—aircraft manufacturers have become highly skilled at designing legal defense and lobbying, while they have ceased designing new aircraft.

The General Aviation Manufacturers Association and the Aircraft Owners and Pilots Association have rounded up a majority of the House of Representatives and a near majority of the Senate to co-sponsor a bill they label the General Aviation Revitalization Act. It would enact a statute of repose, to bar suits against manufacturers after their products are more than 15 years old. Most planes by that time have had several owners, at least three major overhauls and on average accumulated 6,000 hours of flying time. The theory of the statute of repose is that such use ought to demonstrate the safety of the basic design.

But any adjustment to the idea that victims have an unlimited right to sue anybody anytime for anything must go through the judiciary committees. In particular, the House Judiciary Committee has proven itself willing to sit on aviation reform forever. Fortunately, Rep. Jim Inhofe, an Oklahoma Republican, successfully campaigned last year to lift the secrecy of the discharge petition so that a majority of the House can be shamed into bringing a bill to the floor.

We wish the general-aviation lobby happy landings in their quest for a 15-year statute of repose, but the rest of us should dream bigger dreams. Even a Congress whose every other member is a lawyer should recognize that a court contest is not the best way to pay off the heirs of people who chose to have fun in a risky way.

There should be no unwritten warranty that guarantees planes, ski slopes, cars or sidewalks forever free of all danger, and it ought to be possible for people to accept risks and sign away their right to blame someone else. Pilots and skiers—and automobile drivers and pedestrians—are aware of the risks they run in the activities they choose, and they must accept the responsibility to insure themselves if their heirs are to be protected from unfortunate outcomes.

Let there be no more suing the aircraft manufacturer after crashing, or the ski area after running off the trail, or the car maker after hitting the accelerator instead of the brake, or the city streets department after slipping on ice. Only a lawyer can love a tort; the rest of us need tort reform.

[From Forbes, Mar. 14, 1994]

ENDING AIRBORNE AMBULANCE CHASING

Congress can create 25,000 good-paying, high-skill jobs by passing the General Aviation Revitalization Act. The bill would prohibit product liability lawsuits against airplanes that are 15 years old or older.

That companies can be sued for almost any accident involving a product regardless of cause or age is an example of how warped our justice system has become. A few weeks ago Cessna Aircraft was sued for an accident involving a 47-year-old plane, even though the model has been out of production for more than 40 years. The average age of airplanes in these suits is 22 years.

The light-aircraft industry has nearly been destroyed by unlimited exposure to product liability litigation. Over 100,000 industry and related jobs have been lost in the last decade. These suits forced Cessna to shut down its single-engine production lines.

Our balance of trade has been harmed: Almost a third of these aircraft had been sold outside the U.S. Our leadership in this field has been lost and taken up by foreign manufacturers. And the decimation of the light-aircraft industry is hurting our future supply of pilots. Many young people start out flying in these airplanes.

What is truly absurd is that almost half the cases against makers of small planes are brought by just 16 law firms that routinely use the same nine—yes, nine—"expert" witnesses. These firms rake in the money. Out of every dollar awarded only 17 cents goes to the accident victims or their families.

The bill is eminently reasonable. An aircraft that survives without a manufacturer-caused accident for 15 years has more than demonstrated its airworthiness. This country must once again value and encourage individual responsibility; we must stop blaming everything and everyone else for the woes that befall us. A nice start would be this legislation, which would revitalize a wonderful American industry and enormously benefit the economy as well.

[From the Christian Science Monitor, Jan. 25, 1994]

INJURY LAWSUITS SAID TO CAUSE FINANCIAL CRISIS FOR MANY U.S. COMPANIES—TORT TAX BURDENS SMALL-PLANE BUILDERS, BUT LITIGATION ADVOCATES CLAIM SAFETY GAINS

(By James H. Andrews)

As he lifts a document from his desk, T. W. Wakefield's voice has a "here we go again" tone.

"This case just came in," says the vice president and general counsel of Cessna Aircraft Company, an airplane builder in Wichita, Kan. "Farley v. Cessna, in Pennsylvania. The pilot and a passenger were killed last April when one of our single-engine Model 140s crashed. The plane was built in 1946—47 years old. Forty-seven years, and the next-of-kin say Cessna is still liable."

"In other words," Mr. Wakefield says, "Cessna has the deep pockets."

It needs those deep pockets. Since 1986, the company "has spent $20 million to $25 million each year to defend hundreds of product-liability cases," Russell Meyer Jr., Cessna chairman and chief executive officer, told a United States Senate subcommittee last fall.

"Crash cases are very expensive to defend," says Peter Puciloski, an aviation lawyer in Boston. "There are no fender-benders in this field. . . . A manufacturer can spend $1 million to defend a case, even if it wins. That's why the companies often settle, even when their liability is slim."

The general aviation industry (builders of all planes except commercial airliners and military aircraft) has a unique liability profile, since the longevity of airplanes gives the industry an unusually long "liability tail."

Still, executives and lawyers for companies all over America—manufacturers of everything from cars, heavy machinery, and power tools to ladders, sports equipment, and prescription drugs, as well as their suppliers and distributers—sympathize with Wakefield's frustration over a legal system that he contends is "unfair."

For many business-people, actual or potential exposure to personal-injury lawsuits imposes a heavy cost. Some companies have been driven out of business or into bankruptcy by litigation costs.

Piper Aircraft Corporation, a Cessna competitor, has been in Chapter 11 since 1991, owing to liability suits, it says. Last month, Keene Corporation became the 18th company to file for bankruptcy as a result of asbestos claims: Keene has paid out $450 million in litigation and settlement costs for an insulation subsidiary it purchased for $8 million in 1968—more than 20 years after most of the plaintiffs were exposed to asbestos in US shipyards during World War II.

Moreover, some executives and economists contend, the "tort tax"—the amount added to a product's price to cover liability costs and insurance—inhibits the competitiveness of American products international markets. And critics of the legal system argue that fear of lawsuits causes companies to discontinue products or deters product innovation.

The Product Liability Coordinating Committee, an industry group, cites recent effects of "the litigation climate existing in the United States";

Monsanto Company abandoned development of a safe substitute for asbestos.

Of the 20 makers of football helmets in 1975, only two companies still manufacture the product; one of them, Riddell Inc., says 50 percent of the price of a helmet is attributable to liability-related costs.

Liability concerns have had negative effects on research for an AIDS vaccine, Science magazine reported in 1992.

From such reports and the writings of researchers like Peter Huber and Walter Olson of the Manhattan Institute (a conservative think tank in New York), who popularized the notion of a "litigation explosion," one could infer that personal-injury lawsuits and other litigation have reached crisis proportions.

The issue is slippery, however. While tort-reform literature is rife with horror stories about "bet your company" lawsuits and entire industries awash in "frivolous" claims, hard numbers on the economic effects of litigation are elusive.

In a 1991 speech to the American Bar Association advocating tort reform, then-Vice

President Dan Quayle—drawing on the research of Mr. Huber and others—put the total tort bill at $300 billion a year, including direct and indirect costs. Some critics have deemed that number wildly inflated, however.

A 1992 study by Tillinghast, an insurance actuarial firm, estimated direct tort-insurance costs to be $130 billion a year, of which about $90 billion goes for motor-vehicle coverage. Citing these figures in an article last year, law professors Kenneth Abraham, Robert Rabin, and Paul Weiler wrote, "Only a minor share of the [accident-insurance] money is expended for the product and medical litigation that attracts most of the popular and political attention."

Also, amid the sound and fury over tort reform and all the lawyers jokes, one should not lose sight of the fact that thousands of people each year are killed, maimed, or injured by products that are, in legal terms, "defective," say consumer activists and plaintiffs' lawyers.

Moreover, many product-related deaths and injuries are not compensated through the legal system. According to Professors Abraham, Rabin, and Weiler, "the parties seeking cutbacks in tort litigation do not highlight the scholarly evidence that, relative to the number of potential 'high stakes' tort claims, only a minority of suits are actually filed."

"The only 'litigation explosion' is in lawsuits by businesses against other businesses," says Barry Nace, president of the Association of Trial Lawyers of America. "The number of product-liability and medical-malpractice suits has actually declined in recent years. The so-called litigation explosion is a figment either of poor research or of intentionally misleading reports by groups like the Manhattan Institute, which is funded and controlled by big business."

Whether or not the "litigation explosion" has been the subject of some hype and scaremongering by business groups, academics, and politicians, a consensus is growing among legal scholars that the tort system needs an overhaul to make it more efficient, predictable in its outcomes, and equitable in its allotment of risks and compensation. A number of reform proposals are under consideration in Congress and state legislatures.

But such bills do not redress firms' main liability problems, says James Seifert, senior attorney for Toro Company, a Minneapolis maker of lawn mowers, snow blowers, and other equipment.

First, he says, a manufacturer "can't be certain it's complying with the law at the design stage. You can hire the best engineers, have a very disciplined design process, try to foresee every possible use and misuse of the product, and you still don't know if a future jury may conclude that the product was defective."

To minimize the problem, Mr. Seifert says, he has "tried to create a liability prevention culture in the company. We map out how a product could be misused, then design around it or determine what warnings we must give to users."

The second major problem Seifert identifies is that "you never have issue finality. Even if a court in one state says a product is defect-free, another plaintiff in exactly the same circumstances can sue you in a different state and win a big judgment."

"Issue finality" is the legal reform the general aviation industry values most. It is lobbying for a bill in Congress that would create a "statute of repose," barring product-liability suits against the manufacturer of an airplane that has been in service more than 15 years.

Even though the industry's safety record has improved steadily for four decades (see chart for accident rates since 1972), and even though aircraft must meet the certification standards of the Federal Aviation Administration, product-liability costs for airplane builders have soared in recent years. They jumped from $24 million in 1977 to $210 million in 1985; per fatality, the cost rose from $17,000 to $223,600.

Litigation costs and the companies' related inability to obtain adequate insurance coverage are the main reasons that Piper is in bankruptcy and that Cessna stopped making single-engine piston aircraft in 1986, industry executives say.

Moreover, they say, the price increases necessary to cover litigation costs caused a 95 percent drop in factory shipments of general aviation aircraft between 1978 and 1992 (see chart). The tort tax represents 30 to 40 percent of the price of many US small planes today, according to the General Aviation Manufacturers Association.

But Lee Kreindler, a New York lawyer who represents plaintiffs in crash cases, says: "If litigation is the major cause of general aviation's problems—and I'm not sure that's true—that just shows the tort system is working. The system is weeding out marginal products. There are a lot of unsafe planes and components out there, and they're failing."

The proposed federal statute of repose strikes a fair balance between airplane users and the manufacturers, says E. Glenn Parr, Piper Aircraft's general counsel. "Most genuine design defects become evident within 15 years," he says. "And cutting off the liability tail for planes that have been in service longer than that will restore litigation predictability—so we can be an insurable risk again."

Wakefield, the Cessna lawyer, says the statute of repose also would reduce juries' ability to second-guess aviation designers. "Jurors listen to the plaintiffs' safety experts, and they retrospectively apply today's state of the art to design decisions made 30 to 40 years ago," he says.

But Mr. Kreindler says the statute strikes the wrong balance between manufacturers and the "innocent victims—especially surviving family members—of defective aircraft, whenever they are built."

With or without a statute of repose, aviation defense lawyers know they will always face uphill battles in courts of law. "Even when our planes aren't the cause of accidents," Wakefield says, "juries look at burn victims or grieving families, and a big sympathy factor comes into play."

[From the Wall Street Journal, Oct. 19, 1993]

SMALL-PLANE MAKERS MAY GET A BIG LIFT FROM CONGRESS

(By William M. Bulkeley)

Lawsuits helped send the small-plane business into a death spiral. Now Congress may pass a law that averts a crash.

Airplane makers have high hopes for a bill that would eliminate their crash liability for planes more than 15 years old. Under the bill, manufacturers of planes over 15 years old couldn't be sued if the planes crashed. "When an airplane is 15 years old, then you know it was designed properly and built properly. If it crashes, it's not the fault of the airplane at that point," says Robert Crowley, chief executive of American General Aircraft Corp. of Greenville, Miss., which builds about 80 planes a year.

Although there have been other legislative attempts to revive the small-plane business, this one has some heavyweight support. More than half the members of the House of Representatives have already signed on as co-sponsors. Labor, pilot groups and the industry all back it. However, trial lawyers could be major opponents, with hearings before the House Public Works Committee's Subcommittee on Aviation due to start Oct. 27.

"I'm more optimistic than I've been in the past," says U.S. Rep. Dan Glickman, one of the main sponsors of the bill. The Kansas Democrat comes from Wichita where market leaders Cessna and Beech make their planes.

The general-aviation industry has long been Exhibit A when people complain about the litigation explosion. A Brookings Institution study of litigation effects concluded that general aviation was the most severely affected of any industry studied. U.S. production of general-aviation aircraft fell to 880 planes last year from a peak of 17,811 in 1978, and some companies left the business complaining bitterly about litigation costs.

Arthur Alan Wolk, a lawyer from Philadelphia who has won several big judgments for crash victims, says the decline of the small-plane business reflects management errors, inflated costs, disappearing tax credits and the luxury tax that was repealed this year—not product-liability lawsuits. He says the bill would be "a ridiculous windfall for the industry."

Plane makers say the bill would allow the rebirth of a moribund industry. Cessna Aircraft, a Textron Inc. unit that stopped building piston-engine planes in 1986, says it would start production planning the day the bill passes and could hire 1,500 workers and build up to 2,000 small planes in 1996. Cessna once built as many as 9,000 piston-engine planes a year in Wichita. Now it makes just 130 business jets a year.

Piper Aircraft Corp., which once made as many as 5,200 planes a year, now is struggling to emerge from bankruptcy proceedings after making 113 small planes last year. Chuck Suma, president of Piper, which is in Vero Beach, Fla., believes that the bill's passage will cause insurance companies to eventually feel comfortable about insuring fleets under 15 years old. And when that happens, he says, "rates will come down, and we'll be able to spend the money on research and development."

The companies complain that they are automatically sued in every crash because they have deep pockets and build long-lived products. For example, Raytheon Corp.'s Beech Aircraft unit was sued in 1989 when a 19-year-old Beechcraft crashed into a tree. The pilot was flying into a small airport in Kentucky at dusk and ducked under clouds to view the field, despite warnings from the ground. Government investigators blamed pilot error. But Beech says it spent more than $100,000 in legal fees before the case was dismissed.

Privately held American General is one of the few remaining makers of planes that cost under $150,000. Mr. Crowley says liability insurance, at about $10,000 a plane, is "the second-most expensive component, after the engine."

Larger manufacturers are even more eager to have the law changed. Russ Meyer, president of Cessna, says, "A high percentage of the 120,000 planes we built in the last 60 years are still flying." As lawsuits are filed concerning old planes, the rising costs are tacked onto the liability insurance rates for new planes.

Beech's lawyers once analyzed lawsuits covering 203 crashes that occurred in the mid-1980s. Federal investigators blamed weather, faulty maintenance and air-control errors, but never Beech's design or manufacturing as the cause of the crash. But "plaintiffs' attorneys claimed 100% of those crashes were the fault of the manufacturer," says Robert Martin, a Wichita lawyer who frequently defends Beech. Each case cost Beech an average of $530,000. Even those that were dismissed cost $100,000 to $200,000 apiece to prepare, Mr. Martin says.

Mr. Wolk, the plaintiffs' attorney, who has won plane-crash judgments as high as $107.3 million, says the bill's passage may help manufacturers but will hurt pilots, flight schools, maintenance shops and airfields. "Pilots and ground operators should get significantly higher insurance limits because passengers and customers will be suing them for larger amounts of money," he says.

Nobody expects the small-plane business to bounce back to the level of 15 years ago when generous tax credits and a growing number of student pilots created a seemingly ever-expanding market. Most of the planes sold then were under $50,000 apiece. Today, the lowest priced plane from a major manufacturer is the Piper Cub, a cloth-covered two-seater that goes for $85,000. Mr. Suma of Piper says the change to 15-year liability "will allow us to stabilize pricing, but I don't see an industrywide reduction." Cessna indicates it hopes to have a base price under $100,000.

In fact, the days when Americans dreamed of learning to fly and buying a plane may be gone for good. Over the past four years, the number of new student pilots has steadily declined. Instructional hours flown have dropped. Getting a pilot's license now costs about $4,500, up from $1,500 15 years ago.

Among the few remaining manufacturers, demand already trails production capacity. Mooney Aircraft Corp., Kerrville, Texas, which makes high-performance 200-mile-per-hour planes costing $160,000 to $400,000, has seen declines in business for the past three years, says Jeffrey Dunbar, vice president, sales.

Pilots, plane owners and small manufacturers say that Cessna's return with spiffy new planes and a big promotional campaign should rekindle customer interest. "As we resume production, we'd be stimulating demand," says Philip M. Michel, Cessna's vice president, marketing. "I don't believe interest in flying can't be stimulated. It's as basic as a child watching a bird."

[From Forbes magazine, Nov. 8, 1993]

CRASH—THE ODD CASE OF THE MAN WHO TRIED TO FLY A PLANE FROM THE BACK SEAT SHOWS WHY AMERICAN COMPANIES DON'T SELL MANY PRIVATE AIRPLANES ANYMORE

(By David Frum)

Here's a distressing statistic: In 1979 American companies made and sold 17,000 private planes. In 1989 they made and sold only 1,535. This is one instance where you can't blame foreign competition. We can blame only ourselves for destruction of this once vibrant industry. The bizarre case of Piper Aircraft v. Cleveland shows why this wound is self-inflicted.

On July 7, 1983, just before dawn, a pilot named Edward Cleveland crashed his 13-year-old Piper Super Cub into a parked van at an airfield about 20 miles outside of Albuquerque, N.M. The van belonged to the owner of the airfield, who had placed it on the runway in order to block Cleveland from taking off.

Why? Cleveland and the company he worked for had a history of unsafe flying practices, and the owner didn't want him using the airfield. But a local savings and loan had hired Cleveland's company to film an ad with a sailplane gliding at dawn over the nearby Sandia Mountains, and Cleveland didn't want to lose the job.

Rather than take up two planes—one to launch the sailplane and one to film—Cleveland knocked out the front seat of his two-seater aircraft, and had his crew install a rear-facing camera. The cameraman squeezed in behind the camera with his back covering the instrument panel and front window. Cleveland would pilot from the rear seat.

To block the plane, the airfield owner parked his van a thousand feet down the runway. Day was breaking, and the van's lights were on.

Cleveland started down the runway anyway. Either he didn't see the van, or he just decided to push his luck. In any case, he didn't make it. He hit the van, smashing his face into the steel camera mount in front of him. Cleveland suffered severe brain damage.

His family sued the airfield owner, and won $300,000. Then their lawyer—Daniel Cathcart, whose expertise in suing aircraft manufacturers has bought him a Beverly Hills house adjacent to that formerly owned by Jean Harlow—decided to go for broke. He would sue Piper.

According to Cathcart, the Super Cub's design was defective: On the ground, it is impossible to see out the front from the rear seat. He also contends the plane should have been equipped with a rear shoulder harness. Never mind that the passenger sat in a way that blocked the pilot's view. A jury was convinced, and awarded $1,042,000 in damages.

That award gave liability lawyers a real chance to strut their stuff. In 1979 manufacturers of Federal Aviation Administration-approved aircraft paid out $24 million in damages and litigation costs. By 1989 they paid a total of $210 million.

Piper became a special target. Operators of corporate jets usually carry insurance. Lawyers can sue them when an accident occurs. But the operators of Piper's cheap planes don't usually buy much insurance. So the lawyers go after the manufacturer.

According to Piper's general counsel, Glenn Parr, the company paid $10 million a year from 1987 to 1991 to settle lawsuits on its FAA-approved aircraft. Piper stopped buying insurance in 1987. By then, insurance had become pointless anyway: The last policy the company owned had carried a $100 million deductible. In July 1991 Piper entered Chapter 11.

Now, if you aren't seething already, this will really make you grind your teeth: The design of the Super Cub, the most popular aircraft in history, had long been approved by the FAA. This included a 1977 ruling that only a front-seat shoulder harness was required. Thus, according to the relevant federal regulators, the Super Cub was a safe plane. The New Mexico legislature would not try to substitute its own safety standards for those of the federal government. Should a New Mexico jury be allowed to do so?

Despite this legal question and the economic carnage, the federal courts have so far refused to consider the argument that federal regulation should preempt juries from applying state law. Early last month the Supreme Court refused to hear the Cleveland case.

The Supreme Court's decision raises one especially troubling issue. For more than a decade the top court has avoided doing anything much about the tort explosion. But if the top court won't take action in a case as extreme as Piper Aircraft v. Cleveland, it's hard to imagine that it ever will. So a part of the legal profession flashes heavy gold watches, while a whole industry that once had great potential goes down the toilet.

Mr. DORGAN. Mr. President, I rise today to support S. 4, the National Competitiveness Act. This important legislation is an essential element of the Clinton administration's agenda to make American business more competitive and to reinvigorate our Nation's manufacturing base. In both sign and in substance, this legislation embodies a cooperative approach between business and Government that will achieve positive results, including more American jobs. Federal support for civilian technology and manufacturing is a positive industrial policy, necessary in a competitive global environment. I urge my colleagues to support this important bill.

The National Competitiveness Act embraces the best of the concept of a public-private partnership. This legislation expands Government support for industry-led projects to develop technology and cooperative efforts with States to help small- and medium-sized manufacturers. I believe that the approach we are taking with this legislation will lead us down the road to a more productive and highly competitive manufacturing base in the United States. American businesses want an activist Government, especially in the area of making our Nation's manufacturing base more competitive. U.S. investment in manufacturing is falling behind our competitors. Currently, United States investment in plant and equipment is half of Japan's and less than half of any other G–7 country.

In the past, business and Government have seemed at odds with each other. Businesses have felt overtaxed and burdened with endless Government mandates. Indeed, Government too often is in the position of laying heavier burdens on businesses as opposed to looking for ways to make them more competitive. This legislation signifies and demonstrates that Government and business can have a more positive, cooperative relationship. Under the many programs authorized in the National Competitiveness Act, the Government is providing assistance to help business become more competitive. The focus of this legislation is appropriately on manufacturing and technology development—an area where the United States is, unfortunately, falling behind. We, as a nation, need to be concerned. That is why this legislation is so important—it recognizes that our manufacturing base is critical to our economy and unless the Government and business work together to transform our manufacturing base into a globally competitive force, then our standing as an economic power will suffer.

Not only will this legislation benefit American manufacturers as a whole, but it will help stimulate economic development in rural areas by channeling badly needed assistance to small- and medium-sized manufacturers in rural areas. One of the most important provisions in the bill to rural areas is the Manufacturing Extension Partnership [MEP] Program. Under this program, the National Institute of Standards and Technology [NIST] would establish extension centers, designed to help small- and medium-sized manufacturers become more competitive through the implementation of advance technology and state-of-the-art manufacturing practices. President Clinton has set a goal of establishing a network of over 100 manufacturing extension centers. As a clear sign of the administration's support for the MEP Program, the fiscal year 1995 budget request would double funding for MEP: $61 million, up from $30 million in the current fiscal year. I support the President's goal and I further believe that this national network of manufacturing extension centers needs to include rural areas.

While it is clear that MEP programs will benefit many manufacturing sectors throughout the country, smaller manufacturers stand a great deal to gain under this program. S. 4 contains language that requires the Secretary of Commerce, when making awards under the MEP, to "strive for geographical balance and for balance between urban and rural recipients." The fact is that there is a tremendous amount of innovation and development occurring in rural areas by small manufacturers. These small manufacturers often are overlooked as a source of efficient, highly productive performance. The inclusion of rural areas within a national network of manufacturing extension centers will not only help hundreds—if not thousands—of small manufacturers, but it will lead to a national manufacturing base that employs the best our country has to offer.

In North Dakota, for example, there are over 200 small manufacturers, employing an average of about 50 workers. Almost 80 percent of these manufacturers in North Dakota export their products to other States and about one-fourth of the exporting manufacturing companies sell products outside the United States. There are several examples of large national cooperations looking to rural manufacturers and business as efficient, productive locations. Many rural States, like North Dakota, have seen modest growth in their manufacturing businesses. However, their future growth faces many challenges—from financing to technical assistance. MEP programs can provide some of the critical help that small manufacturers need to grow and become more competitive nationally and internationally.

Rural States like North Dakota stand to benefit from the programs authorized under this legislation. Throughout rural America are hundreds of small businesses that, with a little assistance, will shine as some of our Nation's finest and most competitive manufacturers. As we continue to shift our emphasis from defense-orientated technology research and development toward civilian technology, small- and medium-sized rural manufacturers need to be considered an essential element to our Nation's success.

Mr. President, I strongly urge my colleagues to support this legislation. The administration and the bill sponsors deserve commendation for their vision and leadership on this issue. America needs the kind of proactive and cooperative commitment at the Federal level that this legislation provides.

MORNING BUSINESS

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

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

TRIBUTE TO STACY HOFFHAUS

Mr. DOLE. Mr. President, we live in a time where everyone talks about nutrition. Carbohydrates, cholesterol, and fat grams are part of our national vocabulary.

And nutrition is more than just watching your weight. It is also ensuring that children and the less fortunate are receiving the food they need to grow or to stay healthy.

I am very proud of the involvement I have had in Federal nutrition issues in the Senate. And I have been very fortunate to have Stacy Hoffhaus—one of this city's leading experts on Federal nutrition—on my staff for the past 8½ years.

Through her work on legislation like the 1989 child nutrition reauthorization bill, and the 1990 farm bill, Stacy has called attention to the problem of proper access to school lunch programs for children with disabilities who have special dietary needs.

Stacy's commitment to Americans with disabilities also extends to the hearing impaired—and Stacy has worked for many years to increase the number of programs which are close captioned—including Senate proceedings.

Stacy has now joined the staff of the Senate Agriculture Committee, where she will continue her work on nutrition issues. She leaves my office with my thanks for a job well done, and my hope that we can continue to work together in the future.

Mr. President, I thank my colleagues.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. MIKULSKI). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

TRIBUTE TO SENATOR GEORGE MITCHELL

Mr. CHAFEE. Madam President, last Friday, we all received the startling news that Senator GEORGE MITCHELL of Maine will not be seeking reelection. He, of course, as we all know, is the majority leader in the Senate.

I want to note that I consider this to be a tremendous loss to the Senate and to the Nation. GEORGE MITCHELL has clearly been a towering figure in this U.S. Senate. He is very, very bright and is very, very wise. Those are two completely separate qualifications.

I think we all know people who are very bright but they are not all that wise. But GEORGE MITCHELL combined intellectual brilliance with a wisdom that has given great benefit to this Nation of ours.

GEORGE MITCHELL further, in my judgment, is one of the best speakers in the U.S. Senate. When he comes on the floor to argue a point, few Senators can match his skill as a proponent of a measure.

Madam President, it has been my privilege to have served with GEORGE MITCHELL when he first came here, on three committees at the same time; the Intelligence Committee, the Environment Committee, and the Finance Committee. Then, of course, due to the changes that have to be made, we both moved off the Intelligence Committee. But ever since he came here, he and I have served on the Environment Committee and the Finance Committee.

I want to particularly discuss for a few minutes his role in connection with the environment and the protective measures that have been taken since he has been on that committee. Every single environmental measure that has come out of that committee has the hand of GEORGE MITCHELL upon it.

I particularly think of the major measures, such as the clean water bill and especially the clean air bill. We have a clean air bill now in the United States because of two Georges; George Bush, our President, who said he would sign such a measure, as opposed to his predecessor President Reagan, and GEORGE MITCHELL who brought that measure through the committee and on to the floor.

There is not a single Senator who was involved with that measure who does not recall the countless hours of

meetings that we had in Senator MITCHELL's office with him there as frequently as he could be, and Senator BAUCUS there when Senator MITCHELL could not be. Senator BAUCUS was there all the time. But Senator MITCHELL was presiding when he could get free from his onerous duties as majority leader. We now have an excellent clean air bill, and that is because of GEORGE MITCHELL.

Madam President, I just want to say as a member of the Republican Party that I feel it has been a tremendous pleasure for me to have been associated during the years that GEORGE MITCHELL was here, and I look forward to the remaining months that he will be here. We have all been greatly touched by his presence.

So as he leaves—and, of course, we are fortunate he is going to be here for the remainder of this year—but when he does leave he can leave with a feeling that he has contributed in immeasurable ways to the benefit of our Nation, to the upholding of the standards of this Senate, and to the great good of so many causes with which he has been deeply involved.

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

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

TRIBUTE TO SENATOR MITCHELL

Mr. HOLLINGS. Madam President, I join in the comments made by my distinguished colleague from Rhode Island.

I had the pleasure of also not just observing the outstanding performance of Senator MITCHELL here as a majority leader, but I have seen him in his own home State. That had come about in my endeavors in the Presidential campaign back in 1982, 1983 and 1984 when we traveled the vast State of Maine, which is certainly right in the league with Alaska and Texas with respect to travel and getting around, from Macwahoc all the way down to Portland and Blacktop, as he called it, even to east Millinocket.

We used to say the first prize was a weekend in east Millinocket, the second prize was two weekends in east Millinocket.

I traveled to the beautiful coastline around Camden, Bar Harbor, and the other beautiful tourist spots there, and then into some of the inner cities such as Waterville, the home of our distinguished majority leader. I got to know his family, his brothers and others.

There is no one held in higher regard than Senator GEORGE MITCHELL in his own home State. You do not have to take a poll for me because that was one thing that you could see uniformly traveling with the distinguished Senator, visiting at different meetings with him, and watching Republicans, Democrats and Independents as they responded to his presence, his dedication, his sensitivity, his just superior performance as a public servant.

The role itself as majority leader has changed measurably, Madam President. I cite our current experience with S.4. In earlier days under other leaders, one would not think of a nongermane matter coming up on a particular bill. Now, all Senators do that. It just would not be thought of. And that is one of the ways measures were expedited, because you knew what the order of business was, you knew your interest, you knew your position. You immediately checked with your staff, and the debate itself was limited, and the vote was had, and we moved along in expedited legislation.

You can just think mentally, if you were the majority leader, how you would possibly handle the current situation in the Senate, with all kinds of matters extraneous to the technology bill before the Senate, S. 4 being brought up as amendments. And handling that very toilsome task requires the best of humor and the best of attitude and the best of understanding of just the facts of life as is apparent now on both sides of the aisle. It is not just a partisan thing. It is a matter that occurs with Senators from both parties. You have to have a sense of indulgence and an understanding.

No one has a finer sensitivity in this regard than the distinguished majority leader, GEORGE MITCHELL.

I joined yesterday with the Senator from Montana. I wanted to join in his laudatory comments of Senator MITCHELL. I, perhaps, did not elaborate enough when he mentioned being up there in Maine and the tremendous respect and admiration for Senator MITCHELL there as a public servant.

Otherwise, here, having experienced leadership from both sides of the aisle, I know of no one who has operated under the trying circumstances that we have been engaged in here in the last several years. No one could have handled it nearly as well as Senator GEORGE MITCHELL of Maine.

So it is in that light that we all think seriously about a succession to him, not just the handling of matters here on the floor, with 100 of us prima donnas, as we are called, not just handling the opposition, the loyal opposition in their particular interests, but handling, of course, the program of the executive branch, the President's legislative program, handling all of that, and then the personal requirements that come about and demands upon the majority leader.

I think the majority leader now, in light of the changing rules of the game, is an extraordinarily demanding job. We need someone who is up to that job, and who can also perform creditably on the various interview shows, especially on Sunday morning. I think we have been blessed with the appearances of GEORGE MITCHELL, who is so cogent, who is so analytical, judicial, if you please—a talent that he learned as a presiding Federal district judge—judicial, if you please, in his analysis of the problems.

He sees clearly to the trial of the case and knows exactly what those on the jury, namely, the people, generally would be interested in, and what they would not be interested in, and what should be emphasized, and how to encapsulate in the 20-second bites afforded you on these interview shows.

Senator MITCHELL has done that in an outstanding way and we are looking now for someone to try to replace that talent. In truth, this uniquely talented man cannot be fully replaced. I know of no other Senator who combines so exquisitely the qualities demanded of an effective majority leader.

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

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

PEACEKEEPING IN GEORGIA

Mr. DOLE. Madam President, yesterday President Clinton announced that the United States will be inclined to support a United Nations peacekeeping operation in Georgia if a peace settlement is reached. Such an operation would—if it includes Russian forces as planned—be a major landmark in our national security policy.

It would be the first United Nations operation in the territory of the former Soviet Union. It would be the first United Nations approval for the Russians in a former colony. It would be the first direct American subsidy for such activity. And, thus, it would mark a dangerous new phase of United States acceptance of Russian neo-imperialism.

Some might say that President Shevardnadze supports this policy. But that overlooks what has happened to Georgia since its independence: the Russian military supported the separatist rebellion that the United Nations now seeks to monitor; the Russians pressured Georgia to allow Russian military forces to stay permanently, and to join the Commonwealth of Independent States. Only after the separatists scored major victories—and nearly killed President Shevardnadze—was he forced to accept Russian conditions, although he rightly pointed out

his plight was due to Russian "reactionaries and militarists."

To say that President Shevardnadze supports any option now overlooks how little freedom of action he really has. Shevardnadze is in a straightjacket. Last September—when it could have made a difference—the United States was silent. Last October, Strobe Talbott denied Russian activities were designed to undermine Georgian sovereignty, and said Russia was not "conducting a mischievous policy towards Georgia." Maybe Ambassador Talbott got it right—the policy was not mischievous; it was malicious. Squeeze Georgia economically, support a separatist rebellion, and when Georgia's extinction is at hand, force the acceptance of Russian troops and welcome Georgia to the CIS. In the words of Gen. Bill Odom, "Thus, the Russian military has trapped the man they blame for destroying the Soviet position in Central Europe."

Under these circumstances, to say the Russians were invited into Georgia brings back memories of Russian "invitations" into Hungary in 1956, into Czechoslovakia in 1968, or into Afghanistan in 1979. Georgia is a test case of Russian pressure on the former Republics—and it worked. They got bases, they got a new CIS member, and now they are going to get American taxpayers to finance their troops.

Madam President, there is no reason that Russian troops need to be a part of any United Nations peacekeeping force. There is no reason American taxpayers should support such a force. And there is no reason to continue this administration's peacekeeping deficit spending—approving operation after operation with no idea how to pay for them.

The Clinton administration claims they want bipartisan support for their foreign policy—but this decision makes a mockery of their repeated promises to consult with Congress before supporting new U.N. peacekeeping operations. I did not receive a phone call until 3 hours after President Clinton's press conference—and that was just to let me know what the President announced.

The President may be able to get congressional support for this operation—but only if it is paid for up front, if there are no Russian troops in the United Nations contingent, and if there is some strategic focus on the importance of Georgia in the region.

First, there is plenty of money to pay for this operation. Congress appropriated $2.5 billion for the former Soviet Union—much of it is unspent, or planned to flow to overpriced United States consultants. These funds could easily be used to cover the reported $30–$60 million U.S. share of the operation.

Second, Russian troops cannot be more than a token presence in the force. It would be political folly to sanction the former colonial occupiers to reoccupy—this time, however, with blue helmets. And it would be fiscal folly to use American taxpayers' money to pay for the revival of Russian imperialism. According to the State Department last week, the Russians did not want to participate in a United Nations force. We should hold the Russians to that position this week.

Finally, the administration needs to use more creativity in our assistance to the entire Transcaucasus region. Georgia can be the key to unlocking the wealth of central Asia without dependence on Russia. Georgia is also the key to lifting the immoral and illegal blockade of Armenia. Yet, the administration is only contemplating humanitarian aid for Georgia. While important, it is not enough and reflects the short-term thinking of the administration.

In looking toward the longer term effects of United States policy toward Georgia, the administration should move immediately to establish a Transcaucasus enterprise fund, along the lines of funds already established for Eastern Europe and the rest of the former Soviet Union. The administration plans to spend more than a billion dollars through these funds to support investment and the development of free enterprise. Armenia and Georgia could benefit from such a fund in the very near future. And Azerbaijan could even someday benefit, if it ever lifts the blockade on Armenia, decides to make peace, and takes genuine steps to democracy and free market reform.

Madam President, I met with President Shevardnadze again earlier today. I doubt if he will complain if the Russian role in any United Nations operation is restricted. President Shevardnadze expressed strong support for the concept of a Transcaucasus enterprise fund. He believes efforts to aid the development of free enterprise in the Transcaucasus region are vital to its future. I hope this time, the administration will stand with President Shevardnadze.

Mr. HOLLINGS. Madam President, all of the following unanimous-consent items have been cleared on the Republican side.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. HOLLINGS. Madam President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar No. 703, Robert Jay Uram, to be the Director of the Office of Surface Mining Reclamation and Enforcement; calendar No. 715, Ann Brown, to be a Commissioner of the Consumer Product Safety Commission; calendar No. 716, Ann Brown, to be Chairman of the Consumer Product Safety Commission.

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

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

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF THE INTERIOR

Robert Jay Uram, of California, to be Director of the Office of Surface Mining Reclamation and Enforcement.

CONSUMER PRODUCT SAFETY COMMISSION

Ann Brown, of Florida, to be a Commissioner of the Consumer Product Safety Commission for a term of seven years from October 27, 1992.

Ann Brown, of Florida, to be Chairman of the Consumer Product Safety Commission.

STATEMENT ON THE NOMINATION OF ANN BROWN

Mr. HOLLINGS. Madam President, today I urge my colleagues to support the nomination of Ann Brown to be Commissioner and Chairman of the Consumer Product Safety Commission [CPSC]. Her nomination was unanimously approved by the Committee on Commerce, Science, and Transportation at its executive session on February 24, 1994.

If confirmed as Chairman, Ms. Brown will have an important role in ensuring that the CPSC fulfills its mission to reduce the number of accidental deaths and injuries associated with consumer products each year. In the past, the leadership at the CPSC has been criticized for its perceived indifference to the issues facing the agency, and, at times, Congress has had to step in to address issues that more appropriately should have been handled by the agency itself. A new Chairman will have the important responsibility of ensuring that matters before the CPSC are undertaken in a timely and expeditious manner.

I am confident that Ms. Brown is prepared for this challenge. She comes to the position with an impressive background and a demonstrated commitment to product safety. Ms. Brown has been self-employed since 1970 as an unpaid consumer consultant. Over the past 20 years, she has served as the national and local chairperson of the Consumer Affairs Committee of Americans for Democratic Action. In this position, she directed the annual toy quality and safety report, which provided a national guide to the safety of toys on the market each Christmas. Ms. Brown also has been active in numerous consumer safety organizations.

This nominee deserves our support, and I urge my colleagues to join me in approving her nomination.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

MESSAGE FROM THE HOUSE RECEIVED DURING THE RECESS

Under the authority of the order of January 5, 1993, the Secretary of the Senate, on March 3, 1994, during the recess of the Senate, received a message from the House announcing that the Speaker has signed the following enrolled bill:

S. 1789. An act to amend title 23, United States Code, to permit the use of funds under the highway bridge replacement and rehabilitation program for seismic retrofit of bridges and for other purposes.

The enrolled bill was signed on today, March 8, 1994, by the President pro tempore [Mr. BYRD].

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.)

1994 TRADE POLICY AGENDA AND 1993 ANNUAL REPORT ON THE TRADE AGREEMENTS PROGRAM—MESSAGE FROM THE PRESIDENT—PM 95

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance:

To the Congress of the United States:

As required by section 163 of the Trade Act of 1974, as amended (19 U.S.C. 2213), I transmit herewith the 1994 Trade Policy Agenda and 1993 Annual Report on the Trade Agreements Program.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 8, 1994.*

REPORT OF THE CORPORATION FOR PUBLIC BROADCASTING—MESSAGE FROM THE PRESIDENT—PM 96

The PRESIDING OFFICER laid before the Senate a message from the President of the United States, together with an accompanying report; which was referred to the Committee on Commerce, Science, and Transportation:

To the Congress of the United States:

As required by section 19(3) of Public Telecommunications Act of 1992 (Public Law 102-356), I transmit herewith the report of the Corporation for Public Broadcasting.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 8, 1994.*

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-2267. A communication from the Director of Selective Service, transmitting, pursuant to law, a report relative to compliance with the Inspector General's Act for fiscal year 1993; to the Committee on Governmental Affairs.

EC-2268. A communication from the Secretary of Agriculture, transmitting, a draft of proposed legislation entitled "Federal Crop Insurance Reform Act of 1994"; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2269. A communication from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, copies of D.C. Act 10-195 adopted by the Council on February 18, 1994; to the Committee on Governmental Affairs.

EC-2270. A communication from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, copies of D.C. Act 10-196 adopted by the Council on February 18, 1994; to the Committee on Governmental Affairs.

EC-2271. A communication from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, copies of D.C. Act 10-197 adopted by the Council on February 18, 1994; to the Committee on Governmental Affairs.

EC-2272. A communication from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, copies of D.C. Act 10-198 adopted by the Council on February 18, 1994; to the Committee on Governmental Affairs.

EC-2273. A communication from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, copies of D.C. Act 10-199 adopted by the Council on February 18, 1994; to the Committee on Governmental Affairs.

EC-2274. A communication from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, copies of D.C. Act 10-200 adopted by the Council on February 18, 1994; to the Committee on Governmental Affairs.

EC-2275. A communication from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, copies of D.C. Act 10-201 adopted by the Council on February 18, 1994; to the Committee on Governmental Affairs.

EC-2276. A communication from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, copies of D.C. Act 10-186 adopted by the Council on September 27, 1993; to the Committee on Governmental Affairs.

EC-2277. A communication from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, copies of D.C. Act 10-188 adopted by the Council on February 17, 1994; to the Committee on Governmental Affairs.

EC-2278. A communication from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, copies of D.C. Act 10-189 adopted by the Council on February 17, 1994; to the Committee on Governmental Affairs.

EC-2279. A communication from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, copies of D.C. Act 10-190 adopted by the Council on February 17, 1994; to the Committee on Governmental Affairs.

EC-2280. A communication from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, copies of D.C. Act 10-191 adopted by the Council on February 17, 1994; to the Committee on Governmental Affairs.

EC-2281. A communication from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, copies of D.C. Act 10-192 adopted by the Council on February 17, 1994; to the Committee on Governmental Affairs.

EC-2282. A communication from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, copies of D.C. Act 10-193 adopted by the Council on February 17, 1994; to the Committee on Governmental Affairs.

EC-2283. A communication from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, copies of D.C. Act 10-194 adopted by the Council on February 17, 1994; to the Committee on Governmental Affairs.

EC-2284. A communication from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, copies of D.C. Act 10-204 adopted by the Council on February 25, 1994; to the Committee on Governmental Affairs.

EC-2285. A communication from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, copies of D.C. Act 10-205 adopted by the Council on February 25, 1994; to the Committee on Governmental Affairs.

EC-2286. A communication from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, copies of D.C. Act 10-206 adopted by the Council on February 28, 1994; to the Committee on Governmental Affairs.

EC-2287. A communication from the Director of the Office of Public Affairs, Department of Agriculture, transmitting, pursuant to law, the annual report for calendar year 1993 with respect to the Freedom of Information Act; to the Committee on the Judiciary.

EC-2288. A communication from the Federal Housing Finance Board, transmitting, pursuant to law, the calendar year 1993 annual report with respect to the Board's compliance with the Freedom of Information Act; to the Committee on the Judiciary.

EC-2289. A communication from the Chairman of the Federal Labor Relations Authority, transmitting, pursuant to law, a report relative to public information requests for calendar year 1993; to the Committee on the Judiciary.

EC-2290. A communication from the Director of the Office of Personnel Management, Executive Office of the President, transmitting, pursuant to law, the Office's calendar year 1993 report relative to compliance with the Freedom of Information Act; to the Committee on the Judiciary.

EC–2291. A communication from the Acting Archivist of the United States, transmitting, pursuant to law, the calendar year 1993 report with respect to the National Archives and Records Administration's compliance with the Freedom of Information Act; to the Committee on the Judiciary.

EC–2292. A communication from the Chairman of the National Credit Union Administration, transmitting, pursuant to law, the calendar year 1993 report of the Administration with respect to compliance with the Freedom of Information Act; to the Committee on the Judiciary.

EC–2293. A communication from the Executive Director of the Pennsylvania Avenue Development Corporation, transmitting, pursuant to law, the calendar year 1993 report of the Corporation with respect to compliance with the Freedom of Information Act; to the Committee on the Judiciary.

EC–2294. A communication from the Administrator of the Small Business Administration, transmitting, pursuant to law, the annual report of the Administration for calendar year 1993 relative to compliance with the Freedom of Information Act; to the Committee on the Judiciary.

EC–2295. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, the calendar year 1993 report of the Commission relative to compliance with the Freedom of Information Act; to the Committee on the Judiciary.

EC–2296. A communication from the Secretary of the Resolution Trust Corporation, transmitting, pursuant to law, the calendar year 1993 report of the Corporation relative to compliance with the Freedom of Information Act; to the Committee on the Judiciary.

EC–2297. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, the annual report for calendar year 1993 of the Commission with respect to compliance with the Freedom of Information Act; to the Committee on the Judiciary.

EC–2298. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report of the Department with respect to compliance with the Freedom of Information Act; to the Committee on the Judiciary.

EC–2299. A communication from the Special Assistant to the President for Management and Administration and Director of the Office of Administration, Executive Office of the President, transmitting, pursuant to law, the annual report for calendar year 1993 with respect to the Office of Administration's compliance with the Freedom of Information Act; to the Committee on the Judiciary.

EC–2300. A communication from the Executive Director of the Thrift Depositor Protection Oversight Board, transmitting, pursuant to law, the annual report for calendar year 1993 with respect to the Board's compliance with the Freedom of Information Act; to the Committee on the Judiciary.

EC–2301. A communication from the Executive Director of the Committee for Purchase from People Who Are Blind or Severely Disabled, transmitting, pursuant to law, the calendar year 1993 annual report of the Committee with respect to compliance with the Freedom of Information Act; to the Committee on the Judiciary.

EC–2302. A communication from the Chair of the Federal Energy Regulatory Commission, transmitting, pursuant to law, the annual report for calendar year 1993 of the Commission with respect to compliance with the Freedom of Information Act; to the Commttee on the Judiciary.

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. RIEGLE:

S. 1898. A bill to amend the Internal Revenue Code of 1986 to make permanent the section 170(e)(5) rules pertaining to gifts of publicly traded stock to certain private foundations, and for other purposes; to the Committee on Finance.

By Mr. COVERDELL:

S. 1899. A bill to establish the Augusta Canal National Heritage Area in the State of Georgia, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MCCAIN:

S. 1900. A bill to provide for the protection of books and materials from the Library of Congress, and for other purposes; to the Committee on Rules and Administration.

By Mr. HELMS (for himself, Mr. HARKIN, Mr. FAIRCLOTH, and Mr. GRASSLEY):

S. 1901. A bill to require the Secretary of Agriculture to issue regulations authorizing the purchase and eradication of swine infected with or exposed to brucellosis, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. RIEGLE (for himself and Mr. SASSER) (by request):

S. 1902. A bill to improve the administration of export controls, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BAUCUS (for himself, Mr. BURNS, and Mr. INOUYE):

S. 1903. A bill to ratify a compact between the Assiniboine and Sioux Indian Tribes of the Fort Peck Reservation and the State of Montana; to the Committee on Indian Affairs.

By Mr. ROCKEFELLER (for himself, Mr. MURKOWSKI, Mr. DECONCINI, Mr. GRAHAM, Mr. AKAKA, Mr. DASCHLE, and Mr. CAMPBELL):

S. 1904. A bill to amend title 38, United States Code, to improve the organization and procedures of the Board of Veterans' Appeals; to the Committee on Veterans' Affairs.

By Mr. ROCKEFELLER (for himself, Mr. DECONCINI, Mr. GRAHAM, Mr. AKAKA, Mr. DASCHLE, and Mr. CAMPBELL):

S. 1905. A bill to improve the processing of benefits claims by the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

By Mr. ROCKEFELLER (for himself, Mr. DECONCINI, Mr. GRAHAM, Mr. AKAKA, and Mr. DASCHLE):

S. 1906. A bill to provide that service connection for disabilities arising from exposure to ionizing radiation or dioxin may be established by direct evidence; to the Committee on Veterans' Affairs.

By Mr. ROCKEFELLER (for himself, Mr. GRAHAM, and Mr. DASCHLE):

S. 1907. A bill to require that the Department of Veterans Affairs adjudicate and resolve certain claims relating to medical malpractice in the health care services provided by the Department; to the Committee on Veterans' Affairs.

By Mr. ROCKEFELLER (for himself, Mr. DECONCINI, Mr. GRAHAM, Mr. AKAKA, and Mr. DASCHLE):

S. 1908. A bill to provide for a study of the processes and procedures of the Department of Veterans Affairs for the disposition of claims for veterans' benefits; to the Committee on Veterans' Affairs.

By Mr. BRYAN:

S. 1909. A bill to improve the interstate enforcement of child support and parentage court orders, and for other purposes; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. D'AMATO:

S. Res. 185. A resolution to congratulate Phil Rizutto on his induction into the Baseball Hall of Fame; to the Committee on the Judiciary.

By Mr. HOLLINGS (for Mr. MITCHELL (for himself and Mr. DOLE)):

S. Res. 186. A resolution to authorize testimony by and representation of Senate employees; considered and agreed to.

By Mr. MITCHELL (for himself and Mr. DOLE):

S. Res. 187. A resolution to authorize the production of records by the Select Committee on Intelligence; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. RIEGLE:

S. 1898. A bill to amend the Internal Revenue Code of 1986 to make permanent the section 170(e)(5) rules pertaining to gifts of publicly traded stock to certain private foundations, and for other purposes; to the Committee on Finance.

PERMANENT EXTENSION OF DEDUCTIONS FOR GIFTS OF CERTAIN STOCK

• Mr. RIEGLE. Mr. President, I introduce today legislation to permanently extend the tax deduction allowed for the full value of gifts of publicly traded stock to private foundations. Maintaining this strong incentive for gifts of such stock to private foundations will continue to encourage investment in the public interest. Many private foundations, which make grants to public-minded charities, rely on such gifts. Indeed, several foundations were created as a result of gifts made because of this deduction provision. Deductions for the full market value of stock contributed to private foundations have been in the Tax Code since 1984, but this deduction is due to expire at the end of this year. I ask my fellow colleagues to join me in making this useful tax provision a permanent fixture in the code.

Also included in this bill are two technical corrections to the tax law dealing with private foundations. The first will ease the restrictions on foundation grants to foreign charities. The second will align the timing of tax payments with the forms that track them.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 1898

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. GIFTS OF QUALIFIED APPRECIATED STOCK TO PRIVATE FOUNDATIONS.

(a) IN GENERAL.—Paragraph (5) of section 170(e) of the Internal Revenue Code of 1986 is amended by striking subparagraph (D).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to contributions made after December 31, 1994.

SEC. 2. PRIVATE FOUNDATION GRANTS TO FOREIGN ORGANIZATIONS TREATED AS PRIVATE FOUNDATIONS.

(a) IN GENERAL.—Paragraph (3) of section 4942(g) of the Internal Revenue Code of 1986 is amended to read as follows:

"(3) CERTAIN CONTRIBUTIONS TO SECTION 501(C)(3) ORGANIZATIONS.—For purposes of this section, the term 'qualifying distribution' includes a contribution to a section 501(c)(3) organization described in paragraph (1)(A)(i) or (ii) if—

"(A) not later than the close of the first taxable year after its taxable year in which such contribution is received—

"(i) such organization makes a distribution equal to the amount of such contribution and such distribution is a qualifying distribution (within the meaning of paragraph (1) or (2), without regard to this paragraph) which is treated under subsection (h) as a distribution out of corpus (or would be so treated if such section 501(c)(3) organization were a private foundation which is not an operating foundation), or

"(ii) in the case of a grant to a foreign organization that is not controlled (directly or indirectly) by the foundation or 1 or more disqualified persons (as defined in section 4946) with respect to the foundation, such organization makes expenditures equal to the amount of such contribution to accomplish 1 or more purposes described in section 170(c)(2)(B) and the grantor foundation exercises expenditure responsibility with respect to the grant (as defined in section 4945(h)), and

"(B) the private foundation making the contribution obtains adequate records or other sufficient evidence from such organization showing that the requirements of subparagraph (A) satisfied."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1992.

SEC. 3. CHANGING DUE DATE FOR FIRST QUARTER ESTIMATED TAX PAYMENTS BY PRIVATE FOUNDATIONS.

(a) IN GENERAL.—Paragraph (3) of section 6655(g) of the Internal Revenue Code of 1986 is amended by inserting after subparagraph (C) the following new subparagraph:

"(D) In the case of any private foundation, subsection (c)(2) shall be applied by substituting 'May 15' for 'April 15'".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1993.●

By Mr. MCCAIN:

S. 1900. A bill to provide for the protection of books and materials from the Library of Congress, and for other purposes; to the Committee on Rules and Administration.

LIBRARY OF CONGRESS BOOK PROTECTION ACT OF 1994

● Mr. MCCAIN. Mr. President, I rise today to introduce legislation to help protect the valuable book resources of the Library of Congress. This bill, "The Library of Congress Book Protection Act", will help the Library of Congress stop abuses of its free book loan program by authorizing the Library to impose fines for books that are long overdue.

I am introducing this legislation to empower Library of Congress officials to crack down on individuals who seriously abuse their Library privileges, by keeping books too long or failing to return them. Library of Congress officials should not have to tolerate the fact that many individuals are apparently unconcerned about returning the books that taxpayers provide for them. Congress should not prevent the Library of Congress from instituting strengthened policies to hold severely delinquent borrowers responsible for their tardiness.

This legislation will enable the Library of Congress to implement a reasonable overdue book charge policy similar to those of most public libraries across America. By doing so, the many Members of Congress, congressional staffers, and executive branch employees who benefit from this magnificent institution will have an added incentive to comply with the generous loan policies of the Library of Congress.

The legislation I am proposing is very basic, but it will afford Library officials the leverage and flexibility they need to address this problem. This bill will help Library of Congress officials keep better track of their resources, and will spur many delinquent borrowers to return the books that taxpayers graciously provide for them.

"The Library of Congress Book Protection Act" would direct the Library to implement an overdue book charge policy for borrowers who have improperly held a book for over 70 days. These individuals or offices will have their privileges suspended until their fines are paid in full. Library of Congress officials will, however, be able to waive such penalties when appropriate. The Library will be authorized to retain the funds received from late book fines, as well. Finally, the offices of severely delinquent borrowers and the fines they owe will be published in the annual report submitted by the Library of Congress to its oversight committees.

Mr. President, like many of my colleagues, I was troubled by news reports of several weeks ago which stated that over 300,000 books are missing from the Library of Congress going back to 1978. Library officials say they don't know who took them. The estimated cost of these thefts from the Library to the taxpayers is $12 million. While certain allegations made about the theft of books from the Library by Members of Congress and congressional staff have been greatly exaggerated, a review of the facts about overdue books at the Library of Congress do give rise to legitimate concerns about their loan policies.

According to the latest figures available from Library officials, of the 20,000 books that are out on loan from the Library of Congress, over one-third are currently listed as overdue. Approximately one-half of the 4,200 books on loan to congressional staff and the media are listed as overdue, and one-in-five books out on loan to Members, committees, and congressional support agencies have been overdue for more than 2 months.

Library of Congress officials note that most of the books that are considered overdue are expected to be returned and can be recalled if necessary. I commend the efforts of Library officials over the past 5 years to implement a system of security procedures to stem the problem of stolen books. I firmly believe, however, that the legislation I am introducing is a reasonable and practical proposal that will assist the Library in protecting the books they provide for the Congress and numerous other entities.

I am concerned about the fact that it is all too easy for individuals to disregard their responsibility to return books to the Library of Congress in a timely manner. This negligence is not only unfair to the other users of the Library, but it also drains the Library's resources in chasing down overdue or missing books.

Indeed, the word privilege is right on the mark in any discussion of how congressional offices are served by this world-renowned institution. Members of the Senate and House of Representatives and our staffs are truly privileged to be able to borrow books and utilize the many other informational sources at the Library completely free of charge, and with few strings attached.

Regrettably, history tells us that no-cost privileges are quickly taken for granted, however. Therefore, it was not surprising for me to learn, Mr. President, that no matter when they were taken out, books loaned to Members of Congress are never considered overdue. Apparently, a loan to a Senator, Congressmen, or committee has become a virtual gift in perpetuity,

I fully recognize that Members and staffs may need to borrow books for extended periods of time, but this is a policy ripe for abuse. It also conjures up negative images in the public eye of yet another exclusive privilege we have awarded ourselves. This policy of interminable forbearance for Members only is similar to too many other dubious perks, and it should be ended.

In introducing this bill, Mr. President, I in no way mean to represent that I have not contributed to the problem myself. I have held on to books I have borrowed from the Library of Congress for too long, as has my staff. There is plenty of blame to go around. Nevertheless, we need to focus on practical remedies, and I feel this proposal will be a sound and productive

first step. My legislation will encourage all of the 8,800 congressional offices with borrowing privileges at the Library of Congress to fulfill their responsibilities in an appropriate manner.

In additional to Members of Congress and congressional staff, the Library of Congress also makes loans to executive departments and agencies, the judiciary and diplomatic corps, the press, and other institutions. As I have mentioned, Mr. President, the Library of Congress is barred from charging late fees for overdue books, in contrast to virtually every other publicly funded library in America. In addition, the Library cannot retain any funds that might be collected due to the loss or damage of loaned books. It's clearly time to change these unwise restrictions and strengthen the Library's ability to protect its resources, and I hope Members of the Senate will support this legislation to do so.

Surely, it's not asking too much of the individuals and offices fortunate enough to use the Library of Congress to do so in a responsible manner. Even under the new borrowing guidelines that would be instituted by this legislation, there really is no reason for any well-intentioned borrower ever to have to pay late fines or have their privileges suspended. I'm optimistic that the mere specter of having to pay overdue book fines will coax delinquent borrowers into responsibly renewing their book loans or returning the books.

I hope that the Senate will adopt this legislation to implement prudent new guidelines in the book loan policies of the Library of Congress.●

By Mr. HELMS (for himself, Mr. HARKIN, Mr. FAIRCLOTH, and Mr. GRASSLEY):

S. 1901. A bill to require the Secretary of Agriculture to issue regulations authorizing the purchase and eradication of swine infected with or exposed to brucellosis, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

LEGISLATION FOR THE ERADICATION OF SWINE WITH BRUCELLOSIS

Mr. HELMS. Mr. President, legislation that I'm offering today—on behalf of Senator HARKIN, Senator FAIRCLOTH, Senator GRASSLEY, and myself—will help stem the spread of brucellosis, a disease carried by livestock which can be spread to humans who come in contact with infected blood in packing houses and elsewhere.

The bill (S. 1901) requires the Secretary of Agriculture, within 30 days of enactment, to purchase and eradicate all swine in the United States known to be infected with brucellosis.

The bottom line, Mr. President, is that this legislation will: First prevent more workers in meat-packing plants from contracting this disease from slaughtered swine; second, offer meatpacking plants the assurance of operating without the fear of their employees contracting this disease; and third, bolster the pork industry, which, as Senators know, is a vital component of this country's economy.

Some may ask: Precisely what is brucellosis? It's a good question. I first became aware of this disease while I was chairman of the Senate Agriculture Committee. This disease, if not checked, can—indeed, already has—caused illness in workers in meat-packing plants. It has afflicted a number of workers in my State and, unless the Secretary of Agriculture undertakes the action called for in this bill, could very well spread from State to State.

This disease is of particular interest to Senator FAIRCLOTH and me because of a recent outbreak of the disease at a packing house in North Carolina and because pork production is a large and important industry in my State. In fact, Mr. President, North Carolina is now the second highest pork producing State in the country, right behind No. 1 Iowa.

Part of the problem, Mr. President, is that under current USDA policy, the Government can purchase and destroy only the adult breeding stock—and not the piglets—USDA has identified as being infected with this disease. Since USDA officials cannot purchase and destroy infected piglets, eventually those animals make their way to packing houses where the disease can be passed on to humans.

A sensible solution to this problem, Mr. President—as North Carolina's Labor Commissioner, Harry Payne, wrote to Secretary Espy—and as the Sampson Independent of Clinton, NC, called for in its February 25, 1994, editorial, is for USDA to purchase and destroy entire herds, both young and old, which are known to be infected with brucellosis.

Mr. President, I ask unanimous consent that Commissioner Payne's letter to Secretary Espy, the editorial from the Sampson Independent, my letter to Secretary Espy of February 18, 1994, and the text of this bill be printed in the RECORD at the conclusion of my remarks.

Mr. President, I might add that the solution proposed by Commissioner Payne and the editors of the Sampson Independent is the solution contained in this legislation and is supported by the American Meat Institute, the National Pork Producers, and the U.S. Animal Health Association.

The USDA has already taken some preliminary steps in this direction. Its Animal and Plant Health Inspection Service [APHIS] has proposed an interim rule allowing Federal funding to be used for the purchase and destruction of both adult pigs and piglets. To ensure that the intent of this rule is implemented without the usual bureaucratic delay, and to minimize the number of humans who will be infected with this disease, my legislation allows Federal funds to be used to buy and destroy every animal in an infected herd of swine within 30 days of the bill's enactment.

This proposal requires no new appropriation inasmuch as the necessary funding will come out of the USDA's existing budget for the eradication of brucellosis in swine. Indeed, according to the experts at USDA, the cost of the approach in this legislation will be less than $350,000 of the $600,000 allocated in this budget.

Mr. President, this legislation is simple. It is sensible. It will change the Government's policy to allow all infected swine to be killed—and in doing so, it will limit the number of workers exposed to this disease. This bill will make for healthier workers in a vital American industry.

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

S. 1901

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PURCHASE AND ERADICATION OF SWINE INFECTED WITH BRUCELLOSIS.

(a) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary of Agriculture shall issue regulations that authorize the Secretary to purchase and eradicate swine infected with or exposed to brucellosis in accordance with section 11 of the Act of May 29, 1884 (21 U.S.C. 114a).

(b) IMPLEMENTATION.—Section 102 of Public Law 99-198 shall apply to the issuance of regulations under subsection (a).

STATE OF NORTH CAROLINA,
DEPARTMENT OF LABOR,
Raleigh, NC, February 10, 1994.

Hon. MIKE ESPY,
U.S. Department of Agriculture, Washington, DC.

DEAR SECRETARY ESPY: Congratulations and thank you for signing the Memorandum of Agreement with U.S. OSHA regarding the use of USDA inspectors to serve as a sharper set of eyes in finding and reporting unsafe workplaces. Please know that those inspectors who are in North Carolina are welcome to participate in any training activity that we have.

I am writing to ask you to refocus your efforts on the eradication of brucellosis to include consideration of the consequences of human exposure to this disease during the slaughtering and packaging process. During our OSHA investigation of Lundy Packing Company, where there have been more than 53 reported cases of brucellosis in the last four years, we discovered that the transmission of this disease to humans poses a significant health risk that could lead to fatal heart disease if untreated. We were also unable to confirm that Lundy had ever knowingly purchased brucellosis contaminated hogs.

It is true that we are requiring of them significant and costly steps which we believe will lower substantially the probability that their employees will be exposed. Our belief is, however, that the only way to truly

eliminate exposure is to eradicate the disease. This will inure to the benefit of the employees and employer from the point of view of health, and in the specific case of Lundy Packing, allow them to purchase hogs at the best price without worry of violation.

It is my understanding that your current eradication program is limited to the destruction of breeding stock and that contaminated piglets, which are supposed to be tagged, are allowed to be marketed and eventually slaughtered for processing. There does not appear to be an effective "cradle to grave" tracking system to insure that physically promising piglets are not diverted to breeding as they mature and possibly pass through numerous hands across state lines. It appears that the only truly effective means of eliminating brucellosis in domestic breeding stock is to destroy all members of identified contaminated herds. Since, as I understand, there are currently only 37 identified contaminated herds in the United States, it would not appear to be an overly burdensome task to make a Department priority the destruction of these herds.

I encourage you to take whatever steps are necessary to see that these entire herds are destroyed as quickly as possible. I realize that contaminated feral pigs may continue to pose a risk to domestic herds; however, a more aggressive posture of destroying an entire contaminated herd upon identification would appear to significantly reduce the potential risk of spreading this disease. I understand that this approach is supported by the American Meat Institute, the National Pork Producers, and the U.S. Animal Health Association.

I would be happy to talk with you about our concerns or make the information we found during our investigation available to you or your staff. In all of this, please know that we recognize you share our concern about the people of the pork industry as well as the industry in which they work.

Most sincerely,

HARRY E. PAYNE, Jr.

[From the Sampson Independent, Feb. 25, 1994]

STATE, FEDS HAD A ROLE—OTHERS SHARE RESPONSIBILITY FOR BRUCELLOSIS

The truth us beginning to come out about this brucellosis business at Lundy's, and if the company bears any blame for the outbreak, then state and federal bureaucracies must share equally in the blame.

First, the federal bureaucracy, which has identified as many as 37 brucellosis-infected herds, but perhaps as few as 17, according to Dr. Michael Staton of the Federal Veterinary Service.

The problems is, nobody has shared the identities of those herds with meat packers, be it Lundy's, Smithfield or any of them.

Oh, there's a process by which a paper trail is built from the herds to market, but Staton said that because of the marketing process that paper trail breaks down, either through deceit on the part those selling the infected hogs, or just because the process doesn't work very well.

That broken-down paper trail may seem like a cavalier way to address brucellosis but according to state veterinarian Dr. George Edwards, the reason is that the U.S. Department of Agriculture and others in the federal agriculture bureaucracy have just regarded brucellosis as a risk inherent to the livestock industry.

After all, there aren't that many brucellosis-infected herds left, it doesn't affect the edibility of the livestock, and, until the outbreak at Lundy's, there haven't been many, if any, reported cases among meat packing industry workers.

Just recently, attitudes at the federal level toward brucellosis have begun to change, primarily at the urging of the pork producing industry, but that's come a day late and a dollar short for Lundy's.

And then there's the State Labor Department. State Labor Department. State Labor Commissioner Harry Paine has communicated with Agriculture Secretary Mike Espy, suggesting that the USDA buy and kill brucellosis-infected livestock.

Good idea, and one that has already been applied in all but five states, but in this instance its a case of closing the barn door after the horse is already gone, because it comes after Lundy's has been fined, basically for allowing an outbreak of brucellosis at its plant, ordered to implement safety and educational procedures to prevent new outbreaks, and to test, on site, any hogs that don't come from brucellosis-free states.

Maybe Lundy's should have had the education and safety procedures in from the start, but remember, the brucellosis outbreak has attracted such attention only because it is so rare, and it seems a lot to ask a business to anticipate every remote eventuality.

But that's what Staton suggested when he pointed out that the penalties imposed against Lundy's by the Labor Department were not so much for buying infected hogs as they were for failing to implement adequate safety procedures.

How about this, though. Had somebody at the USDA written a letter, sent a fax or made a phone call and simply told Lundy's and other meat packing company officials, "Look here. These are the 37 herds we know are brucellosis-infected, so ya'll don't need to be buying any hogs from them," the issue of Lundy's safety precautions never would have come up.

Annabelle Fetterman, Lundy's CEO, has said that when herds were identified as brucellosis infected, the company didn't buy the hogs.

Of course they didn't. No business wants its employees to be sick. Any altruistic motivation aside, it's bad for business.

Why nobody wrote, faxed or called, Staton couldn't say, but don't taxpayer-funded state and federal bureaucracies have at least as much responsibility for health and well-being of the people they're designated to serve, as a private business that must rely on keeping overhead down and production up to turn a profit and continue to provide employment for its workers?

Think about who has the greatest responsibility and who has assumed the greatest portion of their responsibility, then look at who has been penalized in the whole brucellosis business.

It's not supposed to work that way.

U.S. SENATE,
Washington, DC, February 18, 1994.

Hon. MIKE ESPY,
Secretary of Agriculture, U.S. Department of Agriculture, Washington, DC.

DEAR SECRETARY ESPY: The Animal Plant Health Inspection Service has wisely proposed an interim rule authorizing the USDA to destroy all herds of hogs found to be infected with brucellosis. I urge that you implement this rule promptly to eradicate this disease in a cost-effective manner, and protect the health of slaughterhouse employees and the public.

This proposed rule was brought to my attention by Mrs. Annabelle L. Fetterman, Chairman and CEO of The Lundy Packing Company in Clinton, N.C., who had contacted me about recent citations issued to The Lundy Packing Company by the N.C. Occupational Safety and Health Administration. The citations were related to Lundy employees who had contracted brucellosis.

Rapid implementation of the proposed interim rule will (1) allow the Lundy Packing Company to continue to operate its business, (2) eliminate the brucellosis disease from every state, and (3) bolster the pork industry, which, as you know, is so vital to the economy of this country.

You will be expressing good stewardship, Mr. Secretary, if you move quickly to implement this proposed interim road. The American people should applaud you for doing so.

Kindest regards.

Sincerely,

JESSE HELMS.

By Mr. RIEGLE (for himself and Mr. SASSER) (by request):

S. 1902. A bill to improve the administration of export controls, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

EXPORT ADMINISTRATION ACT OF 1994

• Mr. RIEGLE. Mr. President, I rise today to introduce on behalf of the administration a bill titled the Export Administration Act of 1994. This bill is the administration's proposal to rewrite the current statutory authority governing exports of dual-use items and technology to reflect post-cold war realities.

Recently the Subcommittee on International Finance and Monetary Policy of the Senate Committee on Banking, Housing, and Urban Affairs held a hearing at which representatives of the Departments of Commerce, State, Defense, Energy, and the Arms Control and Disarmament Agency testified on this proposal. In contrast to past years the administration presented a unified position and I am hopeful that we will have a new Export Administration Act on the books before the old act expires on June 30 of this year.

One issue that must be reviewed carefully in our rewrite of the Export Administration Act is the issue of proliferation of chemical, biological, and nuclear weapons and the means to deliver them. We no longer have a monopoly on the manufacturing of key technologies that are useful in proliferation activities, and such technologies are falling into hands of rogue regimes, such as Iran, Iraq, Libya, and North Korea. We have made several amendments to the Export Administration Act in recent years to try to stem this growing problem, but more must be done on a multilateral basis to ensure that technologies useful in making weapons of mass destruction and the means to deliver them do not fall into the wrong hands.

In addition to rewriting the Export Administration Act in this Congress, we must also undertake an examination of how we can make our licensing system operate more efficiently and ef-

fectively. This is particularly important to our competitiveness. United States sales should not be lost simply because of interagency disputes that cause needless delays on licensing decisions. A more streamlined licensing system can help our firms become more competitive in export markets.

I very much look forward to working with the Clinton administration in this year's rewrite of the Export Administration Act.

I ask that a letter from Secretary Brown asking me to introduce the Export Administration Act of 1994 on behalf of the administration, a copy of the bill and a section by section of it be reprinted in the RECORD following my statement.

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

S. 1902

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TITLE.

This Act may be cited as the "Export Administration Act of 1994" and shall hereafter be referred to as the Act.

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) Export controls shall be a part of a comprehensive response to national security threats. United States exports should be restricted only for significant national security.

(2) The proliferation of weapons of mass destruction, their delivery systems, and other significant military capabilities has become one of the most serious threats to world peace and to our national security.

(3) Since growing exports are essential to future economic growth, restrictions on exports must be evaluated in terms of their effects on the United States economy. Economic interests must play a key role in decisions on export controls and the rigor of economic analysis and data available in the decision-making process must be enhanced.

(4) Exports of certain commodities, technology, and software may adversely affect the national security and foreign policy of the United States, by making a significant contribution to the military potential of individual countries or by disseminating the capability to design, develop, test, produce, stockpile, or use weapons of mass destruction, missile delivery systems, and other significant military capabilities. The administration of export controls should emphasize the control of exports that could make a significant contribution to the military potential of any country which would be detrimental to the national security and foreign policy of the United States and the control of items that could disseminate the capability to produce and use weapons of mass destruction, missile delivery systems, and other significant military capabilities.

(5) The acquisition of sensitive commodities, technology, and software by those countries and end users whose actions or policies run counter to United States national security or foreign policy interests may enhance the military-industrial capabilities of those countries, particularly their ability to design, develop, test, produce, stockpile, use, and deliver nuclear, chemical, and biological weapons, missile delivery systems, and other significant military capabilities. This enhancement threatens the security of the United States, its allies, and other friendly nations, and places additional demands on the defense budget of the United States. Availability to certain countries and end users of items that contribute to military capabilities or the proliferation of weapons of mass destruction is a fundamental concern of the United States and should be eliminated through negotiations and other appropriate means whenever possible.

(6) The national security of the United States depends not only on wise foreign policies and a strong defense, but also a vibrant national economy. To be truly effective, export controls should be applied uniformly by all suppliers.

(7) The United States export control system must not be overly restrictive or bureaucratic, or undermine the competitive position of American industry. The export control system must be efficient, responsive, transparent, and effective.

(8) Export controls should be focused on those items that materially contribute to a country's or end user's military or proliferation potential. The United States must pursue the maximum effectiveness of multilateral export control regimes, including comprehensive enforcement measures. The United States recognizes the importance of comprehensive enforcement measures to maximize the effectiveness of multilateral controls. Therefore, the United States must level the playing field for U.S. trade and enhance the effectiveness of controls by pursuing multilateral controls and harmonizing their implementation.

(9) Except in the event the United States is the sole source of critical supplies, unilateral export controls may not be truly effective in influencing the behavior of other governments and impeding access by target countries to controlled items. Unilateral controls may therefore impede access to United States sources of supply without affecting the ability of target countries to obtain controlled items elsewhere. Unilateral controls may therefore permit foreign competitors to serve markets the U.S. Government denies to American firms and workers and impair the reliability of United States suppliers in comparison with their foreign competitors.

(10) While the United States may at times have to act unilaterally, we should strive to avoid unilateral action if it damages U.S. commercial interests without effectively promoting our nonproliferation and other national security and foreign policy objectives. At the same time, the need to lead the international community or overriding national security or foreign policy interests may justify unilateral controls in specific cases.

(11) The multilateral export control system, which helped contain military threats posed by the former Soviet Bloc countries, should be replaced by an effective and efficient multilateral export control program furthering vital interests of the United States in the post-Cold War era.

(12) International treaties, such as the Chemical Weapons Convention, and international agreements and arrangements intended to control, lessen or eliminate weapons of mass destruction should be fully implemented by, *inter alia*, imposing restrictions on imports and exports of designated items, establishing, monitoring and transmitting reports on the production, processing, consumption, export and import of designated items, and complying with verification regimes mandated by such treaties, agreements, and arrangements.

(13) Restrictions that negatively affect the U.S. industrial base may ultimately weaken U.S. military capabilities and lead to dependencies on foreign sources for key components. The availability of certain items in the United States and from abroad may affect the welfare of the domestic economy.

(14) It is important that the administration of export controls imposed for foreign policy purposes give special emphasis to the need to control exports of items and substances hazardous to the public health and the environment which are banned or severely restricted for use in the United States, and which, if exported, could affect the international reputation of the United States as a responsible trading partner.

SEC. 3. POLICY STATEMENT.

It is the policy of the United States:

(1) To minimize uncertainties in export control policy and to encourage trade with all countries with which the United States has diplomatic or trading relations, except those countries with which such trade has been determined by the President to be against the national interest.

(2) That the United States should not restrict export trade by its citizens except when necessary for significant national security, non-proliferation, foreign policy, or short supply objectives and such restrictions are administered consistent with basic standards of fairness, and are implemented only after full consideration of the impact on the economy of the United States and only to the extent necessary—

(A) to stem the proliferation of weapons of mass destruction and the means to deliver them by—

(i) leading international efforts to control the proliferation of chemical and biological weapons, nuclear explosive devices, missile delivery systems, and other significant military capabilities;

(ii) controlling involvement and contributions by U.S. persons to foreign programs intended to design, develop, test, produce, stockpile, or use chemical and biological weapons, nuclear explosive devices, missile delivery systems, and other significant military capabilities and the means to design, develop, test, produce, stockpile, or use them; and

(iii) implementing international agreements and arrangements that provide for controls on imports and exports of designated items, reports on the production, processing, consumption, exports and imports of such items, and compliance with verification programs;

(B) to restrict the export of items that would make a significant contribution to the military potential of countries that would prove detrimental to the national security and foreign policy of the United States;

(C) to restrict the export of items where necessary to significantly further the foreign policy of the United States or to fulfill its declared international commitments; and

(D) to restrict the export of items where necessary to protect the domestic economy from the excessive drain of scarce materials or to secure the removal by foreign countries of restrictions on access to supplies where such restrictions have or may have a serious inflationary impact, have caused or may cause a serious domestic shortage, or have been imposed for purposes of influencing the foreign policy of the United States.

(3) To further increase the reliance of the United States upon multilateral coordination of controls through effective control regimes that maintain lists of controlled items that are truly critical to the control objec-

tives, strive to increase membership to include all relevant countries, maintain common criteria and procedures for licensing, and harmonize member criteria and procedures for licensing, and harmonize member countries' licensing practices. It is the policy of the United States that multilateral controls are the best means of achieving the objectives of the United States.

(4) To encourage all countries that produce items that are controlled by multilateral regimes to adhere to the guidelines and controls of the regimes and to join the regime if they meet the relevant criteria for membership.

(5) To make every effort to achieve effective multilateral export controls in all cases where the United States imposes export controls.

(6) To avoid unilateral export controls and policies except when dictated by overriding national interests, to continue to work with other supplier nations to make export controls multilateral and to harmonize their implementation, and to avoid unilateral action if it damages U.S. commercial interests without effectively promoting our nonproliferation and other national security and foreign policy objectives. The United States will therefore impose unilateral export controls only when the following conditions are met:

(A) Diplomatic efforts have failed or clearly would be unsuccessful in establishing a multilateral regime; and

(B) The national security, nonproliferation, or foreign policy objectives expected to be achieved by the unilateral control justify any expected loss of sales, jobs, and reliability on the part of United States exporters.

(7) To eliminate unilateral dual-use export controls and policies unless their continuation in force is essential to U.S. national security, nonproliferation, or foreign policy interests.

(8) To eliminate unnecessary and ineffective export controls.

(9) To make all licensing decisions in a timely manner so undue delays in the licensing process will not cause a U.S. firm to lose an export sale.

(10) To ensure that control lists are periodically updated to reflect the changing proliferation threat, advances in technology, and a realistic appraisal of what is beyond the reach of effective control.

(11) To maintain a presumption of approval of applications for authority to export dual-use goods to civil end uses and end users under this Act, absent sound reasons for denial based on national security, nonproliferation and foreign policy grounds, based upon the commitment of the United States to an open international trading system and the need to ensure American competitiveness.

(12) To use export controls to encourage other countries to take immediate steps to prevent the use of their territories or resources to aid, encourage or give sanctuary to those persons directing, supporting or participating in acts of international terrorism. To achieve this objective, the President shall make reasonable and prompt efforts to secure the removal or reduction of such assistance to international terrorists through international cooperation and agreement before imposing export controls.

(13) To sustain vigorous scientific enterprise. To do so involves sustaining the ability of scientists and other scholars freely to communicate research findings, in accordance with the applicable provisions of law, by means of publication, teaching, conferences, and other forms of scholarly exchange.

(14)(A) To oppose restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries friendly to the United States or against any United States person; and

(B) To encourage and, in specified cases, require United States persons engaged in the export of commodities, software, technology and other information to refuse to take actions, including furnishing information or entering into or implementing agreements, which have the effect of furthering or supporting the restrictive trade practices or boycotts fostered or imposed by any foreign country against a country friendly to the United States or against any United States person.

(15) To ensure that U.S. economic interests play a key role in decisions on export controls and to take immediate action to increase the rigor of economic analysis and data available in the decision-making process.

(16) To streamline export licensing functions and thereby better serve the exporting public by reducing and eliminating overlapping, conflicting, and inconsistent regulatory burdens; and further, to create a more efficient, responsive, transparent, and effective export control process.

(17) To cooperate with other countries with which the United States has defense treaty commitments or common strategic objectives in restricting the export of goods and technology which would make a significant contribution to the military potential of any country or combination of countries which would prove detrimental to the national security of the United States and of those countries with which the United States has defense treaty commitments or common strategic objectives, and to encourage other friendly countries to cooperate in restricting the sale of goods and technology that can harm our mutual security.

(18) To promote the national security of the United States which requires that the nation's economy shall flourish, its geographic integrity is maintained, its political and foreign policy views are respected, the freedom and well being of its citizens are assured, and that American values are preserved. The United States as a world power must protect its national security against direct and indirect threats through the promotion of nonproliferation policies in all areas of the world.

(19) To implement export controls and diplomatic activity needed to sustain multilateral and bilateral activities and thereby complement and reinforce each other.

(20) To enhance the national security and nonproliferation interests of the United States. To this end and consistent with the other policies of this section and the criteria of section 5(b) of this Act, the United States will use multilateral and unilateral controls when necessary to ensure that access to weapons of mass destruction, missile delivery systems, and other significant military capabilities is restricted. While the multilateral nonproliferation regimes will be the primary instruments through which the United States will pursue its nonproliferation goals, it will also engage in bilateral agreements and, when consistent with the policies of this section and the criteria of section 5(b), take unilateral action.

(21) To defer and punish acts of international terrorism and to encourage other countries to take immediate steps to do so, or to terminate their support for, encouragement of, or use of their territories to aid or give sanctuary to, persons and groups involved in international terrorism. To this end and consistent with the policies of this section and the criteria of section 5(b) of this Act, the United Stats should distance itself from countries that have violated international norms of behavior by repeatedly supporting acts of international terrorism by restricting exports to those countries. The United States may establish such controls on exports as may be appropriate to induce such countries to change their unacceptable policies.

(22) To promote international peace, stability, and respect of fundamental human rights. The United States may establish controls on exports to countries that threaten regional stability, abuse of fundamental rights of their citizens, or to promote other important foreign policy objectives of the United States consistent with the policies of this section and the criteria of section 5(b) of this Act.

(23) In developing changes to multilateral control lists, to seek to focus controls on only that set of items that, if taken together and if denied to target countries, would carry out the policy of the United States to deny such countries the ability to design, develop, test, produce, stockpile, or use relevant conventional military capability, weapons of mass destruction, their delivery systems, or other capabilities the denial of which are the goals of United States export control policy.

SEC. 4. GENERAL PROVISIONS.

(a) TYPES OF LICENSES.—The Secretary may require any type of validated or general license under such terms and conditions as may be imposed by the Secretary for the effective and efficient implementation of this Act.

(b) CONTROL LIST.—In accordance with the procedures specified in sections 5 and 11 of this Act, the Secretary shall establish and maintain a list (hereinafter in this Act referred to as the "Commerce Control List" or "Control List") stating license requirements for exports of items under this Act.

(c) MILITARILY CRITICAL TECHNOLOGIES LIST.—The Secretary of Defense shall bear primary responsibility for establishing and maintaining the Militarily Critical Technologies List (hereinafter in the Act referred to as the MCTL) identifying equipment and technologies critical to the design, development, test, production, stockpiling, or use of weapons of mass destruction and other significant military capabilities, including nuclear, biological and chemical weapons, and manned and unmanned vehicles capable of delivering such weapons.

(d) RIGHT OF EXPORT.—No authority or permission to export may be required under this Act, or under regulations issued under this Act, except to carry out the policies set forth in section 3 of this Act.

(e) DELEGATION OF AUTHORITY.—The President may delegate the power, authority, and discretion conferred upon him by this Act to such departments, agencies, or officials of the Government as he may consider appropriate, except that no authority under this Act may be delegated to, or exercised by, any official of any department or agency the head of which is not appointed by the President, by and with the advice and consent of the Senate.

(f) NOTIFICATION OF THE PUBLIC; CONSULTATION WITH BUSINESS.—The Secretary shall keep the public fully apprised of changes in export control policy and procedures instituted in conformity with this Act with a view to encouraging trade. The Secretary shall meet regularly with representatives of

a broad spectrum of enterprises, labor organizations, and citizens interested in or affected by export controls, in order to obtain their views on United States export control policy and the foreign availability of items subject to controls.

(g) TECHNICAL ADVISORY COMMITTEES.—

(1) Upon his or her own initiative or upon written request by representatives of a substantial segment of any industry which produces any items subject to export controls under this Act or being considered for such controls, the Secretary shall appoint technical advisory committees. Such technical advisory committees shall advise the United States on all aspects of controls imposed or proposed under this Act. Each such committee shall consist of representatives of United States industry and Government, including the Department of Commerce and such other departments and agencies as appropriate. The Secretary shall permit the widest possible participation by the business community on the technical advisory committees.

(2) Technical advisory committees established under paragraph (1) shall advise and assist the Secretary and any other department, agency, or official of the Government of the United States to which the President delegates authority under this Act, on actions designed to carry out the policies of this Act. Such committees, where they have expertise in such matters, shall be consulted on questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to any items, (D) revisions of the Control List (as provided in subsection (b), including proposed revisions of multilateral controls in which the United States participates), (E) the issuance of regulations, (F) the impact and interpretation of existing regulations, (G) processes and procedures for review of licenses and policy, and (H) any other questions relating to actions designed to carry out this Act. Nothing in this subsection shall prevent the United States Government from consulting, at any time, with any person representing industry or the general public, regardless of whether such person is a member of a technical advisory committee. Members of the public shall be given a reasonable opportunity, pursuant to regulations prescribed by the Secretary, to present evidence to such committees.

(3) Upon request of any member of any such committee, the Secretary may, if the Secretary determines it appropriate, reimburse such member for travel, subsistence, and other necessary expenses incurred by such member in connection with the duties of such member.

(4) Each such committee shall elect a chairman, and shall meet at least every three months at the call of the chairman, unless the chairman determines, in consultation with the other members of the committee, that such a meeting is not necessary to achieve the purposes of this subsection. Each such committee shall be terminated after a period of 2 years, unless extended by the Secretary for additional periods of 2 years. The Secretary shall consult each such committee on such termination or extension of that committee.

(5) To facilitate the work of the technical advisory committees, the Secretary, in conjunction with other departments and agencies participating in the administration of this Act, shall disclose to each such committee adequate information, consistent with national security, pertaining to the reasons for the export controls which are in effect or contemplated for the items or policies for which that committee furnishes advice. Information provided by the technical advisory committees shall not be subject to disclosure under section 552 of title 5, United States Code, and such information shall not be published or disclosed unless the Secretary determines that the withholding thereof is contrary to the national interest.

(h) FEES.—No fee may be charged in connection with the submission or processing of an export license application.

SEC. 5. NONPROLIFERATION, NATIONAL SECURITY, AND FOREIGN POLICY CONTROL AUTHORITIES.

(a) AUTHORITY.—

(1) In order to carry out the policies enumerated in section 3 of this Act, the President may, in accordance with the provisions of this section and section 15(e), prohibit or curtail the export of any item subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States. The President may regulate domestic and foreign conduct, consistent with the policies of this Act. Such authority shall include, but not be limited to, the authority to prohibit activity such as financing, contracting, servicing or employment, to deny access to items in the United States and abroad, to conduct audits of records and inspections of facilities, to compel reports, and to implement international commitments of the United States with respect to the control of exports.

(2) Except as otherwise specified in this Act, the authority contained in this Act shall be exercised by the Secretary, in consultation with appropriate departments and agencies.

(3) As directed by the President, annual policy guidance shall be issued to provide detailed implementing guidance to licensing officials in all appropriate departments and agencies.

(4) To develop the annual policy guidance, export controls and other regulations to implement policies contained in section 3 shall be reviewed annually. This annual policy review shall include an evaluation of benefits and costs, including economic impact, of export controls. The review should include:

(A) An assessment by the Secretary of Commerce at least 30 days in advance of determinations to extend controls describing the economic consequences of the controls during the preceding 12 months, including estimates of any lost United States exports and jobs;

(B) An assessment by the Secretary of State at least 30 days in advance of determinations to extend controls describing the objectives of the controls and the extent to which the controls have attained those objectives over the preceding 12 months;

(C) An assessment by the Secretary of Defense at least 30 days in advance of determinations to extend controls describing the impact export controls have had in the preceding 12 months on the national security of the United States;

(D) Solicitation of public comments for submission of such comments at least 60 days in advance of determinations to extend controls; and

(E) A systematic review by the Secretary of the above in consultation with appropriate departments and agencies.

(5) Based upon the review required by paragraph (4) above, the Secretary, in consultation with appropriate departments and agencies, shall determine at least annually whether the national interest requires that he or she terminate unilateral controls and regulations or maintain them for an additional 12 months. Unilateral controls imposed under (b)(1)(B) of this section shall expire by operation of law after one year from the most recent imposition or renewal of such controls unless extended by the Secretary based upon his or her findings consistent with the criteria and other requirements of this Act. Such findings shall be provided to the Congress pursuant to subsection (e)(2) of this section.

(b) CRITERIA.—

(1) Controls may be imposed, expanded or extended under this section only if the President determines that:

(A) The control is essential to advancing the nonproliferation, national security, or foreign policies of the United States provided in section 3 above; and like-minded states have agreed with the United States on the utility of such controls in obtaining a shared objective and procedures for implementing that objective; or

(B) The control is essential to advancing the nonproliferation, national security, or foreign policies of the United States provided in section 3 above; and the objective of the control is in the overall national interest of the United States and cannot be attained by means other than the control.

(2) The President should make the determination described in subparagraph (1)(B) above for the purpose of imposing or expanding a unilateral control, only if:

(A) Such controls are likely to have substantial progress toward achieving the intended purpose of:

(i) Changing, modifying or constraining the undesirable conduct or policies of the target country or countries;

(ii) Denying access by the target country to controlled items from all sources;

(iii) Establishing multilateral cooperation to deny the target country access to controlled items from all sources; or

(iv) Denying exports or assistance that significantly and directly contribute to the proliferation of weapons of mass destruction, terrorism, human rights abuses, or regional instability.

(B) The proposed controls are compatible with the foreign policy objectives of the United States and with overall United States policy toward the target country;

(C) The reaction of other countries to the imposition or expansion of such export controls by the United States is not likely to render the controls ineffective in achieving the intended purpose or to be counter-productive to United States policy interests;

(D) The effect of the proposed controls on the export performance of the United States, the competitive position of the United States as a supplier of items, or on the economic well-being of individual United States companies and their employees and communities does not exceed the benefit to the United States foreign policy, nonproliferation, or national security interests; and

(E) The United States has the ability to enforce the proposed controls effectively.

(3) The President should make the determination described in subparagraph (1)(B) above for the purpose of extending a control, only if:

(A) Such controls are likely to continue to make substantial progress toward achieving the intended purpose of:

(i) Changing, modifying or constraining the undesirable conduct or policies of the target country or countries;

(ii) Denying access by the target country to controlled items from all sources;

(iii) Establishing multilateral cooperation to deny the target country access to controlled items from all sources; or

(iv) Denying exports or assistance that significantly and directly contribute to the proliferation of weapons of mass destruction, terrorism, human rights abuses, or regional instability.

(B) The impact of the controls has been compatible with the foreign policy objectives of the United States and with overall United States policy toward the target country;

(C) The reaction of other countries to the imposition or expansion of such export controls by the United States has not rendered the controls ineffective in achieving the intended purpose and have not been counterproductive to United States policy interests;

(D) The effect of the proposed controls on the export performance of the United States, the competitive position of the United States as a supplier of items, and the economic well-being of individual United States companies and their employees and communities has not exceeded the benefit to the United States foreign policy, nonproliferation, or national security interests; and

(E) The United States has enforced the controls effectively.

(c) CONSULTATION WITH INDUSTRY.—The Secretary, in every possible instance, shall consult with and seek advice from affected United States public, industries, and technical advisory committees and seek public comment before the imposition, expansion, or extensions of any export control under this section. Such consultation shall include advice on the criteria set forth in subsection (b) and such other matters as the Secretary considers appropriate.

(d) CONSULTATION WITH OTHER COUNTRIES.—When imposing, expanding, or extending export controls under this section, the Secretary of State shall, in consultation with appropriate departments and agencies and at the earliest appropriate opportunity, consult with the countries with which the United States maintains export controls cooperatively and with such other countries as appropriate to advise them of the reasons for the action and to urge them to adopt similar controls.

(e) CONSULTATIONS WITH THE CONGRESS.—

(1) The Secretary, in consultation with appropriate departments and agencies, shall keep the Congress fully apprised of changes in export control policy and procedures pursuant to this Act. The Secretary or his designates, in consultation with representatives of other appropriate departments and agencies, shall consult with the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing and Urban Affairs of the Senate on changes in export control policy, procedures, and other developments related to this Act.

(2) The Secretary may not impose, expand, or extend unilateral export controls under this section until the Secretary has submitted to the Congress a report—

(A) specifying the purpose of the controls;

(B) specifying the determination of the Secretary described in subsection (b), the bases for such determinations (or considerations), and any possible adverse foreign policy consequences of the controls;

(C) describing the nature, the subjects, and the results of, or the plans for, the consultation with industry and the interested public pursuant to subsection (c) and with other countries pursuant to subsection (d);

(D) specifying the nature and results of any alternative means attempted to achieve the objective of the control, or the reasons for imposing, expanding, or extending the controls without attempting any such alternative means; and

(E) describing the availability from other countries of items comparable to the items subject to the proposed export controls, and describing the nature and results of the efforts made to secure the cooperation of foreign governments in controlling the foreign availability of such comparable goods or technology.

Such report shall also indicate how such controls will further significantly the policies of the United States as set forth in section 3 or will further its declared international obligations.

(3) To the extent necessary to further the effectiveness of the export controls, portions of a report required by paragraph (2) may be submitted to the Congress on a classified basis, and shall be subject to the provisions of section 11(c) of this Act. Each such report shall, at the same time it is submitted to the Congress, also be submitted to the General Accounting Office for the purpose of assessing the report's full compliance with the intent of this subsection.

(f) MULTILATERAL CONTROL REGIMES.—

(1) POLICY.—In order to carry out the policies of section 3 and the criteria of section 5(b), the Secretary of State, in consultation with appropriate departments and agencies, should seek multilateral arrangements that are intended to secure effective achievement of these policies and criteria and in so doing also establish fairer and more predictable competitive opportunities for U.S. exporters.

(2) STANDARDS FOR NATIONAL SYSTEMS.—In the establishment and maintenance of multilateral regimes, the Secretary of State, in consultation with appropriate departments and agencies, shall take steps to attain the cooperation of members in the effective implementation of export control systems. Such systems should contain the following elements:

(A) National laws providing sufficient enforcement authorities, civil and criminal penalties, and statutes of limitations sufficient to deter potential violations and punish violators;

(B) A program to evaluate export license applications that includes sufficient technical expertise to assess the licensing status of exports and ensure the reliability of end users;

(C) An enforcement mechanism that provides authority for trained enforcement officers to investigate and prevent illegal exports;

(D) A system of export control documentation to verify the movement of items;

(E) Procedures for the coordination and exchange of information concerning licensing, end users, and enforcement; and

(F) Adequate national resources devoted to subparagraphs (A) through (E) of this subsection.

(3) STANDARDS FOR MULTILATERAL REGIMES.—In the establishment and maintenance of multilateral regimes, the Secretary of State, in consultation with appropriate departments and agencies, shall seek, consistent with the policies of section 3 and the criteria of section 5(b), the following features for the multilateral control regimes in which the United States participates:

(A) FULL MEMBERSHIP.—Achieve membership of all supplier countries whose policies and activities are consistent with the objectives and membership criteria of the multilateral arrangement.

(B) EFFECTIVE ENFORCEMENT AND COMPLIANCE.—Promote enforcement and compliance with the rules and guidelines of the members of the regime through maintenance of an effective control list.

(C) PUBLIC UNDERSTANDING.—Enhance public understanding of each regime's purpose and procedures.

(D) EFFECTIVE IMPLEMENTATION PROCEDURES.—Achieve procedures for effective implementation of the regime rules and guidelines through uniform and consistent interpretations of export controls agreed to by the governments participating in the regime.

(E) ENHANCED COOPERATION AMONG REGIME MEMBERS.—Reach agreement to enhance cooperation among members of the regime in obtaining the agreement of governments outside the regime to restrict the export of items controlled by the regime, to establish an ongoing mechanism in the regime to coordinate planning and implementation of export control measures related to such agreements, and to remove items from the list if the control of such items no longer serves the objectives of the members of the regime.

(F) PERIODIC HIGH-LEVEL MEETINGS.—Conduct periodic meetings of high-level representatives of participating governments for the purpose of coordinating export control policies and issuing policy guidance to the regime members.

(G) COMMON LIST OF CONTROLLED ITEMS.—Reach agreement on a common list of items controlled by the regime.

(4) INCENTIVES FOR PARTNERSHIP.—Consistent with the policies of this Act and consistent with the objectives, rules and guidelines of the individual regime:

(A) The Secretary, in consultation with appropriate departments and agencies, may provide for exports free of validated license requirements to and among members of a multilateral regime for items subject to controls under such a multilateral regime; and

(B) The Secretary, in consultation with appropriate departments and agencies, may adjust licensing policies for access to items controlled pursuant to this Act depending on a country or other entity's degree of adherence to the export control policies of section 5.

(g) PUBLICATION OF ELEMENTS OF MULTILATERAL CONTROL REGIMES.—Consistent with arrangements in multilateral regimes, the United States shall publish the following information:

(1) Purpose(s) of the control regime;

(2) Member countries;

(3) Licensing policy;

(4) Items subject to controls together with all public notes, understandings, and other aspects of such agreement and all changes thereto;

(5) Target countries or regions (if any), target and uses, and target end users (including projects of concern);

(6) Rules of interpretation;

(7) Major policy actions; and

(8) The rules and procedures of the regime for establishing and modifying the above elements of the regime and for reviewing export license applications as provided for by the regime.

Subject to commitments required by multilateral regimes, within 6 months after the date of the enactment of this Act or thereafter within 2 months of joining or organizing a new multilateral regime, the Secretary, in consultation with appropriate departments and agencies, shall publish the above information. In addition, the Secretary shall publish changes in the above information within 2 months of adoption of such changes by a regime.

(h) SEEKING MULTILATERAL SUPPORT FOR UNILATERAL CONTROLS.—For all unilateral

controls, the Secretary of State, in consultation with appropriate departments and agencies, shall have a continuing duty to seek support for such controls by other countries and by effective multilateral control regimes.

(i) REGULATION INDICATING NATURE OF UNILATERAL CONTROLS.—Regardless of the reason for control, all unilateral controls shall be indicated as such by regulation.

(j) IMPLEMENTATION.—

(1) NONPROLIFERATION.—

(A) COUNTRIES PARTICIPATING IN CERTAIN AGREEMENTS.—The Secretary of State, in consultation with appropriate departments and agencies, shall be responsible for conducting negotiations with those countries participating in the groups known as the Coordinating Committee, the Missile Technology Control Regime ("MTCR"), the Australia Group, the Nuclear Suppliers' Group, and other regimes that may be established, regarding their cooperation in restricting the export of items in order to carry out the policies set forth in section 3.

Such negotiations shall cover, among other issues, which items should be subject to multilaterally agreed export restrictions, and the implementation of the restrictions consistent with the principles in this Act.

(B) OTHER COUNTRIES.—The Secretary of State, in consultation with appropriate departments and agencies, shall be responsible for conducting negotiations with countries and groups of countries not referred to in subparagraph (A) regarding their cooperation in restricting the export of items consistent with purposes set forth in this Act.

(2) MISSILE TECHNOLOGY.—The Secretary, consistent with section 3, section 5(b), section 5(f), and in consultation with appropriate departments and agencies—

(A) shall, consistent with section 11(e), establish and maintain, as part of the Control List, dual-use items on the MTCR Annex;

(B) may include, as part of the Control List, items that would provide a material contribution to the design, development, test, production, stockpiling, or use of missile delivery systems, which items are not included in the MTCR Annex but which the United States proposes to the other MTCR adherents for inclusion in the MTCR Annex; and

(C) shall require an individual validated license, consistent with MTCR arrangements, for—

(i) any export of items on the list referred to under paragraph (2) to any country, except as provided for in subsection (f)(4) of this section; and

(ii) any export of items that the exporter knows is destined for a project or facility for the design, development, or manufacture of a missile in a country that is not an MTCR adherent.

(3) CHEMICAL AND BIOLOGICAL WEAPONS.—The Secretary, consistent with section 3, section 5(b), section 5(f), and in consultation with appropriate departments and agencies—

(A) shall, consistent with section 11(e), establish and maintain, as part of the Control List, dual-use items listed by the Australia Group or by the Chemical Weapons Convention;

(B) may include, as part of the Control List, items that would provide a material contribution to the design, development, test, production, stockpiling, or use of chemical or biological weapons, which items are not listed by the Australia Group but which the United States proposes to the other Australia Group adherents for inclusion in its list of controlled items; and

(C) shall require an individual validated license, consistent with the arrangements in the Australia Group and the Chemical Weapons Convention, for—

(i) any export of items on the list referred to under paragraph (3) to any country, except as provided for in subsection (f)(4) of this section; and

(ii) any export of items that the exporter knows is destined for a project or facility for the design, development, or manufacture of a chemical or biological weapon.

(4) INTERNATIONAL TERRORISM.—

(A) A validated license shall be required for the export of items to a country if the Secretary of State has made the following determinations:

(i) The government of such country has repeatedly provided support for acts of international terrorism; and

(ii) The export of such items could make a significant contribution to the military potential of such country, including its military logistics capability, or could enhance the ability of such country to support acts of international terrorism.

(B) The Secretary and the Secretary of State shall notify the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations of the Senate at least 30 days before issuing any validated license required by paragraph (A).

(C) Each determination of the Secretary of State under paragraph (A)(i), including each determination in effect on the date of the enactment of the Antiterrorism and Arms Export Amendments Act of 1989 [December 12, 1989], shall be published in the Federal Register.

(D) A determination made by the Secretary of State under paragraph (A)(i) may not be rescinded unless the President submits to the Speaker of the House of Representatives and the chairman of the Committee on Banking, Housing, and Urban Affairs and the chairman of the Committee on Foreign Relations of the Senate—

(i) before the proposed rescission would take effect, a report certifying that—

(a) there has been a fundamental change in the leadership and policies of the government of the country concerned;

(b) that government is not supporting acts of international terrorism; and

(c) that government has provided assurances that it will not support acts of international terrorism in the future; or

(ii) at least 45 days before the proposed rescission would take effect, a report justifying the rescission and certifying that—

(a) the government concerned has not provided any support for international terrorism during the preceding 6-month period; and

(b) the government concerned has provided assurances that it will not support acts of international terrorism in the future.

(5) HUMAN RIGHTS AND CRIME CONTROL.—

(A) Crime control and detection instruments and equipment shall be approved for export by the Secretary only pursuant to a validated export license. Notwithstanding any other provision of the Act—

(i) any determination of the Secretary of what items shall be included on the Control List established pursuant to section 11(e) as a result of the export restriction imposed under this subsection shall be made with the concurrence of the Secretary of State; and

(ii) any determination of the Secretary to approve or deny an export license application to export crime control and detection instruments or equipment shall be made with the concurrence of the Secretary of State, except that, if the Secretary does not agree with the Secretary of State with respect to any determination under subparagraph (i) or (ii), the matter shall be referred to the President for resolution.

(B) The provisions of this subsection shall not apply to exports to Canada, countries which are members of the European Union, Norway, Iceland, Japan, Australia, or New Zealand, or to such countries as the President shall designate consistent with the purposes of this subsection and section 502B of the Foreign Assistance Act of 1961 [22 U.S.C. §2304].

(k) UNFAIR IMPACT ON U.S. EXPORTER.—

(1) POLICY.—It is the policy of the United States that no United States exporter should be placed at a competitive disadvantage vis-a-vis its commercial competitors because of export control policies or practices unless relief from such controls would create a significant risk to the foreign policy, nonproliferation, or national security interests of the United States.

(2) RELIEF FROM EXPORT CONTROLS.—A person may petition the Secretary for relief from current export control requirements on any one or more of the following grounds and the Secretary may conduct evaluations for relief on his or her own initiative based upon any one or more of the following grounds:

(A) FOREIGN AVAILABILITY.—The controlled item is available in fact in sufficient quantity and comparable quality to the proposed countries of export or end users from sources outside the United States so that the requirement for a validated license is or would be ineffective in achieving the purpose of the control.

(C) COMPETITIVE DISADVANTAGE.—

(i) Differences between the export control policies or procedures of the United States and that of governments of foreign suppliers effectively has placed or will place the United States exporter at a near-term commercial disadvantage vis-a-vis its competitors abroad; or

(ii) Changes to the domestic control lists of the United States and foreign governments result in similar items being controlled differently thus resulting in a competitive disadvantage.

(3) PROVISIONS FOR RELIEF.—Consistent with multilateral arrangements, the Secretary, in consultation with appropriate departments and agencies, shall make determinations of facts under paragraph (2) and, subject to paragraph 4, provide the following relief to firms that meet the criteria in paragraph (2):

(A) Change the control status of all or some of the items in question so as to eliminate any significant competitive disadvantage;

(B) Selectively approve the sale of controlled goods so as to eliminate any significant competitive disadvantage; or

(C) Seek multilateral support to eliminate the source of foreign availability or to enhance a control to make it effective. If this relief is chosen and if such efforts fail to achieve multilateral support to eliminate the source of foreign availability or to make the control effective, then not later than 330 days from the date of the Secretary's initiation of an assessment, the Secretary shall provide other relief pursuant to (A) or (B) above or conclude pursuant to paragraph (4) that the granting of such relief would create a significant risk to U.S. nonproliferation, foreign policy or national security interests. Provided, however, if the Secretary of State,

in consultation with appropriate departments and agencies, finds that substantial progress is being made to achieve multilateral support to eliminate the source of foreign availability or to make the control effective, then the Secretary shall provide other relief pursuant to (A) or (B) above or conclude pursuant to paragraph (4) that the granting of such relief would create a significant risk to U.S. nonproliferation, foreign policy or national security interests, and shall do so within an additional 180 days.

Except as provided in paragraph (5), a determination that a petitioner qualifies for relief under paragraph (2) above shall not compel the United States to decontrol an item taht remains subject to control by a multilateral regime in which the United States is a member or adherent.

(4) EXCEPTIONS FROM RELIEF.—The Secretary shall provide relief to a petitioner who qualifies for relief under paragraph (2) unless the Secretary concludes that the granting of such relief would create a significant risk to U.S. nonproliferation, foreign policy, or national security interests. In the event the Secretary determines to grant such relief, he or she may do so unless the President determines that such relief would create a significant risk to the foreign policy, nonproliferation, or national security interests of the United States.

(5) RELIEF FROM TRADITIONAL EAST WEST COCOM CONTROLS.—Relief under paragraph (2) shall compel either the elimination of the foreign availability or decontrol as provided in this paragraph for an item controlled by the united States based solely on its undertakings in the Coordinating Committee prior to October of 1993 so long as the Coordinating Committee shall continue in existence. For such an item, the Secretary may not, after the determination is made under paragraph (2), require a validated license for the export of such items during the period that such determination remains in effect, unless the President determines that the absence of export controls under this section on the items would prove detrimental to the national security of the United States.

(6) PROCEDURES.—In any case in which the President or the Secretary determines that export controls under this section must be maintained notwithstanding the existence of facts that constitute a basis for granting relief, the Secretary shall publish that determination, together with a concise statement of its basis and the estimated economic impact of the decision.

(A) NOTICE OF ASSESSMENTS.—Whenever the Secretary undertakes an assessment under paragraph (2), the Secretary shall publish notice of initiation of such assessment in the Federal Register.

(B) PROCEDURES FOR MAKING DETERMINATIONS.—During the conduct of an assessment under this subsection, the Secretary shall consult with other appropriate departments and agencies concerning the conduct of the assessment. The Secretary shall make a determination as to whether relief is required under paragraph (2) within 120 days of the date of the Secretary's initiation of an assessment and shall so notify the applicant. If the Secretary has determined that relief is appropriate, the Secretary shall, upon making such a determination, submit the determination for review to appropriate departments and agencies for consultations regarding the findings and selected relief. The Secretary's determination as to eligibility for relief and the nature of the relief to be granted does not require the concurrence or approval of any official, department, or agency to which such a determination is submitted. Not later than 150 days from the date of the Secretary's initiation of an assessment, the Secretary shall respond in writing to the petitioner and submit for publication in the Federal Register, that—

(i) relief is required and—

(a) the requirement of a validated license has been removed;

(b) the control status of all or some of the items in question has been changed so as to eliminate any significant competitive disadvantage;

(c) the sale of controlled items have been approved so as to eliminate any significant competitive disadvantage;

(d) pursuant to paragraph (5), export controls under this section must be maintained notwithstanding the finding under paragraph (2) and the applicable steps are being taken under subparagraph (C) this paragraph; or

(e) the United States recommendation to remove the validated license requirement or change the control status will be submitted to a relevant multilateral regime for consideration for a period not of not more than 180 days beginning on the date of the publication; or

(ii) a right to relief under paragraph (2) does not exist.

In any case in which the submission for publication is not made within 150 days of the date of the Secretary's initiation of an assessment, the Secretary may not thereafter require a license for the export of items that are the subject of the allegation under paragraph (2). In the case of a determination made under subsection (k)(6)(B)(1)(e) to refer a proposed relief to the relevant multilateral regime, no license for such export may be required after 330 days from the date of the Secretary's initiation of an assessment unless the Secretary shall make a finding under paragraph (4) or grant other relief under paragraph (3).

(c) NEGOTIATIONS TO ELIMINATE FOREIGN AVAILABILITY.—

(i) In any case in which export controls are maintained under this section pursuant to paragraph (4), the Secretary of State shall actively pursue negotiations with the governments of the appropriate foreign countries for the purpose of eliminating such foreign availability or competitive disadvantage. No later than the commencement of such negotiations, the Secretary of State shall notify in writing the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives that he has begun such negotiations and why he believes it is important that export controls on the items involved be maintained to avoid a significant risk to the foreign policy, nonproliferation, or national security interests of the United States.

(ii) Whenever the Secretary of State has reason to believe that items subject to export controls by the United States may become available from other countries to target countries and that such availability can be prevented or eliminated by means of negotiations with such other countries, the Secretary of State shall promptly initiate negotiations with the governments of such other countries to prevent such foreign availability.

(7) SHARING OF INFORMATION.—Each department or agency of the United States, including any intelligence agency, and all contractors with any such department or agency, shall, upon the request of the Secretary and consistent with the protection of intelligence sources and methods, furnish information to the Commerce Department concerning foreign availability of items subject to export controls under this section. Consistent with the protection of intelligence sources and methods and classification restrictions, each such department or agency shall allow the Commerce Department access to such information from a laboratory or other facility within such department or agency.

(8) AVAILABILITY DEFINED.—For the purposes of this subsection, the term "available in fact to target countries" includes production or availability of any item from any country—

(A) where the item is not restricted for export to any target country; or

(B) where the export restrictions are determined by the Secretary to be ineffective.

For purposes of subparagraph (B), the mere inclusion of items on a list of items subject to multilateral export controls shall not alone constitute credible evidence that a government of a country provides an effective means of controlling the export of such items to target countries.

(9) CONGRESSIONAL NOTIFICATION AND REPORTING REQUIREMENTS.—The Secretary shall each year notify the Committee on Foreign Relations of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate of all petitions for relief and the status of all such petitions.

(l) UNILATERAL CONTROLS PROHIBITED.—

(1) Any export controls imposed unilaterally by the United States for purposes adopted by the group known as the Coordinating Committee shall expire six months after the date of enactment of this paragraph, or six months after the export control is imposed, whichever date is later, except that—

(A) any such export controls on those items for which a determination of the Secretary that there is no foreign availability has been made under this section before the end of the applicable six-month period and is in effect may be renewed for periods of not more than six months each; and

(B) any such export controls on those items with respect to which the President, by the end of the applicable six-month period, is actively pursuing negotiations with other countries to achieve multilateral export controls on those items may be renewed for two periods of not more than six months each.

(2) Export controls on items described in subparagraph (A) or (B) of paragraph (1) above may be renewed only if, before each renewal, the Secretary submits to the Congress a report setting forth all the controls being renewed and stating the specific reasons for such renewal.

(m) INTERNATIONAL OBLIGATIONS.—Notwithstanding other provisions of this Act containing limitations on authority to control imports and exports, pursuant to this paragraph and in order to fulfill obligations of the United States pursuant to resolutions of the United Nations, treaties, or other international agreements to which the United States is a party, the Secretary, in consultation with appropriate departments and agencies, may impose controls on exports and imports to and from a target country or region. The Secretary may regulate domestic and foreign conduct consistent with the policies of such United Nations resolutions, treaties, and international agreements. Such authority shall include, but not be limited to, the authority to prohibit activity such as financing, contracting, servicing or employment, to deny access to items in the U.S. and

abroad, to conduct audits of records and inspections of facilities, to compel reports, and to curtail travel.

(n) INFORMATION SHARING.—The Secretary and appropriate officials of the intelligence community, as determined by the Director of Central Intelligence, and other appropriate Government agencies shall establish a procedure for information sharing.

(o) DENIED PARTIES, SANCTIONED PARTIES, SPECIALLY DESIGNATED NATIONAL, AND OTHER PARTIES PRESENTING UNACCEPTABLE RISKS OF DIVERSION.—

(1) DENIED PARTIES, SANCTIONED PARTIES, SPECIALLY DESIGNATED NATIONALS.—The Secretary shall publish parties denied export privileges under this Act, parties sanctioned for prohibited proliferation activity under this act or other statutes, and specially designated nationals named under the International Emergency Economic Powers Act, as amended, 50 U.C.S. 1701, et seq. (1988).

(2) OTHER PARTIES.—The Secretary shall maintain a list of parties for whom licenses will be presumptively denied.

(p) FREEDOM OF INFORMATION ACT EXEMPTION.—The identity of parties maintained or disclosed pursuant to subsection (o)(2) is not subject to disclosure under section 552 of Title 5, United States Code.

SEC. 6. SHORT SUPPLY CONTROLS.

(a) AUTHORITY.—

(1) In order to carry out the policy set forth in section 3(2)(D) of this Act, the President may prohibit or curtail the export of any items subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States. In curtailing exports to carry out the policy set forth in section 3(2)(D) of this Act, the President shall allocate a portion of export licenses on the basis of factors other than a prior history of exportation. Such factors shall include the extent to which a country engages in equitable trade practices for United States items and treats the United States equitably in times of short supply.

(2) Upon imposing quantitative restrictions on exports of any items to carry out the policy set forth in section 3(2)(D) of this Act, the Secretary shall include in a notice published in the Federal Register regarding such restrictions an invitation to all interested parties to submit written comments within 15 days from the date of publication on the impact of such restrictions and the method of licensing used to implement them.

(3) Notwithstanding subsection 4(h) of this Act, in imposing export controls under this section, the President's authority shall include, but not be limited to, the imposition of export license fees.

(b) MONITORING.—

(1) In order to carry out the policy set forth in section 3(2)(D) of this Act, the Secretary shall monitor exports, and contracts for exports, of any good (other than a commodity which is subject to the reporting requirements of section 182 of the Agricultural Act of 1970 [7 U.S.C. 612c–3] when the volume of such exports in relation to domestic supply contributes, or may contribute, to an increase in domestic prices or a domestic shortage, and such price increase or shortage has, or may have serious adverse impact on the economy or any sector thereof. Any such monitoring shall commence at a time adequate to assure that the monitoring will result in a data base sufficient to enable polices to be developed, in accordance with section 3(2)(D) of this Act, to mitigate a short supply situation or serious inflationary price rise or, if export controls are needed, to permit imposition of such controls in a timely manner. Information which the Secretary requires to be furnished in effecting such monitoring shall be confidential, except as provided in paragraph (2) of this subsection.

(2) The results of such monitoring shall, to the extent practicable, be aggregated and included in weekly reports setting forth, as to each item monitored, actual and anticipated exports, the destination by country, and the domestic and worldwide price, supply, and demand. Such reports may be made monthly if the Secretary determines that there is insufficient information to justify weekly reports.

(c) DOMESTICALLY-PRODUCED CRUDE OIL.—

(1) Notwithstanding any other provision of this Act and notwithstanding subsection (u) of section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), no domestically-produced crude oil transported by pipeline over right-of-way granted pursuant to section 203 of the TransAlaska Pipeline Authorization Act (43 U.S.C. 1652) (except any such crude oil which: (A) is exported to an adjacent foreign country to be refined and consumed therein in exchange for the same quantity of crude oil being exported from that country to the United States, which exchange must result, through convenience or increased efficiency of transportation, in lower prices for consumers of petroleum products in the United States as described in paragraph (2)(A)(ii) of this subsection; (B) is temporarily exported for convenience or increased efficiency of transportation across parts of an adjacent foreign country and reenters the United States; or (C) is transported to Canada, to be consumed therein, in amounts not to exceed an annual average of 50,000 barrels per day, in addition to exports under subparagraphs (2)(A) and (2)(B), except that any ocean transportation of such oil shall be by vessels documented under section 12106 of title 46, United States Code may be exported from the United States, or any of its territories and possessions, subject to paragraph (2) of this subsection.

(2) Crude oil subject to the prohibition contained in paragraph (1) may be exported only if—

(A) the President so recommends to the Congress after making and publishing express findings that exports of such crude oil, including exchanges—

(i) will not diminish the total quantity or quality of petroleum refined within, stored within, or legally committed to be transported to and sold within the United States;

(ii) will, within 3 months following the initiation of such exports or changes, result in (I) acquisition costs to the refiners which purchase the imported crude oil being lower than the acquisition costs such refiners would have to pay for the domestically-produced oil in the absence of such an export or exchange, and (II) not less than 75 percent of such savings in costs being reflected in wholesale and retail prices of products refined from such imported crude oil;

(iii) will be made only pursuant to contracts which may be terminated if the crude oil supplies of the United States are interrupted, threatened, or diminished;

(iv) are clearly necessary to protect the national interest; and

(v) are in accordance with the provisions of this Act; and

(B) the President includes such findings in his or her recommendation to the Congress and the Congress, within 60 days after receiving that recommendation, agrees to a joint resolution which approves such exports on the basis of those findings, and which is thereafter enacted into law.

(3) Notwithstanding any other provision of this section or any other provision of law, including subsection (u) of section 28 of the Mineral Leasing Act of 1920 [30 U.S.C. §185(u)], the President may export oil to any country pursuant to a bilateral international oil supply agreement entered into by the United States with such nation before June 25, 1979, or to any country pursuant to the International Emergency Oil Sharing Plan of the International Energy Agency.

(d) AGRICULTURE COMMODITIES.—

(1) The Authority conferred by this section shall not be exercised for any agricultural commodity, including fats and oils or animal hides or skins, without the approval of the Secretary of Agriculture. The Secretary of Agriculture shall not approve the exercise of such authority for any such commodity during any period for which the supply of such commodity is determined by the Secretary of Agriculture to be in excess of the requirements of the domestic economy except to the extent the President determines that such exercise of authority is required to carry out the policies set forth in subparagraph (B) or (C) of paragraph (2) of section 3 of this Act. The Secretary of Agriculture shall, by exercising the authority which the Secretary of Agriculture has under other applicable provisions of law, collect data on export sales of animal hides and skins.

(2) Upon approval of the Secretary, in consultation with the Secretary of Agriculture, agricultural commodities purchased by or for use in a foreign country may remain in the United States for export at a later date free from any quantitative limitations on export which may be imposed to carry out the policy set forth in section 3(2)(D) of this Act subsequent to such approval. The Secretary may not grant such approval unless the Secretary receives adequate assurance and, in conjunction with the Secretary of Agriculture, finds (A) that such commodities will eventually be exported, (B) that neither the sale nor export thereof will result in an excessive drain of scarce materials and have a serious domestic inflationary impact, (C) that storage of such commodities in the United States will not unduly limit the space available for storage of domestically-owned commodities, and (D) that the purpose of such storage is to establish a reserve of such commodities for later use, not including resale to or use by another country. The Secretary may issue such regulations as may be necessary to implement this paragraph.

(3)(A) If the President imposes export controls on any agricultural commodity in order to carry out the policy set forth in paragraph (2)(B), (2)(C), 2(D), or (12) of section 3 of this Act, the President shall immediately transmit a report on such action to the Congress, setting forth the reasons for the controls in detail and specifying the periods of time, which may not exceed 1 year, that the controls are proposed to be in effect. If the Congress, within 60 days after the date of its receipt of the report, adopts a joint resolution pursuant to paragraph (4) approving the imposition of the export controls, then such controls shall remain in effect for the period specified in the report, or until terminated by the President, whichever occurs first. If the Congress, within 60 days after the date of its receipt of such report, fails to adopt a joint resolution approving such controls, then such controls shall cease to be effective upon the expiration of that 60-day period.

(B) The provisions of subparagraph (A) and paragraph (4) shall not apply to export controls—

(i) which are extended under this Act if the controls, when imposed, were approved by

the Congress under subparagraph (A) and paragraph (4); or

(ii) which are imposed on exports to a country as part of the prohibition or curtailment of all exports to that country.

(4)(A) For purposes of this paragraph, the term "joint resolution" means only a joint resolution the matter after the resolving clause of which is as follows: "That pursuant to section 6(d)(3) of the Export Administration Act of 1979, the President may impose export controls as specified in the report submitted to the Congress on .", with the blank space being filled with the appropriate date.

(B) On the day on which a report is submitted to the House of Representatives and the Senate under paragraph (3), a joint resolution on the export controls specified in such report shall be introduced (by request) in the House by the chairman of the Committee on Foreign Affairs, for himself and the ranking minority member of the Committee, or by Members of the House designated by the chairman and ranking minority member; and shall be introduced (by request) in the Senate by the majority leader of the Senate, for himself and the minority leader of the Senate, or by Members of the Senate designated by the majority leader and minority leader of the Senate. If either House is not in session on the day on which such a report is submitted, the joint resolution shall be introduced in that House, as provided in the preceding sentence, on the first day thereafter on which that House is in session.

(C) All joint resolutions introduced in the House of Representatives shall be referred to the appropriate committee and all joint resolutions introduced in the Senate shall be referred to the Committee on Banking, Housing, and Urban Affairs.

(D) If the committee of either House to which a joint resolution has been referred has not reported the joint resolution at the end of 30 days after its referral, the committee shall be discharged from further consideration of the resolution or of any other joint resolution introduced on the same matter.

(E) A joint resolution under this paragraph shall be considered in the Senate in accordance with the provisions of section 601(b)(4) of the International Security Assistance and Arms Export Control Act of 1976 (22 U.S.C. §§2151 *et seq.*, Pub. L. 94-329, June 30, 1976). For the purpose of expediting the consideration and passage of joint resolutions reported or discharged pursuant to the provisions of this paragraph, it shall be in order for the Committee on Rules of the House of Representatives to present for consideration a resolution of the House of Representatives providing procedures for the immediate consideration of a joint resolution under this paragraph which may be similar, if applicable, to the procedures set forth in section 601(b)(4) of the International Security Assistance and Arms Export Control Act of 1976.

(F) In the case of a joint resolution described in subparagraph (A), if, before the passage by one House of a joint resolution of that House, that House receives a resolution on the same matter from the other House, then—

(i) the procedure in the House shall be the same as if no joint resolution has been received from the other House; but

(ii) the vote on final passage shall be on the joint resolution of the other House.

(5) In the computation of the period of 60 days referred to in paragraph (3) and the period of 30 days referred to in subparagraph (D) of paragraph (4), there shall be excluded the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain or because of an adjournment of the Congress sine die.

(e) BARTER AGREEMENTS.—

(1) The exportation pursuant to a barter agreement of any items which may lawfully be exported from the United States, for any items which may lawfully be imported into the United States, may be exempted, in accordance with paragraph (2) of this subsection, from any quantitative limitation on exports (other than any reporting requirement) imposed to carry out the policy set forth in section 3(2)(D) of this Act.

(2) The Secretary shall grant an exemption under paragraph (1) if the Secretary finds, after consultation with the appropriate department or agency of the United States, that—

(A) for the period during which the barter agreement is to be performed—

(i) the average annual quantity of the items to be exported pursuant to the barter agreement will not be required to satisfy the average amount of such items estimated to be required annually by the domestic economy and will be surplus thereto;

(ii) the average annual quantity of the items to be imported will be less than the average amount of such items estimated to be required annually to supplement domestic production; and

(B) the parties to such barter agreement have demonstrated adequately that they intend, and have the capacity, to perform such barter agreement.

(3) For purposes of this subsection, the term "barter agreement" means any agreement which is made for the exchange, without monetary consideration, of any items produced in the United States for any items produced outside of the United States.

(4) This subsection shall apply only to barter agreements entered into after September 30, 1979.

(f) UNPROCESSED RED CEDAR.—No unprocessed western red cedar logs (Thuja plicata) harvested from State or Federal lands may be exported from the United States.

(1) Unprocessed western red cedar logs shall not be considered to be an agricultural commodity for purposes of subsection (d) of this section.

(2) As used in this subsection, the term "unprocessed western red cedar" means red cedar timber which has not been processed into—

(A) lumber of American Lumber Standards Grades of Number 3 dimension or better, or Pacific Lumber Inspection Bureau Export R-List Grades of Number 3 common or better;

(B) chips, pulp, and pulp products;

(C) veneer and plywood;

(D) poles, posts, or pilings cut or treated with preservative for use as such and not intended to be further processed; or

(E) shakes and shingles.

(3) The State of Alaska is exempt from the provisions of this subsection (Pub. L. No. 96-126, 93 Stat. 954, section 308 (1979)).

(g) EFFECT OF CONTROLS ON EXISTING CONTRACTS.—The export restrictions contained in subsection (f) of this section and any export controls imposed under this section shall not affect any contract to harvest unprocessed western red cedar from State lands which was entered into before October 1, 1979, and the performance of which would make the red cedar available for export. Any export controls imposed under this section on any agricultural commodity (including fats, oils, and animal hides and skins) or on any forest product or fishery product, shall not affect any contract to export entered into before the date on which such controls are imposed. For purposes of this subsection, the term "contract to export" includes, but is not limited to, an export sales agreement and an agreement to invest in an enterprise which involves the export of goods or technology.

(h) OIL EXPORTS FOR USE BY UNITED STATES MILITARY FACILITIES.—For purposes of subsection (c) of this section, and for purposes of any export controls imposed under this Act, shipments of crude oil, refined petroleum products, or partially refined petroleum products from the United States for use by the Department of Defense or United States-supported installations or facilities shall not be considered to be exports.

SEC. 7. FOREIGN BOYCOTTS.

(a) PROHIBITIONS AND EXCEPTIONS.—

(1) For the purpose of implementing the policies set forth in subparagraph (A) and (B) of paragraph (14) of section 3 of this Act, the President shall issue regulations prohibiting any United States person, with respect to his or her activities in the interstate or foreign commerce of the United States, from taking or knowingly agreeing to take any of the following actions with the intent to comply with, further, or support any boycott fostered or imposed by a foreign country against a country which is friendly to the United States and which is not itself the object of any form of boycott pursuant to United States law or regulation:

(A) Refusing, or requiring any other person to refuse to do business with or in the boycotted country, with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person, pursuant to an agreement with, a requirement of, or a request from or on behalf of the boycotting country. The mere absence of a business relationship with or in the boycotted country with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person, does not indicate the existence of the intent required to establish a violation of regulations issued to carry out this subparagraph.

(B) Refusing, or requiring any other person to refuse, to employ or otherwise discriminating against any United States person on the basis of race, religion, sex, or national origin of that person or of any owner, officer, director, or employee of such person.

(C) Furnishing information with respect to the race, religion, sex, or national origin of any United States person or of any owner, officer, director, or employee of such person.

(D) Furnishing information about whether any person has, has had, or proposes to have any business relationship (including a relationship by way of sale, purchase, legal, or commercial representation, shipping or other transport, insurance, investment, or supply) with or in the boycotted country, with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person known or believed to be restricted from having any business relationship with or in the boycotted country. Nothing in this paragraph shall prohibit the furnishing of normal business information in a commercial context as defined by the Secretary.

(E) Furnishing information about whether any person is a member of, has made contribution to, or is otherwise associated with or involved in the activities of any chari-

table or fraternal organization which supports the boycotted country.

(F) Paying, honoring, confirming, or otherwise implementing a letter of credit which contains any condition or requirement compliance with which is prohibited by regulations issued pursuant to this paragraph, and no United States person shall, as a result of the application of this paragraph, be obligated to pay or otherwise honor or implement such letter of credit.

(2) Regulations issued pursuant to paragraph (1) shall provide exceptions for—

(A) complying or agreeing to comply with requirements (i) prohibiting the import of items or services from the boycotted country or items produced or services provided by any business concern organized under the laws of the boycotted country or by nationals or residents of the boycotted country, or (ii) prohibiting the shipment of items to the boycotted country on a carrier of the boycotted country, or by a route other than that prescribed by the boycotting country or the recipient of the shipment;

(B) complying or agreeing to comply with import and shipping document requirements with respect to the country of origin, the name of the carrier and route of shipment, the name of the supplier of the shipment or the name of the provider of other services, except that no information knowingly furnished or conveyed in response to such requirements may be stated in negative, blacklisting, or similar exclusionary terms, other than with respect to carriers or route of shipment as may be permitted by such regulations in order to comply with precautionary requirements protecting against war risks and confiscation;

(C) complying or agreeing to comply in the normal course of business with the unilateral and specific selection by a boycotting country, or national or resident thereof, of carriers, insurers, suppliers of services to be performed within the boycotting country or specific items which, in the normal course of business, are identifiable by source when imported into the boycotting country;

(D) complying or agreeing to comply with export requirements of the boycotting country relating to shipments or transshipment of exports to the boycotted country, to any business concern of or organized under the laws of the boycotted country, or to any national or resident of the boycotted country;

(E) compliance by an individual or agreement by an individual to comply with the immigration or passport requirements of any country with respect to such individual or any member of such individual's family or with requests for information regarding requirements of employment of such individual within the boycotting country; and

(F) compliance by a United States person resident in a foreign country or agreement by such person to comply with the laws of the country with respect to his or her activities exclusively therein, and such regulations may contain exceptions for such resident complying with the laws or regulations of the foreign country governing imports into such country of trademarked, trade named, or similarly specifically identifiable products, or components of products for his or her own use, including the performance of contractual services within that country, as may be defined by such regulations.

(3) Regulations issued pursuant to paragraphs (2)(C) and (2)(F) shall not provide exceptions from paragraphs (1)(B) and (1)(C).

(4) Nothing in this subsection may be construed to supersede or limit the operation of the antitrust or civil rights laws of the United States.

(5) This section shall apply to any transaction or activity undertaken, by or through a United States person or any other person, with intent to evade the provisions of this section as implemented by the regulations issued pursuant to this subsection, and such regulations shall expressly provide that the exceptions set forth in paragraph (2) shall not permit activities or agreements (expressed or implied by a course of conduct, including a pattern of responses) otherwise prohibited, which are not within the intent of such exceptions.

(b) REGULATIONS.—

(1) In addition to the regulations issued pursuant to subsection (a) of this section, regulations issued under this subsection of this Act shall implement the policies set forth in section 3(14).

(2) Such regulations shall require that any United States person receiving a request for the furnishing of information, the entering into or implementing of agreements, or the taking of any other action referred to in section 3(14) shall report that fact to the Secretary, together with such other information concerning such request as the Secretary may require for such action as the Secretary considers appropriate for carrying out the policies of that section. Such person shall also report to the Secretary whether such person intends to comply and whether such person has complied with such request. Any report filed pursuant to this paragraph shall be made available promptly for public inspection and copying, except that information regarding the quantity, description, and value of any items to which such report relates may be kept confidential if the Secretary determines that disclosure thereof would place the United States person involved at a competitive disadvantage. The Secretary shall periodically transmit summaries of the information contained in such reports to the Secretary of State for such action as the Secretary of State, in consultation with the Secretary, considers appropriate for carrying out the policies set forth in section 3(14) of this Act.

(c) PREEMPTION.—The provisions of this section and the regulations issued pursuant thereto shall preempt any law, rule, or regulation of any of the several States or the District of Columbia, or any of the territories or possessions of the United States, or of any governmental subdivision thereof, which law, rule, or regulation pertains to participation in, compliance with, implementation of, or the furnishing of information regarding restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries.

SEC. 8. PROCEDURES FOR PROCESSING EXPORT LICENSE APPLICATIONS; OTHER INQUIRES.

(a) PRIMARY RESPONSIBILITY OF THE SECRETARY.—

(1) All export license applications required under this Act shall be submitted by the applicant to the Secretary. All determinations on any such applications shall be made by the Secretary, subject to the procedures provided in this section.

(2) To the extent necessary, the Secretary shall seek information and recommendations from the Government departments and agencies concerned with factors having an important bearing on exports administered under this Act. Such departments and agencies shall cooperate fully and promptly in rendering information and recommendations.

(3) In regulations that implement this section, the Secretary shall describe the procedures required by this section, the responsibilities of the Secretary and of other departments and agencies in reviewing applications, the rights of the applicant, and the extent of any multilateral review of a given license application.

(4) In calculating the processing times set forth in this section, the Secretary shall use calendar days; provided that if the final day for a required action falls on a weekend or holiday, that action shall be taken no later than the following business day.

(5) In reviewing applications for validated export licenses, the Secretary may in each case consider the reliability of the parties to the proposed export. In making such an evaluation, the Secretary may consider all sources of information, including intelligence information. However, the consideration of intelligence information in connection with the evaluation of the reliability of parties shall not authorize the direct or indirect disclosure of classified information or sources and methods of gathering classified information.

(b) INITIAL SCREENING.—

(1) Upon receipt of any export license application, the Secretary shall include receipt and status information regarding the application in the records of the Department.

(2) Within nine days of receipt of any license application, the Secretary shall—

(A) Contact the applicant if the application is improperly completed or if additional information is required, and hold the application for a reasonable time while the applicant provides the necessary corrections or information. Such time shall not be counted in calculating the time periods prescribed in this section.

(B) Refer the application and all necessary recommendations and analyses by the Secretary to all other agencies, when such referral is requested, and forward to the agencies any relevant information submitted by the applicant that could not be reduced to electronic form.

(C) Assure the stated classification on the application is correct; return the application if a validated license is not required; and, if referral to other agencies is not requested, grant the application or notify the applicant of the Secretary's intent to deny the application.

(c) ACTION BY OTHER DEPARTMENTS AND AGENCIES.—

(1) At the direction of the President, the Secretary shall refer license applications to appropriate departments and agencies to make recommendations and provide information to the Secretary.

(2) Reviewing agencies shall organize their resources and units to plan for the prompt and expeditious internal dissemination of export license applications, if necessary, so as to avoid delays in responding to the Secretary's request for information and recommendations.

(3) Each referral agency or department shall specify to the Secretary any information that is not in the application that would be required to make a determination, and the Secretary shall promptly request such information from the applicant. The time that may elapse between the date the information is requested from the applicant and the date the information is received by the Secretary shall not be counted in calculating the time periods prescribed in this section.

(4) Within thirty days of receipt of a referral, the agency or department shall provide the Secretary with a recommendation either to approve the license or to deny the license. As appropriate, such recommendation shall be with the benefit of consultation and dis-

cussions in interagency groups established to provide expertise and coordinate interagency consultation. A recommendation that the Secretary deny a validated license shall include a statement of reasons that are consistent with the provisions of this Act, and shall cite both the statutory and the regulatory basis for the recommendation to deny. A department or agency that fails to provide a recommendation to deny. A department or agency that fails to provide a recommendation within thirty days with a statement of reasons and the statutory and regulatory basis shall be deemed to have no objection to the decision of the Secretary.

(5) An interagency committee shall be established by and the chairman selected by the Secretary to review initially all license applications on which the reviewing agencies are not in agreement. The chairman of such committee shall consider the recommendations of the reviewing agencies and inform them of his or her decision. Appeals from such decisions may be made in writing by an official of such department or agency who is appointed by the President by and with the advice and consent of the Senate, or an officer properly acting in such capacity, consistent with procedures established by the President in accordance with subsection (d).

(6) Upon receiving all comments from other departments and agencies regarding an application upon which there is no disagreement, or forty-nine days following receipt of a license application upon which there has been disagreement, whichever comes first, the Secretary shall either—

(A) Approve the application and issue the license; or

(B) Notify the applicant of the intent to deny the license; or

(C) Notify the applicant the application has been referred to a process established by the President to resolve matters in dispute.

(d) INTERAGENCY RESOLUTION.—The President may establish a process for the review and determination of export license applications as to which a reviewing agency has objected pursuant to subsection (c). Any such process shall: (1) be chaired by the Secretary or his designee; (2) insure that license applications are resolved or referred to the President no later than 90 days from the date of filing of the license application; and (3) provide that a department or agency that fails to take a timely position shall be deemed to have no objection to the pending decision.

(e) ACTIONS BY THE SECRETARY.—

(1) When no referral to other departments or agencies is required, the Secretary shall issue a license or notify the applicant of the intent to deny within nine days of receipt of the application.

(2) In cases where the Secretary has determined that an application should be denied, the applicant shall be informed in writing of—

(A) the determination to deny;

(B) the statutory and regulatory basis for the proposed denial;

(C) what, if any, modifications in or restrictions on the items for which the license was sought would allow such export to be compatible with export controls imposed under this Act, and which officer or employee of the Department of Commerce would be in a position to discuss modifications or restrictions with the applicant;

(D) to the extent consistent with the national security and foreign policy of the United States, the specific considerations that led to the determination to deny the application; and

(E) the availability of appeal procedures.

The Secretary shall allow the applicant 20 days to respond to the determination before the license application is denied.

(3) The Secretary and the applicant may, at any time, agree mutually to suspend the time periods prescribed by this section in order to negotiate modifications to the application and obtain agreement to such modifications from the foreign parties to the transaction.

(f) MULTILATERAL CONTROLS.—When an application recommended for approval must be submitted to a multilateral review process, pursuant to a multilateral regime, formal or informal, to which the United States is a party, the application shall be referred to the multilateral regime within five days of the decision to approve. Any such application shall be considered in accordance with the review procedures established by the relevant multilateral export control regime, and the license shall be issued or a notice of intent to deny issued within five days of receipt of a decision by the multilateral regime.

(g) EXCEPTIONS FROM REQUIRED TIME PERIODS.—All license applications shall be resolved or referred to the President no later than 90 days from the date of filing of the license application. The following actions related to processing an application shall not be counted in calculating the time periods prescribed in this section:

(1) AGREEMENT OF THE APPLICANT.—Delays in processing required by unusually complex technical review or by need to complete a high-level policy review, when the Secretary and the applicant mutually agree to the delay.

(2) PRELICENSE CHECKS.—Prelicense checks through government channels that may be required to establish the identity and reliability of the recipient of items controlled under this Act, provided—

(A) The need for such prelicense check is established by the Secretary, or by another department or agency, if the request for prelicense check is made by such department or agency;

(B) The request for such prelicense check is sent by the Secretary within five days for the determination that the prelicense check is required; and

(C) The analysis of the response to the request for prelicense check is completed by the Secretary within five days.

(3) REQUESTS FOR GOVERNMENT-TO-GOVERNMENT ASSURANCES.—Requests for government-to-government assurances of suitable end use of items approved for export, when failure to obtain such assurances would result in rejection of the application, provided that the request for such assurances is sent to the Secretary of State within five days of the determination that the assurances are required, provided the Secretary of State initiates the request of the relevant government within 10 days thereafter, and provided the license is issued within five days of receipt by the Secretary of the requested assurances.

Whenever such prelicense checks and assurances are not requested within the time periods set forth above, they must be accomplished within the time periods established by this section.

(4) MULTILATERAL REVIEW.—Multilateral review of a license application as provided for in subsection (f) so long as such multilateral review is required by the relevant multilateral regime.

(5) CONGRESSIONAL NOTIFICATION.—Such time as required for mandatory Congressional notifications under this Act.

(h) APPEALS.—

(1) The Secretary shall establish appropriate procedures for any applicant to appeal to the Secretary the denial of an export license application or other administrative action.

(2) In any case in which any action prescribed in this section is not taken on the license application within the time periods established by this section (except in the case of a time period extended under subsection (g)(4) of which the applicant is notified), the applicant may file a petition with the Secretary requesting compliance with the requirements of this section. When such petition is filed, the Secretary shall take immediate steps to correct the situation giving rise to the petition and shall immediately notify the applicant of such steps.

(3) If, within twenty days after a petition is filed under paragraph (2), the processing of the application has not been brought into conformity with the requirements of this section, or the application has been brought into conformity with such requirements but the Secretary has not so notified the applicant, the applicant may bring an action in an appropriate United States district court for an order requiring compliance with the temporal requirements of this section. The United States district courts shall have jurisdiction to provide such relief, as appropriate.

(i) CLASSIFICATION REQUESTS AND OTHER INQUIRIES.—

(1) In any case in which the Secretary receives a written request asking for the proper classification of an item on the Control List, the Secretary shall, within 14 days after receipt of the request, inform the person making the request of the proper classification.

(2) In any case in which the Secretary receives a written request for information about the applicability of export license requirements under this Act to a proposed export transaction or series of transactions, the Secretary shall, within 30 days after the receipt of the request, reply with that information to the person making the request.

SEC. 9. VIOLATIONS.

(a) CRIMINAL PENALTIES.—

(1) VIOLATIONS BY AN INDIVIDUAL.—Except as provided in paragraph (3) below, any individual who knowingly violates or conspires to or attempts to violate any provision of this Act or any regulation, license, or order issued thereunder shall be fined not more than five times the value of the exports involved or $500,000 per violation, whichever is greater, or imprisoned not more than 10 years, or both.

(2) VIOLATIONS BY A PERSON OTHER THAN AN INDIVIDUAL.—Except as provided in paragraph (3) below, any person other than an individual who knowingly violates or conspires to or attempts to violate any provision of this Act or any regulation, license or order issued thereunder shall be fined not more than 10 times the value of the exports involved or $1,000,000 per violation, whichever is greater.

(3) ANTIBOYCOTT VIOLATIONS.—Any individual who knowingly violates or conspires to or attempts to violate any provision of section 7 of this Act concerning foreign boycotts or any regulation or order issued thereunder shall be fined not more than five times the value of the exports involved or $250,000 per violation, whichever is greater, or imprisoned not more than 10 years, or both. Any person other than an individual who knowingly violates or conspires to or attempts to violate any provision of section 7

of this Act or any regulation or order issued thereunder shall be fined not more than five times the value of the exports involved or $500,000 per violation, whichever is greater.

(b) FORFEITURE OF PROPERTY INTEREST AND PROCEEDS.—

(1) Any person who is convicted under subsection (a)(1) or (2) shall, in addition to any other penalty, forfeit to the United States—

(A) any of that person's interest in, security of, claim against, or property or contractual rights of any kind in the goods or tangible items that were the subject of the violation;

(B) any of that person's interest in, security of, claim against, or property or contractual rights of any kind in tangible property that was used in the export or attempt to export that was the subject of the violation; and

(C) any of that person's property constituting, or derived from, any proceeds obtained directly or indirectly as a result of the violation.

(2) The procedures in any forfeiture under this subsection, and the duties and authority of the courts of the United States and the Attorney General with respect to any forfeiture action under this subsection or with respect to any property that may be subject to forfeiture under this subsection, shall be governed by the provisions of chapter 46 of title 18, United States Code.

(c) CIVIL PENALTIES; ADMINISTRATIVE SANCTIONS.—

(1) The Secretary may impose a civil penalty not to exceed $250,000 for each violation of this Act or any regulation, license or order issued under this Act, either in addition to or in lieu of any other liability or penalty which may be imposed, except that the civil penalty for each such violation involving section 7 of this Act concerning foreign boycotts may not exceed $50,000.

(2) The Secretary may deny the export privileges of any person, including suspending or revoking the authority of any person to export or receive any item subject to this Act, for any violation of the provisions of this Act or any regulation, license or order issued under this Act.

(d) PROCEDURES RELATING TO CIVIL PENALTIES AND SANCTIONS.—

(1) Any administrative sanction imposed under subsection (c) above may be imposed only after notice and opportunity for an agency hearing on the record in accordance with sections 554 through 557 of title 5, United States Code. The imposition of any such administrative sanction shall be subject to judicial review in accordance with sections 701 through 706 of title 5, United States Code.

(2) Any charging letter or other document initiating administrative proceedings for the imposition of sanctions for violations of the regulations issued pursuant to section 7(a) of this Act shall be made available for public inspection and copying.

(e) PAYMENT OF CIVIL PENALTIES.—The payment of any civil penalty imposed pursuant to subsection (c) may be made a condition, for a period not exceeding one year after the penalty has become due but has not been paid, to the granting, restoration, or continuing validity of any export license, permission, or privilege granted or to be granted to the person upon whom such penalty is imposed. In addition, the payment of any civil penalty imposed under subsection (c) may be deferred or suspended in whole or in part for a period of time no longer than any probation period (which may exceed one year) that may be imposed upon such person. Such deferral or suspension shall not operate as a bar to the collection of the penalty in the event that the conditions of the suspension, deferral, or probation are not fulfilled.

(f) REFUNDS.—Any amount paid in satisfaction of any civil penalty imposed pursuant to subsection (c) shall be covered into the Treasury as a miscellaneous receipt. The head of the department or agency concerned may, in his discretion, refund any such civil penalty imposed pursuant to subsection (c), within two years after payment, on the ground of a material error of fact or law in the imposition of the penalty. Notwithstanding section 1346(a) of title 28, United States Code, no action for the refund of any such penalty may be maintained in any court.

(g) COLLECTION.—If any person fails to pay a civil penalty imposed pursuant to subsection (c) of this Act, the Secretary may ask the Attorney General to bring a civil action in an appropriate district court to recover the amount imposed (plus interest at currently prevailing rates from the date of the final order). Any such action must be commenced within five years after the order imposing the civil penalty becomes final. In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review.

(h) PRIOR CONVICTIONS.—

(1) At the discretion of the Secretary, export privileges under this Act may be denied for a period of up to ten years from the date of conviction to any person convicted of a violation of: this Act or its predecessor statute, the Export Administration Act of 1979; the International Emergency Economic Powers Act, title 50, United States Code, sections 1701–1706; section 793, 794, 798, of Title 18, United States Code; section 4(b) of the Internal Security Act of 1950, title 50, United States Code, section 783(b); section 16 of the Trading with the Enemy Act, title 50, United States Code appendix, section 16; section 38 of the Arms Export Control Act, title 22, United States Code, section 2778; any regulation, license, or order issued under any of the above statutes; or sections 371 or 1001 of title 18, United States Code, if the conviction arises out of an activity subject to one or more of the statutes enumerated above. The Secretary may also revoke any export license under this Act in which such person had an interest at the time of the conviction.

(2) The Secretary may exercise the authority under paragraph (1) with respect to any person related, through affiliation, ownership, control, or position of responsibility, to any person convicted of any violation of a law set forth in paragraph (1), upon a showing of such relationship with the convicted person, after providing notice and opportunity for hearing.

(i) STATUTE OF LIMITATIONS.—Any case in which a civil penalty or other administrative sanction (other than a temporary denial order) is sought under section 9(c) of this Act must be instituted within five years of the date from the alleged violation, except that, in any case in which a criminal indictment alleging a violation of this Act is returned within the time limits prescribed by law for the institution of such action, the statue of limitations for bringing a proceeding to impose a civil penalty or other administrative sanction under this Act shall, upon the return of the criminal indictment, be tolled against all persons named as a defendant. The tolling of the statute of limitations shall continue for a period of not more than six months from the date a conviction is entered or the indictment is dismissed.

(j) IMPOSITION OF TEMPORARY DENIAL ORDERS.—

(1) In any case in which there is reasonable cause to believe that a person is engaged in or is about to engage in any act or practice which constitutes or would constitute a violation of the Act, or any regulation, order, or license issued under the Act, or in any case in which a criminal indictment has been returned against a person alleging a violation of the Act or any of the statutes listed in section 9(h) of the Act, the Secretary may, without a hearing, issue an order temporarily denying that person's United States export privileges (hereinafter in this subsection referred to as a "temporary denial order"). A temporary denial order may be effective for no longer than 180 days, but may be renewed by the Secretary, following notice and an opportunity for a hearing, for additional 180-day periods.

(2) The person or persons subject to the issuance or renewal of a temporary denial order may appeal the issuance or renewal of the temporary denial order, supported by briefs and other material, to an administrative law judge who shall, within 15 working days after the appeal is filed, issue a decision affirming, modifying, or vacating the temporary denial order. The temporary denial order shall be affirmed if it is shown that there is reasonable cause to believe that the person subject to the order is engaged in or is about to engage in any act or practice which constitutes or would constitute a violation of the Act, or any regulation, order, or license issued under the Act, or if it is shown that a criminal indictment has been returned against the person subject to the order alleging a violation of the Act or any of the statutes listed in section 9(h) of the Act. The decision of the administrative law judge shall be final unless, within 10 working days from the date of the administrative law judge's decision, an appeal is filed with the Secretary. On appeal, the Secretary shall either affirm, modify, reverse, or vacate the decision of the administrative law judge by written order within 10 working days after receiving the appeal. The written order of the Secretary shall be final and is not subject to judicial review except as provided in paragraph (3). The materials submitted to the administrative law judge and the Secretary shall constitute the administrative record for purposes of review by the court.

(3) An order of the Secretary affirming, in whole or in part, the issuance or renewal of a temporary denial order may, within 15 days after the order is issued, be appealed by a person subject to the order to the United States Court of Appeals for the District of Columbia Circuit, which shall have jurisdiction of the appeal. The court may review only those issues necessary to determine whether the issuance of the temporary denial order was based on reasonable cause to believe that the person subject to the order was engaged in or was about to engage in any act or practice which constitutes or would constitute a violation of the Act, or any regulation, order or license issued under the Act, or if a criminal indictment has been returned against the person subject to the order alleging a violation of the Act or any of the statutes listed in section 9(h) of the Act. The court shall vacate the Secretary's order if the court finds that the Secretary's order is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

(k) VIOLATIONS DEFINED BY REGULATION.—Nothing in this section shall limit the power of the Secretary to define by regulation violations under this Act.

(l) OTHER AUTHORITIES.—Nothing in subsection (c), (e), (f), (g), (h), or (i) limits—

(1) the availability of other administrative or judicial remedies with respect to violations of this Act, or any regulation, order, or license issued under this Act;

(2) the authority to compromise and settle administrative proceedings brought with respect to violations of this Act, or any regulation, order, or license issued under this Act; or

(3) the authority to compromise, remit, or mitigate seizures and forfeitures pursuant to section 1(b) of title VI of the Act of June 15, 1917, title 22, United States Code, section 401(b).

SEC. 10. ENFORCEMENT.

(a) GENERAL AUTHORITY AND DESIGNATION.—

(1) The Secretary, in consultation with the Secretary of Treasury and the heads of other appropriate departments and agencies, shall be responsible for providing policy guidance on the enforcement of this Act.

(2) To the extent necessary or appropriate to the enforcement of this Act or to the imposition of any penalty, forfeiture, or liability arising under the Export Administration Act of 1979, as amended, officers or employees of the Department of Commerce designated by the Secretary and officers and employees of the United States Customs Service designated by the Commissioner may exercise the enforcement authorities described in paragraph (3). In carrying out these enforcement authorities—

(A) the Commissioner of Customs, and employees of the United States Customs Service designated by the Commissioner, may make investigations within or outside the United States and at those ports of entry or exit from the United States where officers of the United States Customs Service are authorized by law to carry out such enforcement responsibilities. Subject to paragraph (3), the United States Customs Service is authorized, in the enforcement of this Act, to search, detain (after search), and seize goods or technology at those ports of entry or exit from the United States where officers of the Customs Service are authorized by law to conduct such searches, detentions, and seizures, and at those places outside the United States where the Customs Service, pursuant to agreements or other arrangements with other countries, is authorized to perform enforcement activities;

(B) the Secretary, and officers and employees of the Department of Commerce designated by the Secretary, may make investigations within the United States, and shall conduct, outside the United States, pre-license and post-shipment verifications of items licensed for export and investigations in the enforcement of section 7 of this Act. The Secretary, and officers and employees of the Department of Commerce designated by the Secretary, are authorized to search, detain (after search), and seize items at those places within the United States other than those ports and borders specified in paragraph (2)(A) above. The search, detention (after search), or seizure of items at those ports and borders specified in paragraph (2)(A) may only be conducted by officers and employees of the Department of Commerce with the concurrence of the Commissioner of Customs or a person designated by the Commissioner; and

(C) The Secretary and the Commissioner of Customs may enter into agreements and arrangements for the enforcement of this Act, including foreign investigations and information exchange.

(3) Any officer or employee designated in accordance with paragraph (2) may do the following in carrying out the enforcement authority under this Act, except that the authorities enumerated in subparagraphs (F) and (G) below may be carried out only by officers and employees of the United States Customs Service designated by the Commissioner:

(A) Make investigations of, obtain information from, make inspection of any books, records, or reports, as well as any writings required to be kept by the Secretary, premises, or property of, and take the sworn testimony of, any person.

(B) Administer oaths or affirmations, and by subpoena require any person to appear and testify or to appear and produce books, records, and other writings, or both. In the case of contumacy by, or refusal to obey a subpoena issued to, any such person, a district court of the United States, after notice to any such person and hearing, shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce books, records, and other writings, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(C) Execute any warrant or other process issued by a court or officer of competent jurisdiction with respect to the enforcement of the provisions of this Act.

(D) Make arrests without warrant for any violation of this Act committed in his or her presence or view, or if the officer or employee has probable cause to believe that the person to be arrested has committed, is committing, or is about to commit such a violation.

(E) Carry firearms.

(F) Stop, search, and examine a vehicle, vessel, aircraft, or person on which or whom the officer or employee has reasonable cause to suspect there is any item that has been, is being, or is about to be exported from or transited through the United States in violation of this Act.

(G) Detain and search any package or container in which the officer or employee has reasonable cause to suspect there is any item that has been, is being, or is about to be exported from or transited through the United States in violation of this Act.

(H) Detain (after search) or seize any item, for purposes of securing for trial or forfeiture to the United States, on or about such vehicle, vessel, aircraft, or person, or in such package or container, if the officer or employee has probable cause to believe the item has been, is being, or is about to be exported from or transited through the United States in violation of this Act.

(I) The authorities conferred by this section are in addition to any authorities conferred under other laws.

(b) FORFEITURE.—All goods or tangible items lawfully seized under subsection (a) of this section by designated officers or employees shall be forfeited to the United States. Those provisions of law relating to—

(1) the seizure, summary and judicial forfeiture, and condemnation of property for violations of the customs laws;

(2) the disposition of such property or the proceeds from the sale thereof;

(3) the remission or mitigation of such forfeitures; and

(4) the compromise of claims;

shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this subsection, insofar as applicable and not inconsistent with this Act, except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws may be performed with respect to seizures and forfeitures of property under this subparagraph by the Secretary or such officers or employees of the Department of Commerce as may be authorized or designated for that purpose by the Secretary, or, upon the request of the Secretary, by any other agency that has authority to manage and dispose of seized property.

(c) UNDERCOVER INVESTIGATIVE OPERATIONS.—

(1) With respect to any undercover investigative operation conducted by the Office of Export Enforcement of the Department of Commerce (hereinafter in this subsection referred to as "OEE") necessary for the detection and prosecution of violations of this Act—

(A) funds made available for export enforcement under this Act may be used to purchase property, buildings, and other facilities, and to lease space within the United States, without regard to sections 1341 and 3324 of title 31, United States Code, the third undesignated paragraph under the heading "MISCELLANEOUS" of the Act of March 3, 1877, title 40, United States Code, section 34, sections 3732(a) and 3741 of the Revised Statutes of the United States, title 41, United States Code, sections 11(a) and 22, and subsections (a) and (c) of section 304, and section 305, of the Federal Property and Administrative Services Act of 1949 and title 41, United States Code, sections 254 (a) and (c) and 255;

(B) funds made available for export enforcement under this Act may be used to establish or to acquire proprietary corporations or business entities as part of an OEE undercover operation, and to operate such corporations or business entities on a commercial basis, without regard to section 9102 of title 31, United States Code;

(C) funds made available for export enforcement under this Act and the proceeds from OEE undercover operations may be deposited in banks or other financial institutions without regard to the provisions of section 648 of title 18, United States Code, and section 3302 of title 31, United States Code; and

(D) the proceeds from OEE undercover operations may be used to offset necessary and reasonable expenses incurred in such operations without regard to the provisions of section 3302 of title 31, United States Code; if the Director of OEE (or an officer or employee designated by the Director) certifies, in writing, that any action authorized by clause (A), (B), (C), or (D) is necessary for the conduct of the undercover operation.

(2) If a corporation or business entity established or acquired as part of an OEE undercover operation with a net value of more than $50,000 is to be liquidated, sold, or otherwise disposed of, OEE shall report the circumstances to the Secretary and the Comptroller General, as much in advance of such disposition as the Director of OEE or his or her designee determines is practicable. The proceeds of the liquidation, sale, or other disposition, after obligations incurred by the corporation or business enterprise are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

(3) As soon as the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under this paragraph are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited into the Treasury of the United States as miscellaneous receipts.

(4) AUDIT AND REPORT.—

(A) The Director of OEE shall conduct a detailed financial audit of each undercover investigative operation which is closed and shall submit the results of the audit in writing to the Secretary. Not later than 180 days after an OEE undercover operation is closed, the Secretary shall submit to the Congress a report on the results of the audit.

(B) The Secretary shall submit a report annually to the Congress, which report may be included in the annual report under section 13, specifying the following information—

(i) the number of OEE undercover investigative operations pending as of the end of the period for which such report is submitted;

(ii) the number of OEE undercover investigative operations commenced in the one-year period preceding the period for which such report is submitted; and

(iii) the number of OEE undercover investigative operations closed in the one-year period preceding the period for which such report is submitted and, with respect to each such closed undercover operation, the results obtained and any civil claims made with respect thereto.

(5) FOR PURPOSES OF SUBPARAGRAPH (4)—

(A) the term "closed" refers to the earliest point in time at which all criminal proceedings (other than appeals) are concluded, or covert activities are concluded, whichever occurs later;

(B) the terms "undercover investigative operation" and "undercover operation" mean any undercover investigative operation conducted by OEE—

(i) in which the gross receipts (excluding interest earned) exceed $25,000, or expenditures (other than expenditures for salaries of employees) exceed $75,000; and

(ii) which is exempt from section 3302 or 9102 of title 31, United States Code, except that clauses (i) and (ii) shall not apply with respect to the report to the Congress required by paragraph (B) of subparagraph (4); and

(iii) the term "employees" means employees, as defined in section 2105 of title 5, United States Code, of the Department of Commerce.

(d) REFERENCE TO ENFORCEMENT.—For purposes of this section, a reference to the enforcement of this Act or to a violation of this Act includes a reference to the enforcement or a violation of any regulation, license, or order issued under this Act.

SEC. 11. AUTHORITY AND PROCEDURES.

(a) UNDER SECRETARY OF COMMERCE.—The President shall appoint, by and with the advice and consent of the Senate, an Under Secretary of Commerce for Export Administration who shall carry out all functions of the Secretary under this Act, under other statutes that relate to national security, and under such other statutes as the Secretary may delegate. The President shall appoint, by and with the advice and consent of the Senate, two Assistant Secretaries of Commerce to assist the Under Secretary in carrying out such functions.

(b) REGULATIONS.—The Secretary may issue such regulations as are necessary to carry out the provisions of this Act, and amend or revise them as necessary. Such regulations may apply to financing, transporting, or other servicing of exports subject to this Act and the participation therein by any person. The Secretary shall consult with the appropriate technical advisory committees authorized under this Act in formulating or amending regulations issued under this Act. Any regulations to carry out the provisions of section 5 may be issued only after the regulations are submitted for review to such departments or agencies as the Secretary considers appropriate. The requirement for prior agency review does not confer the right of concurrence or approval by any official, department, or agency to which such regulations are submitted.

(c) CONFIDENTIALITY OF INFORMATION.—

(1) EXEMPTIONS FROM DISCLOSURE.—

(A) Except as otherwise provided by the third sentence of section 7(b)(2) of this Act, information obtained under the Export Administration Act of 1979 and its predecessor statutes on or before June 30, 1980, which is deemed confidential, including Shipper's Export Declarations, or with reference to which a request for confidential treatment is made by the person furnishing such information, shall not be subject to disclosure under section 552 of title 5, United States Code, and such information shall not be published or disclosed unless the Secretary determines that the withholding thereof is contrary to the national interest.

(B) Except as otherwise provided by the third sentence of section 7(b)(2) of this Act, information obtained under this Act, under the Export Administration Act of 1979 after June 30, 1980, or under the Export Administration Regulations as maintained and amended under the authority of the International Emergency Economic Powers Act (50 U.S.C. 1706) may be withheld only to the extent permitted by statute, except that information submitted, obtained or considered in connection with an application for an export license or other export authorization, including the export license or other export authorization itself, classification requests, information obtained during the course of a foreign availability assessment, information or evidence obtained in the course of any investigation, and information obtained or furnished in connection with multilateral agreements, treaties, or obligations under this Act, under the Export Administration Act of 1979 after June 30, 1980, or under the Export Administration Regulations as maintained and amended under the authority of the International Emergency Economic Powers Act (50 U.S.C. 1706) shall not be subject to disclosure under section 552 of title 5, United States Code, and such information shall not be published or disclosed unless the Secretary determines that the withholding thereof is contrary to the national interest.

(2) INFORMATION TO CONGRESS AND GAO.—

(A) IN GENERAL.—Nothing in this Act shall be construed as authorizing the withholding of information from the Congress or from the General Accounting Office.

(B) AVAILABILITY TO THE CONGRESS.—

(i) IN GENERAL.—All information obtained at any time under this Act or previous Acts regarding the control of exports, including any report or license application required under this Act, shall upon request be made available to the Committee on Foreign Affairs and the Subcommittee on International Economic Policy and Trade of the House of Representatives and the Committee on Banking, Housing and Urban Affairs and the Subcommittee on International Finance and Monetary Policy of the Senate. Each of the above designated committees and subcommittees may provide other members of Congress information obtained under this authority provided that such information may not be further disclosed except upon a finding made under the following subparagraph.

(ii) PROHIBITION ON FURTHER DISCLOSURE.—No such committee or subcommittee, or member thereof, and no other committee, subcommittee, or member of Congress shall disclose any information obtained under this Act or previous Acts regarding the control of exports which is submitted pursuant to this subsection unless one of the above-described full committees determines that the withholding of that information is contrary to the national interest.

(c) AVAILABILITY TO THE GAO.—

(i) IN GENERAL.—Notwithstanding paragraph (1), information referred to in subparagraph (B) shall, consistent with the protection of intelligence, counterintelligence, and law enforcement sources, methods, and activities, as determined by the agency that originally obtained the information, and consistent with the provisions of section 313 of the Budget and Accounting Act of 1921, be made available only by the agency, upon request, to the Comptroller General of the United States or to any officer or employee of the General Accounting Office authorized by the Controller General to have access to such information.

(ii) PROHIBITION ON FURTHER DISCLOSURES.—No officer or employee of the General Accounting Office shall disclose, except to the Congress in accordance with this paragraph, any such information which is submitted on a confidential basis and from which any individual can be identified.

(3) COMMERCE/CUSTOMS INFORMATION EXCHANGE.—Notwithstanding the provisions of section 11(c)(1), the Secretary and the Commissioner of Customs shall exchange any licensing and enforcement information with each other which is necessary to facilitate enforcement efforts and effective license decisions.

(4) PENALTIES FOR DISCLOSURE OF CONFIDENTIAL INFORMATION.—Any officer or employee of the United States, or any department or agency thereof, who publishes, divulges, discloses, or makes known in any manner or to any extent not authorized by law any information coming to him in the course of his or her employment or official duties or by reason of any examination or investigation made by, report or record made to or filed with, such department or agency, or officer or employee thereof, which information is exempt from disclosure under this subsection, shall be fined not more than $1,000, or imprisoned not more than one year, or both, and may be removed from office or employment and shall be subject to an administrative fine of not more than $1,000 to be enforced under the authorities and procedures of section 10 of this Act.

(d) PUBLIC PARTICIPATION.—It is the intent of the Congress that, to the extent practicable, all regulations imposing controls on exports under this Act be issued in proposed form with meaningful opportunity for public comment before taking effect. In cases where a regulation imposing controls under this Act is issued with immediate effect, it is the intent of the Congress that meaningful opportunity for public comment also be provided and that the regulation be reissued in final form after public comments have been fully considered.

(e) CONTROL LIST DEVELOPMENT AND REVIEW.—

(1) IN GENERAL.—The Secretary shall establish and maintain a Control List comprising all items requiring a validated license for export to designated countries under this Act. The Control List and other implementing regulations shall clearly identify the specific items controlled to each country. The Secretary shall establish validated license requirements on the Control List.

(2) DEVELOPMENT AND REVIEW OF THE CONTROL LIST.—The Secretary shall consult with appropriate departments and agencies regarding the addition, deletion, or maintenance of a license requirement for a given item. The Secretary of State, in consultation with appropriate departments and agencies, shall be responsible for conducting negotiations and developing negotiating positions with other countries regarding multilateral arrangements for restricting the export of items to carry out the policies of this Act. All appropriate departments and agencies shall consult to develop initial technical parameters and item definitions in connection with the development of proposals within the United States Government to be made to multilateral regimes in consultation with the Technical Advisory Committees as provided in paragraph (3) below.

For items controlled by a multilateral regime, the Secretary shall conduct periodic reviews scheduled sufficiently in advance of regime deliberations to permit the United States to present appropriate proposals after consultation with U.S. industry and the technical advisory committees. The Secretary shall seek the advice of U.S. industry and appropriate technical advisory committees as to the control of items subject to this Act. This review shall serve as a basis for United States proposals for revision of items subject to multilateral regimes. The Secretary of State shall seek to ensure that each multilateral regime in which the United States is a member shall review each item on its list of controlled items at least once very 2 years. In any case when such a multilateral regime fails to review an entry on its list of controlled items within 2 years of the prior review, the Secretary of State shall propose a review by the relevant multilateral regime of such an entry. Regardless of the frequency of list reviews by a given regime, the Secretary shall review each item controlled in cooperation with a multilateral regime at least once every two years.

(3) TECHNICAL ADVISORY COMMITTEES AND THE PUBLIC.—The appropriate technical advisory committee appointed under section 4(g) shall be consulted by the Secretary with respect to changes in the Control List established pursuant to this subsection, and such technical advisory committee may submit recommendations to the Secretary with respect to such changes. The Secretary shall consider the recommendations of the technical advisory committee and shall inform the committee of the disposition of its recommendations. The Secretary shall also seek comments and recommendations from the public in connection with changes in the Control List established pursuant to this subsection. To the maximum extent practicable and consistent with the conduct of international negotiations, in every possible instance, such comments and recommendations shall be taken into consideration in the development of United States Government proposals for all list revisions and positions to be taken in multilateral regimes.

(f) AUTHORITY FOR SEMINAR AND PUBLICATIONS FUND.—The Secretary is authorized to cooperate with public agencies, other governments, international organizations, private individuals, private associations, and other groups in connection with seminars, publications and related activities to carry out export activities, including educating the public or government officials in the application of this Act and the regulations issued under this Act. The Secretary is further authorized to accept contributions of funds, property, or services in connection with such activities to recover the cost of such programs and activities over time. Contributions shall include payments for materials or services provided as part of these activities. The contributions collected may be retained for use in covering the costs of these activities, and for supporting all outreach functions of the Department in connection with this Act and other export control programs of the United States and other governments.

(g) SUPPORT OF OTHER COUNTRIES' EXPORT CONTROL PROGRAM.—The Secretary may participate in the education and training of officials of other countries on the principles and procedures for the implementation of effective export controls.

(h) APPLICABILITY OF ADMINISTRATIVE PROCEDURES ACT.—

(1) EXEMPTION.—Except as provided in subsection (d) of section 9, the functions exercised under this Act are excluded from the operation of sections 551, 553 through 559, and 701 through 706 of title 5, United States Code.

(2) JUDICIAL REVIEW.—Except as provided by subsections (d), (g), and (j) of section 9, a final agency action under this Act may be reviewed by appeal to the United States Court of Appeals for the District of Columbia Circuit, to the extent provided in this paragraph. The court's review in any such appeal shall be limited to determining whether—

(A) a regulation—

(i) fails to take an action compelled by this Act;

(ii) takes an action prohibited by this Act; or

(iii) otherwise violates this Act;

(B) an agency action violates this Act;

(C) an agency action violates an agency regulation establishing time requirements or other procedural requirements of a non-discretionary nature;

(D) the issuance of regulations compelled by this Act compiles with time restrictions imposed by this Act;

(E) license decisions are made and appeals thereof are concluded in compliance with time restrictions imposed by this Act;

(F) classifications and advisory opinions are issued in compliance with time restrictions imposed by this Act;

(G) unfair impact determinations are in compliance with time restrictions imposed by this Act; or

(H) the United States has complied with the requirements of section 5(k) after an unfair impact determination has been rendered.

(i) INCORPORATED COMMODITIES TECHNOLOGY, AND SOFTWARE.—

(1) COMMODITIES CONTAINING CONTROLLED PARTS AND COMPONENTS.—Export licenses may not be required under this Act or any other provision of law for a commodity solely because the commodity contains parts or components subject to export control under this Act if such parts or components—

(A) are essential to the functioning of the good;

(B) are customarily included in sales of the item in countries other than target countries; and

(C) comprise 25 percent or less of the total value of the good, unless the good itself, if exported, would by virtue of the functional characteristics of the good as a whole make a significant contribution to the military or proliferation potential of a target country or end user which would prove detrimental to the national security of the United States.

(2) REEXPORTS OF FOREIGN-MADE ITEMS INCORPORATING U.S. ITEMS.—Except for countries embargoed under this Act, the International Emergency Economic Powers Act or the Trading with the Enemy Act, and except for countries named as terrorist-supporting countries under section 5(j)(4), no authority or permission may be required under this Act to—

(A) reexport a foreign-made commodity incorporating U.S. origin commodities valued at 25% or less of the total value of the foreign-made commodity;

(B) reexport foreign-made software incorporating U.S. origin software valued at 25% or less of the total value of the foreign-made software; or

(C) reexport foreign technology commingled with or drawn from U.S. origin technology valued at 25% or less of the total value of the foreign technology.

For countries embargoed under this Act, the International Emergency Economic Powers Act or the Trading with the Enemy Act, and except for countries named as terrorist-supporting countries under section 5(j)(4), no authority or permission may be required under this Act to—

(D) reexport a foreign-made commodity incorporating U.S. origin commodities valued at 10% or less of the total value of the foreign-made commodity;

(E) reexport foreign-made software incorporating U.S. origin software valued at 10% or less of the total value of the foreign-made software; or

(F) reexport foreign technology commingled with or drawn from U.S. origin technology valued at 10% or less of the total value of the foreign technology.

For purposes of this subsection, technology and source code used to design or produce foreign-made commodities or software are not incorporated into such foreign-made commodities or software. Notwithstanding the above provisions, the Secretary may require firms to report to the Department of Commerce their proposed calculations and underlying data sufficient for the Department of Commerce to evaluate the adequacy of those calculations and data related to commodities, technology, and software before a reexporter may rely upon this exclusion from controls.

(j) EXCEPTIONS FOR MEDICAL AND HUMANITARIAN PURPOSES.—This Act does not authorize controls on—

(1) medical instruments and equipment subject to the provisions of subsection (j)(1) of this section;

(2) medicine or medical supplies; or

(3) donations of items that are intended to meet basic human needs including food, educational materials, seeds, hand tools, water resources equipment, clothing and shelter materials, and basic household supplies.

(k) SANCTITY OF EXISTING CONTRACTS AND LICENSES.—

(1) IN GENERAL.—Under a unilateral control imposed under section 5 of this Act, the President may not prohibit the export or reexport of items—

(A) in performance of a contract, agreement, or other contractual commitment entered into before the effective date of any export controls mandated by this law, or the date on which the President reports to the Congress the President's intention to impose controls on the export or reexport of such items; or

(B) under a validated license issued under this Act before the effective date of any export controls mandated by this law, or the date on which the President reports to the Congress the President's intention to impose controls on the export or reexport of such items.

(2) EXCEPTION.—The prohibition in paragraph (1) shall not apply if the President determines and certifies to the Congress that—

(A) a breach of the peace poses a serious and direct threat to the strategic interest of the United States;

(B) the prohibition or curtailment of each such contract, agreement, commitment, license, or authorization to be controlled will be directly instrumental in remedying the situation posing the direct threat; and

(C) the emergency controls will continue only so long as the direct threat persists.

(3) The determination authority provided to the President in this subparagraph (2) may not be delegated.

(l) FACT-FINDING AUTHORITY.—

(1) To the extent necessary or appropriate to the administration of this Act or any multilateral regime in which the United States participates pursuant to this Act, the Secretary (and officers or employees of the Department of Commerce designated by the Secretary), the Commissioner of Customs, or the head of any other department or agency designated by the Secretary may exercise the authorities described in paragraph (2).

(2) Any officer or employee designated by the Secretary may do the following in carrying out the authority of this Act:

(A) Make investigations of, obtain information from, require reports or the keeping of such records by, make inspection of the books, records, and other writings, premises, or property of, and take the sworn testimony of, any person.

(B) Administer oaths or affirmations, and by subpoena require any person to appear and testify or to appear and produce books, records, and other writings, or both. In the case of contumacy by, or refusal to obey a subpoena issued to, any such person, a district court of the United States, after notice to any such person and hearing, shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce books, records, and other writings, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(m) MILITARY CRITICAL TECHNOLOGIES LIST DEVELOPMENT, REVIEW AND USE.—

(1) In developing the Militarily Critical Technologies List (MCTL), established pursuant to subsection 4(c) of this Act, primary emphasis shall be given to—

(A) development and production technology;

(B) test, inspection, and production equipment;

(C) advanced materials, chemicals, and biological agents;

(D) unique software; and

(E) systems, subsystems, assemblies and components.

(2) The list referred to in paragraph (1) shall be sufficiently specific to guide the determinations of any official exercising export licensing responsibilities under this Act. For purposes of completeness and cross-reference, the MCTL shall include both dual-use items controlled by this Act and other militarily critical items that may be controlled under other authorities, including the Arms Export Control Act (22 U.S.C. 2770 *et seq.*)

(3) Consistent with the policies of section 3 and the criteria of section 5, the Secretary and the Secretary of Defense shall propose integration of items on the list of militarily critical technologies into the Control List in accordance with the requirements of paragraph (1) of this subsection. Any disagreement between the Secretary and the Secretary of Defense regarding the integration of an item on the list of militarily critical technologies into the Control List shall be resolved by the President.

(4) The Secretary of Defense shall establish a procedure for reviewing the MCTL on an ongoing basis for the purpose of removing from the MCTL any items that are no longer militarily critical. The Secretary of Defense may add to the MCTL any item that the Secretary of Defense determines is militarily critical, consistent with the provisions of paragraph (1) of this subsection. If the Secretary and the Secretary of Defense disagree as to whether any change in the MCTL by the addition or removal of an item should also be made in the Control List, the President shall resolve the disagreement.

(5) The establishment of adequate export controls for militarily critical technology, equipment, and materials shall be accompanied by suitable reductions in the controls on the products of that technology, equipment, and materials.

SEC. 12A. SANCTIONS FOR PROLIFERATION ACTIVITY AND THE USE OF CHEMICAL AND BIOLOGICAL WEAPONS AND MISSILES.

(a) DETERMINATIONS.—

(1) DETERMINATION OF ACTIVITY SUPPORTING THE PROLIFERATION OF CHEMICAL AND BIOLOGICAL WEAPONS AND MISSILES.—The President shall determine whether any foreign person has, on or after the date of the enactment of this section, knowingly or with reason to know contributed materially to the efforts of any government, group, entity, or project to use, design, develop, produce, stockpile, or otherwise acquire chemical or biological weapons or missiles—

(A) through the export or transfer of—

(i) any item on the MTCR Annex whether or not of U.S.-origin; or

(ii) any chemicals, biological agents, or equipment which may contribute to a chemical or biological weapons program such as those listed by the Australia Group, whether or not of U.S.-origin.

(B) by participating in any financial transaction related to the activity described in paragraphs (1)(A) or (1)(B); or

(C) by facilitating the activity described in paragraphs (1)(A) or (1)(B).

(D) This subsection does not apply—

(i) under (a)(1)(A)(i) to an export or transfer that is authorized by the government of a country that is an adherent to the MTCR or is to a country that is an adherent to the MTCR; or

(ii) under (a)(1)(A)(ii) for an export or transfer that is to a country that is both authorized by a country that is an adherent to the Australia Group or a signatory to the Chemical Weapons Convention and is to a country that is an adherent to the Australia Group or a signatory to the Chemical Weapons Convention.

(2) DETERMINATION OF USE OF CHEMICAL OR BIOLOGICAL WEAPONS.—Whenever persuasive information becomes available to the executive branch indicating the substantial possibility that, on or after the date of enactment of this Act, the government of a foreign country has made substantial preparation to use chemical or biological weapons, the President shall, within 60 days after the receipt of such information by the executive branch, determine whether that government, on or after such date of enactment, has used chemical or biological weapons in violation of international law or has used lethal chemical or biological weapons against its own nationals.

(b) PERSONS AGAINST WHICH SANCTIONS ARE TO BE IMPOSED.—In the event of an affirmative determination under subsection (a)(1)(A)(i) or (a)(1)(A)(ii), the President shall impose sanctions described under subsection (c) on the foreign person that engaged in, facilitated, or solicited the conduct that is the subject of the determination, on other persons as the President determines should be subject to sanctions because they are related to that person, and on any successor of a sanctioned person.

(c) SANCTIONS.—

(1) MANDATORY SANCTIONS.—The following sanctions shall be imposed for a minimum of 2 years in the event the President makes a determination under subsections (a)(1)(A)(i) or (a)(1)(A)(ii):

(A) If the determination is for activity related to missile proliferation, validated licenses for items on the MTCR annex shall be denied under this Act and the Arms Export Control Act and imports of such items from such entities shall be prohibited.

(B) If the determination is for activity related to chemical or biological weapons proliferation, validated licenses for items listed by the Australia Group shall be denied under this Act and the Arms Export Control Act and imports of such items from such entities shall be prohibited.

(C) The United States Government shall not procure, or enter into any contract for the procurement of, any services, commodities, software, and technology, or other products from or produced by any entity described in subsection (a)(2).

(2) DISCRETIONARY SANCTIONS.—In addition to the sanctions described in paragraph (1), the President may also take any of the actions listed in paragraphs (3) and (5), if the President determines that such additional measures would further the objectives of this section. Such additional sanctions shall be proportionate to the harm the sanctioned behavior has caused or will cause the national security or nonproliferation interests of the United States.

(3) MANDATORY SANCTIONS FOR USE OF CHEMICAL OR BIOLOGICAL WEAPONS.—The following sanctions shall be imposed in the event the President makes a determination under subsection (a)(2):

(A) FOREIGN ASSISTANCE.—The United States Government shall terminate assistance to that country under the Foreign Assistance Act of 1961, except for urgent humanitarian assistance and food or other agricultural commodities or products.

(B) ARMS SALES.—The United States Government shall terminate—

(i) Sales to that country under the Arms Export Control Act of any defense articles, defense services, or design and construction services; and

(ii) licenses for the export to that country of any item on the United States Munitions List.

(C) ARMS SALES FINANCING.—The United States Government shall terminate all foreign military financing for that country under the Arms Export Control Act.

(D) DENIAL OF UNITED STATES GOVERNMENT CREDIT OR OTHER FINANCIAL ASSISTANCE.—The United States Government shall deny to that country any credit, credit guarantees, or other financial assistance by any department, agency, or instrumentality of the United States Government, including the Export-Import Bank of the United States.

(E) EXPORTS OF NATIONAL SECURITY-SENSITIVE ITEMS.—The authorities of this Act shall be used to prohibit the export to that country of any items controlled for non-proliferation, regional stability, or national security reasons.

(4) ADDITIONAL SANCTIONS IF CERTAIN CONDITIONS NOT MET.—Unless, within three (3) months after making a determination pursuant to subsection (a)(2) with respect to a foreign government, the President determines and certifies, in writing, to the Congress that—

(A) the government is no longer using chemicals or biological weapons in violation of international law or using lethal chemicals or biological weapons against its own nationals;

(B) the government has provided reliable assurances that it will not, in the future, engage in any such activities; and

(C) the government is willing to allow onsite inspections by United Nations observers or other internationally-recognized, impartial observers, or other reliable means exist, to ensure that government is not using chemical or biological weapons in violation of international law and is not using lethal chemical or biological weapons against its own nationals, then the President, after consultation with the Congress, shall impose on that country the sanctions set forth in at least three (3) of subparagraphs (A) through (F) of paragraph (5).

(5) ADDITIONAL SANCTIONS FOR USE OF CHEMICAL OR BIOLOGICAL WEAPONS.—The sanctions referred to in paragraph (4) are the following:

(A) MULTILATERAL DEVELOPMENT BANK ASSISTANCE.—The United States Government shall oppose, in accordance with Section 701 of the International Financial Institutions Act (22 U.S.C. 262d), the extension of any loan or financial or technical assistance to that country by international financial institutions.

(B) BANK LOANS.—The United States Government shall prohibit any United States bank from making any loan or providing any credit to the government of that country, except for loans or credits for the purpose of purchasing food or other agricultural commodities or products.

(C) FURTHER EXPORT RESTRICTIONS.—The authorities of this Act may be used to prohibit exports to the country of all other items (excluding food and other agricultural commodities and products).

(D) IMPORT RESTRICTIONS.—Restriction shall be imposed on the importation into the United States of articles (which may include petroleum or any petroleum product) that are the growth, product, or manufacture of that country.

(E) DIPLOMATIC RELATIONS.—The President shall use constitutional authorities to downgrade or suspend diplomatic relations between the United States and the government of that country.

(F) PRESIDENTIAL ACTION REGARDING AVIATION.—

(i)(a) The President is authorized to notify the government of a country with respect to which the President has made a determination, pursuant to subsection 12(a), regarding intention to suspend the authority of foreign air carriers owned or controlled by the government of that country to engage in foreign air transportation to or from the United States.

(b) Within ten (10) days after the date of notification of a government under subclause (I), the Secretary of Transportation shall take all steps necessary to suspend at the earliest possible date the authority of any foreign air carrier owned or controlled, directly or indirectly, by that government to engage in foreign air transportation to or from the United States, notwithstanding any agreement relating to air services.

(ii) (a) The President may direct the Secretary of State to terminate any air service agreement between the United States and a country with respect to which the President has made a determination pursuant to subsection (a), in accordance with the provisions of that agreement.

(b) Upon termination of an agreement under this clause, the Secretary of Transportation shall take such steps as may be necessary to revoke at the earliest possible date the right of any foreign air carrier owned, or controlled, directly or indirectly, by the government of that country to engage in foreign air transportation to or from the United States.

(iii) The Secretary of Transportation may provide for such exceptions from clauses (i) and (ii) as the Secretary considers necessary to provide for emergencies in which the safety of an aircraft or its crew or passengers is threatened.

(iv) For purposes of this subparagraph, the terms "air transportation", "air carrier", "foreign air carrier", and "foreign air transportation" have the meanings such terms have under Section 101 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301).

(d) DEFERRAL AND LIMITATION.—

(1) The President may delay the making of a determination under subsection (a) or the imposition of sanctions in order to protect—

(A) ongoing criminal investigations; or

(B) sensitive intelligence sources and methods which are being used to acquire further information on the proliferation of weapons of mass destruction, their delivery systems, or advanced conventional weapons.

The President shall exercise this authority only when the President determines that nonproliferation objectives do not outweigh the need to delay the imposition of sanctions to avoid compromising the criminal investigation or intelligence sources and methods involved. The President shall proceed when the basis for the delay no longer exists.

(2) The President may delay the imposition of sanctions for up to 180 days if the United States is engaged in diplomatic efforts and consultations with the objective of——

(A) curtailing the policies and conduct of the government or person in the country of weapons activity determined to have engaged in the sanctioned conduct; or

(B) obtaining, from the government with effective jurisdiction over the sanctioned person appropriate sanctions against such person or the initiation of legal process to impose such sanctions.

If such diplomatic efforts and consultations succeed (i) in curtailing the conduct of the government or person engaged in the sanctioned conduct, or (ii) in obtaining enforcement action in accordance with subparagraph (B), the President shall not be required to apply or maintain sanctions under this section.

(3) The President should seek multilateral support for sanctions against activity covered by this section. If multilateral sanctions are achieved that the President determines will be more effective than unilateral sanctions in furthering the national security or nonproliferation objectives of the United States, the President shall not be required to exercise the authority in this section in a manner inconsistent with such multilateral sanctions.

(e) EXCEPTIONS.—The President shall not be required to apply or maintain sanctions under this section—

(1) in the case of procurement of defense articles or defense services—

(A) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy United States operational military requirements;

(B) if the President determines that the person to which the sanctions would otherwise be applied is a sole source supplier of the defense articles or services, that the defense articles or services are essential, and that alternative sources are not readily or reasonably available; or

(C) if the President determines that such articles or services are essential to the national security under defense co-production agreements;

(2) to the import of—

(A) products or services provided under contracts entered into before the date on which the President publishes notice of intention to impose sanctions; or

(B) (i) spare parts;

(ii) component parts, but not finished products, essential to United States products or production;

(iii) information and technology essential to United States products or production; or

(iv) routine servicing and maintenance of products, to the extent that alternative sources are not readily or reasonably available.

(3) to medical or other humanitarian items; or

(4) to any transaction subject to the reporting requirements of Title V of the National Security Act of 1947.

(5) when the President determines, categorically or on a case-by-case basis, that the application of sanctions to bar performance of a contract or agreement entered into before the date of the imposition of sanctions is not necessary to achieve the national security or nonproliferation objectives of the United States and would be contrary to the national interest.

(f) TERMINATION OF SANCTIONS FOR USING CHEMICAL OR BIOLOGICAL WEAPONS.—During the minimum 2 years period of the mandatory sanctions imposed pursuant to a determination under subsection (a)(2), such sanctions may be removed if the President determines and so certifies to the Congress that—

(1) the government of that country has provided reliable assurances that it will not use chemical or biological weapons in violation of international law and will not use lethal chemical or biological weapons against its own nationals;

(2) that government is not making preparations to use chemical or biological weapons in violation of international law or to use lethal chemical or biological weapons against its own nationals;

(3) that government is willing to allow onsite inspections by United Nations observers or other internationally-recognized, impartial observers to verify that it is not making preparations to use chemical or biological weapons in violation of international law or to use lethal chemical or biological weapons against its own nationals, or other reliable means exist to verify that it is not making such preparations; and

(4) that government is making restitution to those affected by any use of chemical or biological weapons in violation of international law or by any use of lethal chemical or biological weapons against its own nationals.

(g) WAIVER.—

(1) CRITERION FOR WAIVER.—The President may waive or partially waive the application of any sanction imposed on any entity pursuant to this section, if the President determines and certifies to Congress that such waiver is important to the national interests of the United States.

(2) NOTIFICATION OF AND REPORT TO CONGRESS.—If the President decides to exercise the waiver authority provided in paragraph (1), the President shall so notify the Congress not less than 20 days before the waiver takes effect. Such notification shall include a report stating the reasons for exercise of the waiver authority.

(h) REGULATORY IMPLEMENTATION OF SANCTIONS.—For items subject to the jurisdiction of the Secretary under this Act, sanctions shall be implemented in regulations issued by the Secretary and shall specify the scope of products and entities. For items subject to the jurisdiction of the Secretary of State under the Arms Export Control Act, sanctions shall be implemented in regulations issued by the Secretary State and shall specify the scope of products and entities.

SEC. 12B. SANCTIONS FOR PROLIFERATION ACTIVITY AND THE USE OF CHEMICAL AND BIOLOGICAL WEAPONS.

Section 72 of the Arms Export Control Act is amended to read as follows:

"SEC. 72. SANCTIONS AGAINST CERTAIN FOREIGN PERSONS AND COUNTRIES.

"(a) DETERMINATIONS.—

"(1) DETERMINATION OF ACTIVITY SUPPORTING THE PROLIFERATION OF CHEMICAL AND BIOLOGICAL WEAPONS AND MISSILES.—The President shall determine whether any foreign person has, on or after the date of the enactment of this section, knowingly or with reason to know contributed materially to the efforts of any government, group, entity, or project to use, design, develop, produce, stockpile, or otherwise acquire chemical or biological weapons or missiles—

"(A) through the export or transfer of—

"(i) any item on the MTCR Annex whether or not of U.S.-origin;

"(ii) any chemicals, biological agents, or equipment which may contribute to a chemical or biological weapons program such as those listed by the Australia Group, whether or not of U.S.-origin;

"(B) by participating in any financial transaction related to the activity described in paragraphs (1)(A) or (1)(B); or

"(C) by facilitating or soliciting the activity described in paragraphs (1)(A) or (1)(B).

"(D) This subsection does not apply—

"(i) under (a)(1)(A)(i) to an export or transfer that is authorized by the government of a country that is an adherent to the MTCR or is to a country that is an adherent to the MTCR; or

"(ii) under (a)(1)(A)(ii) for an export or transfer that is to a country that is both authorized by a country that is an adherent to the Australia Group or a signatory to the Chemical Weapons Convention and is to a country that is an adherent to the Australia Group or a signatory to the Chemical Weapons Convention.

"(2) DETERMINATION OF USE OF CHEMICAL OR BIOLOGICAL WEAPONS.—Whenever persuasive information becomes available to the executive branch indicating the substantial possibility that, on or after the date of enactment of this Act, the government of a foreign country has made substantial preparation to use chemical or biological weapons, the President shall, within 60 days after the receipt of such information by the executive branch, determine whether that government, on or after such date of enactment, has used chemical or biological weapons in violation of international law or has used lethal chemical or biological weapons against its own nationals.

"(b) PERSONS AGAINST WHICH SANCTIONS ARE TO BE IMPOSED.—In the event of an affirmative determination under subsection (a)(1)(A)(i) or (a)(1)(A)(ii), the President shall impose sanctions described under subsection (c) on the foreign person that engaged in, facilitated, or solicited the conduct that is the subject of the determination, on other persons as the President determines should be subject to sanctions because they are related to that person, and on any successor of a sanctioned person.

"(c) SANCTIONS.—

"(1) MANDATORY SANCTIONS.—The following sanctions shall be imposed for a minimum of 2 years in the event the President makes a determination under subsections (a)(1)(A)(i) or (a)(1)(A)(ii):

"(A) If the determination is for activity related to missile proliferation, validated licenses for items on the MTCR annex shall be denied under this Act and the Export Administration Act and imports of such items for such entities shall be prohibited.

"(B) If the determination is for activity related to chemical or biological weapons proliferation, validated licenses for items listed by the Australia Group shall be denied under this Act and the Export Administration Act and imports of such items for such entities shall be prohibited.

"(C) The United States Government shall not procure, or enter into any contract for the procurement of, any services, commodities, software, and technology, or other products from or produced by any entity described in subsection (a)(2).

"(2) DISCRETIONARY SANCTIONS.—In addition to the sanctions described in paragraph (1), the President may also take any of the actions listed in paragraphs (3) and (5), if the President determines that such additional measures would further the objectives of this section. Such additional sanctions shall be proportionate to the harm the sanctioned behavior has caused or will cause the national security or nonproliferation interests of the United States.

"(3) MANDATORY SANCTIONS FOR USE OF CHEMICAL OR BIOLOGICAL WEAPONS.—The following sanctions shall be imposed in the event the President makes a determination under subsection (a)(2):

"(A) FOREIGN ASSISTANCE.—The United States Government shall terminate assistance to that country under the Foreign Assistance Act of 1961, except for urgent humanitarian assistance and food or other agricultural commodities or products.

"(B) ARMS SALES.—The United States Government shall terminate—

"(i) sales to that country under this Act of any defense articles, defense services, or design and construction services; and

"(ii) licenses for the export to that country of any item on the United States Munitions List.

"(C) ARMS SALES FINANCING.—The United States Government shall terminate all foreign military financing for that country under this Act.

"(D) DENIAL OF UNITED STATES GOVERNMENT CREDIT OR OTHER FINANCIAL ASSISTANCE.—The United States Government shall deny to that country any credit, credit guarantees, or other financial assistance by any department, agency, or instrumentality of the United States Government, including the Export-Import Bank of the United States.

"(E) EXPORTS OF NATIONAL SECURITY-SENSITIVE ITEMS.—The authorities of this Act shall be used to prohibit the export to that country of any items controlled for non-proliferation, regional stability, or national security reasons.

"(4) ADDITIONAL SANCTIONS IF CERTAIN CONDITIONS NOT MET.—Unless, within three (3) months after making a determination pursuant to subsection (a)(2) with respect to a foreign government, the President determines and certifies, in writing, to the Congress that—

"(A) the government is no longer using chemicals or biological weapons in violation of international law or using lethal chemicals or biological weapons against its own nationals;

"(B) the government has provided reliable assurances that it will not, in the future, engage in any such activities; and

"(C) the government is willing to allow onsite inspections by United Nations observers or other internationally-recognized, impartial observers, or other reliable means exist, to ensure that government is not using chemicals or biological weapons in violation of international law and is not using lethal chemical or biological weapons against its own nationals, then the President, after consultation with the Congress, shall impose on that country the sanctions set forth in at least three (3) of subparagraphs (A) through (F) of paragraph (5).

"(5) ADDITIONAL SANCTIONS FOR USE OF CHEMICAL OR BIOLOGICAL WEAPONS.—The sanctions referred to in paragraph (4) are the following:

"(A) MULTILATERAL DEVELOPMENT BANK ASSISTANCE.—The United States Government shall oppose, in accordance with Section 701 of the International Financial Institutions Act (22 U.S.C. 262d), the extension of any loan or financial or technical assistance to that country by international financial institutions.

"(B) BANK LOANS.—The United States Government shall prohibit any United States bank from making any loan or providing any credit to the government of that country, except for loans or credits for the purpose of purchasing food or other agricultural commodities or products.

"(C) FURTHER EXPORT RESTRICTIONS.—The authorities of this Act may be used to prohibit exports to the country of all other items (excluding food and other agricultural commodities and products).

"(D) IMPORT RESTRICTIONS.—Restriction shall be imposed on the importation into the United States of articles (which may include petroleum or any petroleum product) that are the growth, product, or manufacture of that country.

"(E) DIPLOMATIC RELATIONS.—The President shall use constitutional authorities to downgrade or suspend diplomatic relations between the United States and the government of that country.

"(F) PRESIDENTIAL ACTION REGARDING AVIATION.—

"(i)(a) The President is authorized to notify the government of a country with respect to which the President has made a determination, pursuant to subsection 12(a), regarding intention to suspend the authority of foreign air carriers owned or controlled by the government of that country to engage in foreign air transportation to or from the United States.

"(b) Within ten (10) days after the date of notification of a government under subclause (I), the Secretary of Transportation shall take all steps necessary to suspend at the earliest possible date the authority of any foreign air carrier owned or controlled, directly or indirectly, by that government to engage in foreign air transportation to or from the United States, notwithstanding any agreement relating to air services.

"(ii)(a) The President may direct the Secretary of State to terminate any air service

agreement between the United States and a country with respect to which the President has made a determination pursuant to subsection (a), in accordance with the provisions of that agreement.

"(b) Upon termination of an agreement under this clause, the Secretary of Transportation shall take such steps as may be necessary to revoke at the earliest possible date the right of any foreign air carrier owned, or controlled, directly or indirectly, by the government of that country to engage in foreign air transportation to or from the United States.

"(iii) The Secretary of Transportation may provide for such exceptions from clauses (i) and (ii) as the Secretary considers necessary to provide for emergencies in which the safety of an aircraft or its crew or passengers is threatened.

"(iv) for purposes of this subparagraph, the terms "air transportation", "air carrier", "foreign air carrier", and "foreign air transportation" have the meanings such terms have under Section 101 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301).

"(d) DEFERRAL AND LIMITATION.—

"(1) The President may delay the making of a determination under subsection (a) or the imposition of sanctions in order to protect—

"(A) ongoing criminal investigations; or

"(B) sensitive intelligence sources and methods which are being used to acquire further information on the proliferation of weapons of mass destruction, their delivery systems, or advanced conventional weapons.

"The President shall exercise this authority only when the President determines that nonproliferation objectives do not outweigh the need to delay the imposition of sanctions to avoid compromising the criminal investigation or intelligence sources and methods involved. The President shall proceed when the basis for the delay no longer exists.

"(2) The President may delay the imposition of sanctions for up to 180 days if the United States is engaged in diplomatic efforts and consultations with the objective of—

"(A) curtailing the policies and conduct of the government or person in the country of weapons activity determined to have engaged in the sanctioned conduct; or

"(B) obtaining, from the government with effective jurisdiction over the sanctioned person appropriate sanctions against such person or the initiation of legal process to impose such sanctions.

"If such diplomatic efforts and consultations succeed (i) in curtailing the conduct of the government or person engaged in the sanctioned conduct, or (ii) in obtaining enforcement action in accordance with subparagraph (B), the President shall not be required to apply or maintain sanctions under this section.

"(3) The President should seek multilateral support for sanctions against activity covered by this section. If multilateral sanctions are achieved that the President determines will be more effective than unilateral sanctions in furthering the national security or nonproliferation objectives of the United States, the President shall not be required to exercise the authority in this section in a manner inconsistent with such multilateral sanctions.

"(e) EXCEPTIONS.—The President shall not be required to apply or maintain sanctions under this section—

"(1) in the case of procurement of defense articles or defense services—

"(A) under existing contacts or subcontracts, including the exercise of options for production quantities to satisfy United States operational military requirements;

"(B) if the President determines that the person to which the sanctions would otherwise be applied is a sole source supplier of the defense articles or services, that the defense articles or services are essential, and that alternative sources are not readily or reasonably available; or

"(C) if the President determines that such articles or services are essential to the national security under defense co-production agreements;

"(2) to the import of—

"(A) products or services provided under contracts entered into before the date on which the President publishes notice of intention to impose sanctions; or

"(B) (i) spare parts;

"(ii) component parts, but not finished products, essential to United States products or production;

"(iii) information and technology essential to United States products or production;

"(iv) routine servicing and maintenance of products, to the extent that alternative sources are not readily or reasonably available;

"(3) to medical or other humanitarian items; or

"(4) to any transaction subject to the reporting requirements of Title V of the National Security Act of 1947.

"(5) when the President determines, categorically or on a case-by-case basis, that the application of sanctions to bar performance of a contract or agreement entered into before the date of the imposition of sanctions is not necessary to achieve the national security or nonproliferation objectives of the United States and would be contrary to the national interest.

"(f) TERMINATION OF SANCTIONS FOR USING CHEMICAL OR BIOLOGICAL WEAPONS.—During the minimum 2 years period of the mandatory sanctions imposed pursuant to a determination under subsection (a)(2), such sanctions may be removed if the President determines and so certifies to the Congress that—

"(1) the government of that country has provided reliable assurances that it will not use chemical or biological weapons in violation of international law and will not use lethal chemical or biological weapons against its own nationals;

"(2) that government is not making preparations to use chemical or biological weapons in violation of international law or to use lethal chemical or biological weapons against its own nationals;

"(3) that government is willing to allow on-site inspections by United Nations observers or other internationally-recognized, impartial observers to verify that it is not making preparations to use chemical or biological weapons in violation of international law or to use lethal chemical or biological weapons against its own nationals, or other reliable means exist to verify that it is not making such preparations; and

"(4) that government is making restitution to those affected by any use of chemical or biological weapons in violation of international law or by any use of lethal chemical or biological weapons against its own nationals.

"(g) WAIVER.—

"(1) CRITERION FOR WAIVER.—The President may waive or partially waive the application of any sanction imposed on any entity pursuant to this section, if the President determines and certifies to Congress that such waiver is important to the national interests of the United States.

"(2) NOTIFICATION OF AND REPORT TO CONGRESS.—If the President decides to exercise the waiver authority provided in paragraph (1), the President shall so notify the Congress not less than 20 days before the waiver takes effect. Such notification shall include a report stating the reasons for exercise of the waiver authority.

"(h) REGULATORY IMPLEMENTATION OF SANCTIONS.—For items subject to the jurisdiction of the Secretary of Commerce under the Export Administration Act, sanctions shall be implemented in regulations issued by the Secretary and shall specify the scope of products and entities. For items subject to the jurisdiction of the Secretary of State under this Act, sanctions shall be implemented in regulations issued by the Secretary of State and shall specify the scope of products and entities."

SEC. 13. ANNUAL REPORT.

(a) CONTENTS.—Not later than March 1 of each year, the Secretary shall submit to the Congress a report on the administration of this Act during the preceding calendar year. All agencies shall cooperate fully with the Secretary in providing information for such report. Such report shall include detailed information on—

(1) the implementation of the policies set forth in section 3, including delegations of authority by the President as provided in section 4(e), consultations with the technical advisory committees established pursuant to section 4(g), and any changes in the exercise of the authorities contained in section 5(a), 6(a), and 7(a);

(2) adjustments to multilateral export controls; activities involving the license free zones authorized by section 5(f)(4); and determinations under section 5(l), the criteria used to make such determinations, the removal of any export controls under such section, and any evidence demonstrating a need to maintain export controls notwithstanding foreign availability;

(3) the effectiveness of unilateral export controls imposed under section 5, and any adjustments thereto; and embargoes imposed, maintained, or removed in accordance with section 5, including descriptions of each embargo and the rationale for imposing, maintaining, or removing such embargoes;

(4) short supply controls and monitoring in accordance with section 6;

(5) organizational and procedural changes undertaken in furtherance of the policies set forth in this Act, including changes to increase the efficiency of the export licensing process and to fulfill the requirements of section 8, including an accounting of appeals received, and actions taken pursuant thereto under section 8(h).

(6) violations under section 9, enforcement activities under section 10, and any reviews undertaken in furtherance of the policies of this Act;

(7) the issuance of regulations under the authority of this Act;

(8) the results, in as much detail as may be included consistent with multilateral arrangements and the need to maintain the confidentiality of proprietary information and classified information, of the reviews of the Commerce Control List, and any revisions to the Commerce Control List resulting from such reviews, required by section 11; and

(9) the imposition or removal of sanctions against certain entities and foreign countries in accordance with section 12.

(b) REPORT ON CERTAIN EXPORT CONTROLS.—To the extent that the President determines that the policies set forth in sec-

tion 3 require the control of the export of items other than those subject to multilateral controls, or require more stringent controls than the multilateral regimes, the President shall include in each annual report the reasons for the need to impose, or to continue to impose, such controls and the estimated domestic economic impact on the various industries affected by such controls.

SEC. 14. DEFINITIONS.

As used in this Act—

(1) AFFILIATES.—The term "affiliates" includes both governmental entities and commercial entities that are controlled in fact by target countries;

(2) AUSTRALIA GROUP ("AG").—The term "Australia Group" or "AG" means the multilateral arrangement in which the United States participates that seeks to prevent the proliferation of chemical and biological weapons.

(3) BIOLOGICAL WEAPONS CONVENTION.—The term "Biological Weapons Convention" refers to the "Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction of 1972";

(4) CHEMICAL WEAPONS CONVENTION.—The term "Chemical Weapons Convention" refers to the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction of 1992;

(5) COMMODITY.—The term "commodity" means any article, natural or manmade substance, material, supply or manufactured product, including inspection of test equipment, and excluding technical data;

(6) COORDINATING COMMITTEE ("COCOM").—The term "Coordinating Committee" or "COCOM" means the multilateral organization in which the United States participates that cooperates in restricting transfers of strategic items to certain countries;

(7) EXPORT.—The term "export" means—

(A) an actual shipment, transfer, or transmission of items out of the United States; or

(B) a transfer to any person of items either within the United States or outside of the United States or to a end user, end use, or destination with the knowledge or intent that the items will be shipped, transferred, or transmitted outside the United States;

(C) unless otherwise clear from the context, the term "export" includes the term "reexport";

provided, the Secretary may further define the term by regulation to include, among other concepts, that a transfer of items in the United States to an embassy or affiliate of a country is an export to the country, that disclosure of technology to a foreign national is a deemed export to his or her home country, and that transfer of effective control from one country to another over a satellite above the earth is an export from one country to another;

(8) FACILITATING THE ACTIVITY.—The term "facilitating the activity" includes but is not limited to, acting as a freight forwarder, shipper, designated export or import agent, consignee, purchasing agent, marketing agent, manufacturer, assembler, designer, financier, or end user with respect to the services or items to be exported, transferred, or provided;

(9) FINANCIAL TRANSACTIONS.—The term "financial transactions" means any transactions involving the exchange, transfer, crediting, debiting, deposit, withdrawal, or payment of currency, securities, debt, credit, checks, other monetary instruments, precious metals or minerals, or other items of value whether physically or by electronic means. The term is intended to be interpreted broadly to include such transactions as the opening or drawing down of letters of credit, the extension of a loan, the receipt of payment, or the use of credit cards;

(10) ITEM.—The term "item" means any commodity, technology, or software;

(11) MISSILE.—The term "missile" means any missile system or component listed in category I of the MTCR Annex, and any other unmanned delivery system or component of similar capability, as well as the specially designed production facilities for these systems;

(12) MISSILE TECHNOLOGY CONTROL REGIME ("MTCR").—The term "Missile Technology Control Regime" or "MTCR" means the policy statement and Guidelines between the United States, the United Kingdom, the Federal Republic of Germany, France, Italy, Canada, and Japan, announced on April 16, 1987, to restrict sensitive missile-related transfers based on the MTCR Annex, and any amendments to the Annex or Guidelines;

(A) MTCR ADHERENT.—The term "MTCR adherent" means a country that is a member of the MTCR or that, pursuant to an international understanding to which the United States is a party, controls MTCR equipment or technology in accordance with the criteria and standards set forth in the MTCR;

(B) MTCR ANNEX.—The term "MTCR Annex" means the Equipment and Technology Annex of the MTCR and any amendments thereto;

(13) MULTILATERAL CONTROL.—The term "multilateral control" means a licensing requirement exercised by the United States and at least one other nation;

(14) NUCLEAR SUPPLIERS' GROUP ("NSG").—The term "Nuclear Suppliers' Group" or "NSG" means the multilateral arrangement in which the United States participates whose purpose is to restrict the transfers of items with relevance to the nuclear fuel cycle and/or nuclear explosive applications;

(15) PERSON.—The term "person" includes—

(A) the single and plural of any individual, corporation, partnership, business association, society, trust, organization, or other group created or organized under the laws of a country; or

(B) any government, governmental body, corporation, trust, agency, department, division, or group operating as a business enterprise;

(16) PROTOCOL ON BIOLOGICAL WARFARE.—The term "Protocol on Biological Warfare" refers to the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare of 1925;

(17) REGIME, MULTILATERAL EXPORT CONTROL REGIME, MULTILATERAL REGIME.—The terms "regime" and "multilateral export control regime" and "multilateral regime" each means an arrangement of two or more countries to which the United States is a party or which the United States would seek to create or join and brought together for the purpose of curtailing access to controlled items by target countries by means of cooperative export controls;

(18) REEXPORT.—The term "reexport" means the shipment, transfer, transhipment, or diversion of items from one foreign country to another;

(19) SECRETARY.—The term "Secretary" means the Secretary of Commerce;

(20) TARGET COUNTRY.—The term "target country" means a country for which it is the objective under this Act to deny or attempt to deny access to controlled items or a country from which the United States distances itself by means of a unilateral export control adopted under this Act;

(21) TECHOLOGY.—The term "technology" means specific information required for the "development", "production", or "use" of a product. The information takes the form of "technical data" or "technical assistance". Controlled "technology" is defined in the General Technology Note and in the Commerce Control List;

(22) UNILATERAL CONTROL.—The term "unilateral control" means a license requirement that is not multilaterally agreed to by two or more countries;

(23) UNITED STATES.—The term "United States" means the States of the United States, the District of Columbia, and any commonwealth, territory, dependency, or possession of the United States, and includes the Outer Continental Shelf, as defined in Section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a));

(24) UNITED STATES PERSON.—The term "United States person" means any United States citizen, resident, national (other than an individual resident outside the United States and employed by other than a United States person), or person within the United States, any domestic concern (including any permanent domestic establishment of any foreign concern) and any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern which is controlled in fact by such domestic concern, as determined under regulations of the President; and

(25) WEAPONS OF MASS DESTRUCTION.—The term "weapons of mass destruction" means any chemical or biological weapons or nuclear explosive devices.

SEC. 15. EFFECTS ON OTHER ACTS.

(a) COMMODITY JURISDICTION.—

(1) COORDINATION OF CONTROLS.—The authority granted under this Act and under section 38 of the Arms Export Control Act (22 U.S.C. 2778) shall be exercised by each licensing authority in such a manner as to achieve effective coordination between the dual use and munitions licensing systems and share information regarding the trustworthiness of parties.

(2) ELIMINATION OF OVERLAPPING CONTROLS.—No item may be included on both the Commerce Control List and the United States Munitions List after the effective date of this Act.

(3) COMMODITY JURISDICTION DISPUTE RESOLUTION.—Under procedures to be established by the President, disputes regarding conflicting claims of jurisdiction between the Commerce Control List and the United States Munitions List shall be resolved in a timely fashion by the Department of State, in consultation with other agencies. Consultations shall be carried out through committees chaired by representatives of the Department of State at the Assistant Secretary or Under Secretary level. The procedures of the committees shall allow the initiation of matters by either the State Department or other agencies including in response to requests to the Departments of State and Commerce. Consultation procedures within the committees shall provide for interagency meetings to permit the free exchange of views regarding jurisdictional issues. Disputes that cannot be resolved may be referred to the President by the Secretary of State, the Secretary of Defense, or the Secretary of Commerce.

(b) IN GENERAL.—Except as otherwise provided in this Act, nothing contained in this

Act shall be construed to modify, repeal, supersede, or otherwise affect the provisions of any other laws authorizing control over exports of any commodity.

(c) AMENDMENTS TO THE INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT.—

(1) The International Emergency Economic Powers Act (50 U.S.C. 1707) is amended by adding after the last section the following section 208:

"SEC. 208. CONFIDENTIALITY OF INFORMATION.—

"(1) EXEMPTIONS FROM DISCLOSURE.—

"Information obtained under this Act may be withheld only to the extent permitted by statute, except that information submitted, obtained or considered in connection with an application for an export license or other export authorization under this Act, including the export license or other export authorization itself, classification requests, information obtained during the course of a foreign availability assessment, information or evidence obtained in the course of any investigation, and information obtained or furnished in connection with multilateral agreements, treaties, or obligations under this Act shall not be subject to disclosure under section 552 of Title 5, United States Code, and shall be withheld from public disclosure unless the release of such information is determined by the Secretary to be in the national interest.

"(2) INFORMATION TO CONGRESS AND GAO.—

"(A) IN GENERAL.—Nothing in this Act shall be construed as authorizing the withholding of information from the Congress or from the General Accounting Office.

"(B) AVAILABILITY TO THE CONGRESS.—

"(i) IN GENERAL.—All information obtained at any time under this Act regarding the control of exports, including any report or license application required under this Act, shall upon request be made available to the Committee on Foreign Affairs and the Subcommittee on International Economic Policy and Trade of the House of Representatives and the Committee on Banking, Housing and Urban Affairs and the Subcommittee on International Finance and Monetary Policy of the Senate. Each of the above designated committees and subcommittees may provide other members of Congress information obtained under this authority provided that such information may not be further disclosed except upon a finding made under the following subparagraph.

"(ii) PROHIBITION ON FURTHER DISCLOSURE.—No such committee or subcommittee, or member thereof, and no other committee, subcommittee, or member of Congress shall disclose any information obtained under this Act or previous Acts regarding the control of exports which is submitted pursuant to this subsection unless one of the above described full committees determines that the withholding of that information is contrary to the national interest.

"(C) AVAILABILITY TO THE GAO.—

"(i) IN GENERAL.—Notwithstanding paragraph (1), information referred to in subparagraph (B) shall, consistent with the protection of intelligence, counterintelligence, and law enforcement sources, methods, and activities, as determined by the agency that originally obtained the information, and consistent with the provisions of section 313 of the Budget and Accounting Act of 1921, be made available only by the Agency, upon request, to the Comptroller General of the United States or to any officer or employee of the General Accounting Office authorized by the Controller General to have access to such information.

"(ii) PROHIBITION ON FURTHER DISCLOSURES.—No officer or employee of the General Accounting Office shall disclose, except to the Congress in accordance with this paragraph, any such information which is submitted on a confidential basis and from which any individual can be identified.

"(3) PENALTIES FOR DISCLOSURE OF CONFIDENTIAL INFORMATION.—Any officer or employee of the United States, or any department or agency thereof, who publishes, divulges, discloses, or makes know in any manner or to any extent not authorized by law any information coming to him in the course of his or her employment or official duties or by reason of any examination or investigation made by, report or record made to or filed with, such department or agency, or officer or employee thereof, which information is exempt from disclosure under this subsection, shall be fined not more than $1,000, or imprisoned not more than one year, or both, and may be removed from office or employment and shall be subject to a civil penalty of not more than $1000.".

(2) Section 205 of the International Emergency Economic Powers Act (50 U.S.C. 1705) is amended by inserting "or attempts to violate," after "violates" in subsection (a); and by inserting "or willfully attempts to violate," after "violates" in subsection (b).

(d) CIVIL AIRCRAFT EQUIPMENT.—Except as necessary to comply with international obligations under the International Emergency Economic Powers Act (Pub. L. 95–223) (50 U.S.C. 1701 *et seq.*) or the United Nations Participation Act of 1945, as amended (Pub. L. 79–264 (22 U.S.C. 287 *et. seq.*), notwithstanding any other provision of law, any product (1) which is standard equipment, certified by the Federal Aviation Administration, in civil aircraft and is an integral part of such aircraft, and (2) which is to be exported to a country other than a controlled country, shall be subject to export controls exclusively under this Act. Any such product shall not be subject to controls under section 38(b)(2) of the Arms Export Control Act (22 U.S.C. 2778(b)(2)).

(e) NUCLEAR NONPROLIFERATION CONTROLS.—

(1) Nothing in section 5 of this Act shall be construed to supersede the procedures published by the President pursuant to section 309(c) of the Nuclear Non-Proliferation Act of 1978 (42 U.S.C. 2139a(c)).

(2) The procedures published by the President pursuant to section 309(c) of the Nuclear Non-Proliferation Act of 1978 (42 U.S.C. 2139a(c)) shall be superseded to the extent they are inconsistent with the provisions of section 8 of this Act.

(f) CONFROMING AMENDMENT TO THE ARMS EXPORT CONTROL ACT.—

(1) Section 73 of the Arms Export Control Act (Pub. L. 90–626), as amended by section 1703 of the National Defense Authorization Act of 1991 (Pub. L. 101–510) (22 U.S.C. 2797B), is hereby repealed.

(2) Section 81 of the Arms Export Control Act (Pub L. 90–626), as amended by section 305 of the Miscellaneous Foreign Affairs Act of 1991 (Pub. L. 102–182) (22 U.S.C. 2798, is hereby repealed.

(3) Sections 306, 307, 308, and 309(b) of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (Pub L. 102–182) (22 U.S.C. 5604, 5605, and 5606) are hereby repealed.

(4) Section 74 of the Arms Export Control Act (Pub. L. 90–626), as amended by section 1703 of the National Defense Authorization Act for Fiscal Year 1991 (Pub. L. 101–510) (22 U.S.C. 2797c) is amended by redesignating "Section 74" as "Section 73". It is further amended to read as follows:

"SEC. 73. DEFINITIONS.

"For purposes of this chapter— "

"(1) AUSTRALIA GROUP ('AG').—The term 'Australia Group' or 'AG' means the multilateral arrangement in which the United States participates that seeks to prevent the proliferation of chemical and biological weapons;

"(2) BIOLOGICAL WEAPONS CONVENTION.—The term "Biological Weapons Convention" refers to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction of 1972";

"(3) CHEMICAL WEAPONS CONVENTION.—The term "Chemical Weapons Convention" refers to the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction of 1992;

"(4) FACILITATING THE ACTIVITY.—The term "facilitating the activity includes but is not limited to, acting as a freight forwarder, shipper, designated export or import agent, consignee, purchasing agent, marketing agent, manufacturer, assembler, designer, financier, or end use with respect to the services or items to be exported, transferred, or provided;

"(5) FINANCIAL TRANSACTIONS.—The term "financial transactions" means any transactions involving the exchange, transfer, crediting, debiting, deposit, withdrawal, or payment of currency, securities, debt, credit, checks, other monetary instruments, precious metals or minerals, or other items of value whether physically or by electronic means. The term is intended to be interpreted broadly to include such transactions as the opening or drawing down of letters of credit, the extension of a loan, the receipt of payment, or the use of credit cards;

"(6) ITEM.—The term "item" means any commodity, technology, or software;

"(7) MISSILE.—The term "missile" means any missile system or component listed in category I of the MTCR Annex, and any other unmanned delivery system or component of similar capability, as well as the specially designed production facilities for these systems;

"(8) MISSILE TECHNOLOGY CONTROL REGIME ("MTCR").—The term "Missile Technology Control Regime" or "MTCR" means the policy statement and Guidelines between the United States, the United Kingdom, the Federal Republic of Germany, France, Italy, Canada, and Japan, announced on April 16, 1987, to restrict sensitive missile-related transfers based on the MTCR Annex, and any amendments to the Annex or Regime;

"(A) MTCR ADHERENT.—The term "MTCR adherent" means a country that is a member of the MTCR or that, pursuant to an international understanding to which the United States is a party, controls MTCR equipment or technology in accordance with the criteria and standards set forth in the MTCR;

"(B) MTCR ANNEX.—The term "MTCR Annex" means the Equipment and Technology Annex of the MTCR and any amendments thereto;

"(9) NUCLEAR SUPPLIERS' GROUP ("NSG").—The term "Nuclear Suppliers' Group" or "NSG" means the multilateral arrangement in which the United States participates whose purpose is to restrict transfers of items with sensitive nuclear applications;

"(10) PERSON.—The term "person" includes—

"(A) the single and plural of any individual, corporation, partnership, business asso-

ciation, society, trust, organization, or other group created or organized under the laws of a country; or

"(B) any government, governmental body, corporation, trust, agency, department, division, or group operating as a business enterprise;

"(11) PROTOCOL ON BIOLOGICAL WARFARE.—The term "Protocol on Biological Warfare" refers to the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare of 1925; and

"(12) WEAPONS OF MASS DESTRUCTION.—The term "weapons of mass destruction" means any chemical or biological weapons or nuclear explosive devices".

(5) Section 323 of the Foreign Relations Authorization Act for Fiscal Year 1992–93 (Pub. L. 102–138) is hereby repealed.

(g) EFFECT ON SECTION 38(E) OF THE ARMS EXPORT CONTROL ACT.—This Act modifies provisions of the Export Administration Act of 1979, as amended, which are incorporated by reference in section 38(e) of the Arms Export Control Act (22 U.S.C. 2778(e)). The changes made to such provisions shall have no effect on the administration and enforcement of section 38(e) of the Arms Export Control Act. The relevant provisions of the Export Administration Act of 1979, as amended, shall continue to have full force and effect for purposes of that Act.

[Add conforming amendments for the approximately 60 statutory references to the EAA in other Federal statutes.]

SEC. 16. AUTHORIZATION OF APPROPRIATIONS.

AUTHORIZATION.—There are authorized to be appropriated to the Department of Commerce to carry out the purposes of this Act—

(a) $43,372,000 for fiscal year 1995, and such amounts as may be necessary for fiscal year 1996; and

(b) such additional amounts for each of the fiscal years 1995 and 1996 as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other non-discretionary costs.

SEC. 17. EFFECTIVE DATE.

EFFECTIVE DATE.—This Act shall take effect upon the expiration of the Export Administration Act of 1979.

SEC. 18. SAVINGS PROVISION.

(A) IN GENERAL.—All delegations, rules, regulations, orders, determinations, licenses, sanctions, or other forms of administrative action which have been made, issued, conducted, or allowed to become effective under the Export Control Act of 1949, the Export Administration Act of 1969, the Export Administration Act of 1979, or the Arms Export Control Act and which are in effect at the time this Act or the Arms Export Control Act takes effect, shall continue in effect according to their terms until modified, superseded, set aside, or revoked under this Act or the Arms Export Control Act.

(b) REPEAL.—Title XVII of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510) and sections 301–308 and 309(b) of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (Public Law 102–182) and amendments to these acts are hereby repealed.

(c) ADMINISTRATIVE PROCEEDINGS.—This Act shall not apply to any administrative proceedings commenced or any application for a license made, under the Export Administration Act of 1979, which is pending at the time this Act takes effect.

THE EXPORT ADMINISTRATION ACT OF 1994—SECTION-BY-SECTION ANALYSIS

SECTION 1. TITLE

Export Administration Act of 1994 ("the Act").

SECTION 2. FINDINGS

The findings acknowledge the value of exports and the need to control exports for significant national security, nonproliferation, and foreign policy reasons. The findings conclude that to be truly effective, export controls should be applied uniformly by all suppliers, yet we recognize that at times the United States may have to act unilaterally.

SECTION 3. POLICY STATEMENT

Export trade should not be restricted except to the extent necessary to further significant national security, nonproliferation, foreign policy, or short supply objectives. There is a strong preference for multilateral control regimes that include all sources of supply. Unilateral controls should be avoided except when dictated by overriding national interests. There is a presumption of approval of export license applications and opposition to boycotts imposed upon friendly countries by third countries. Economic interests should play a key role in export control decisions.

SECTION 4. GENERAL PROVISIONS

The Secretary of Commerce ("Secretary") may require an export license under any terms and conditions and shall establish a control list. No authority or permission to export may be required except to carry out the policies of the Act. Technical advisory committees are established and license fees are prohibited.

SECTION 5. NONPROLIFERATION, NATIONAL SECURITY, AND FOREIGN POLICY CONTROL AUTHORITIES

(a) Authority.—The President has authority to impose controls on exports and to regulate domestic and foreign conduct consistent with the policies of the Act. This authority is to be exercised by the Secretary, except as otherwise specified in this Act, in consultation with appropriate departments and agencies. There must be an annual review of all export controls based upon reports by: the Secretary, the Secretary of State, and the Secretary of Defense on the consequences of the controls. It shall also be based on public comments solicited by the Secretary. Following this annual review, the Secretary, in consultation with appropriate departments and agencies, shall determine whether unilateral controls should be terminated or extended for another year. Such controls shall expire unless extended.

(b) Criteria.—Export controls may be imposed or extended only if the President determines that: (a) they are essential to advancing the nonproliferation, national security, or foreign policies of the United States; and (b) they are multilateral or, if unilateral, the control objectives cannot be attained by any other means.

For unilateral control, this determination shall be made only if: (a) the controls are likely to achieve their intended purpose of changing, modifying, or constraining the undesirable conduct of the target countries, denying access by the target country to controlled goods from all sources, establishing multilateral cooperation to deny the target country access to controlled items from all sources, and denying exports or assistance that significantly and directly contribute to the proliferation of weapons of mass destruction, terrorism, human rights abuses, or regional instability; (b) the controls are compatible with U.S. foreign policy; (c) the reaction of other countries is not likely to render the controls ineffective; (d) the economic cost to the United States of the controls will not exceed their benefits; and (e) the controls are enforceable. To extend controls, the President must make similar determinations about how the controls have worked in practice.

(c) Consultation with Industry.—The Secretary shall, whenever possible, consult with industry before controls are imposed, expanded, or extended.

(d) Consultation with Other Countries.—The Secretary of State shall consult with cooperating countries regarding the imposition, expansion, or extension of controls.

(e) Consultation with the Congress.—The Secretary must apprise Congress on changes in export control policy and must submit a detailed report to Congress before imposing, expanding, or extending a unilateral control.

(f) Multilateral Control Regimes.—The Secretary of State, in consultation with appropriate departments and agencies, should seek to ensure that the export control systems of multilateral regime members meet certain standards. The Secretary of State shall also seek to ensure that all multilateral regimes have certain features including a common list of controlled items and uniform interpretations of agreed controls. Consistent with the rules and objectives of a multilateral regime, the Secretary, in consultation with appropriate departments and agencies, may provide for exports free of validated license requirements to and among members of the regime or otherwise adjust licensing policies.

(g) Publication of Elements of Multilateral Control Regimes.—Consistent with multilateral regime obligations, the United States shall publish for such regimes their: control purposes; member countries; licensing policies; control lists; target destinations, if any; rules of interpretation; major policy actions; and rules and procedures.

(h) Seeking Multilateral Support for Unilateral Controls.—The Secretary of State, in consultation with appropriate departments and agencies, shall have a duty to seek multilateral support for unilateral controls.

(i) Regulation Indicating Nature of Unilateral Controls.—All unilateral controls shall be so designated by regulation.

(j) Implementation.—

(1) Nonproliferation.—The Secretary of State shall be responsible for conducting negotiations with regime members and with other countries on export control cooperation.

(2) Missile Technology.—The Secretary, in consultation with appropriate departments and agencies, shall include on the Control List dual-use items on the Missile Technology Control Regime ("MTCR") Annex and may include items that the United States proposes for inclusion on the MTCR Annex. Consistent with the MTCR, the Secretary shall require a validated license for exports of items on the Control List pursuant to this subsection, and for any item when the exporter knows it is for the design, development or manufacture of missiles in countries that are not MTCR adherents.

(3) Chemical and Biological Weapons.—The Secretary, in consultation with appropriate departments and agencies, shall include on the Control List dual-use items listed by the Australia Group or the Chemical Weapons Convention, and may include items the United States proposes for inclusion on the Australia Group control list. Consistent with the Australia Group and the Chemical Weapons Convention, the Secretary shall require a validated license for any items on the Control List pursuant to this subsection, and for any item when the exporter knows it is for the design, development or manufacture of a chemical or biological weapon.

(4) International Terrorism.—Thirty (30) days prior notice must be provided to Congress before a validated license is issued for the export to a terrorist-supporting state of any item which the Secretary of State has determined could make a significant contribution to the military potential of such a country, including the military logistics capability or terrorist-supporting ability of that state.

(5) Human Rights and Crime Control.—A validated license shall be required for the export of crime control and detection equipment except to designated nations.

(k) Unfair Impact on U.S. Exporter.—

(1) Policy.—No U.S. exporter should be placed at a competitive disadvantage because of export control policies unless relief from such controls would create a significant risk to the foreign policy, nonproliferation, or national security interests of the U.S.

(2) Relief from Export Controls.—An exporter may petition, or the Secretary may conduct an evaluation on his or her own initiative, for relief from export controls on the grounds that: (A) the controlled item is available from foreign sources in "sufficient quantity" and "comparable quality" to render the controls ineffective; (B) the controlled item is so widely available in the United States that controls cannot be enforced effectively, unless the Secretary has reliable evidence that the controls have been effective in denying such target destination access to the controlled items originating in the United States; (C) differences between the export control policies of the U.S. and foreign supplier countries create a competitive disadvantage for U.S. exporters.

(3) Provisions for Relief.—Consistent with multilateral arrangements, the Secretary, in consultation with appropriate departments and agencies, shall determine whether the grounds for relief (set forth above) exist and, if so: change the control status of the items in question; selectively approve exports; or seek multilateral support to eliminate the foreign availability or to make the control effective. This provision shall not require the decontrol of an item that remains subject to control by a multilateral regime to which the U.S. belongs.

(4) Exceptions from Relief.—The Secretary need not provide relief under this section if he or she concludes that such relief would create a significant risk to U.S. nonproliferation, foreign policy, or national security interests. The Secretary shall not grant such relief if the President concludes that such relief would create a significant risk to U.S. nonproliferation, foreign policy, or national security interests.

(5) Relief from Traditional East West CoCom Controls.—After a determination of unfair impact, items may not be controlled unilaterally under this section for control purposes adopted by the Coordinating Committee unless the President determines that lack of controls on the items would be detrimental to U.S. national security.

(6) Procedures.—The Secretary, in consultation with appropriate departments and agencies, shall make a determination about whether relief is required within 120 days. No later than 30 thereafter, the Secretary shall decide whether to grant relief and notify the petitioner. The determinations made by the Secretary shall be published in the Federal Register. If a determination is not submitted for publication within 150 days, no validated license may thereafter be required for the items in question. Where controls are maintained to permit multilateral negotiations, the Secretary of State shall notify the Congress why the negotiations are necessary and when they have begun.

(7) Sharing of Information.—Consistent with protecting intelligence sources and methods, all departments or agencies and their contractors shall provide the Department of Commerce available information needed for determinations under this section.

(8) Availability Defined.—Available in fact means the item is available to a target country from a country where the item is not restricted for export of where the export controls are ineffective.

(9) Congressional Notification and Reporting Requirements.—The Secretary shall notify Congress annually on the status of all petitions.

(l) Unilateral Controls Prohibited.—Except for items for which there is no foreign availability or for which the President is actively seeking multilateral controls, any unilateral U.S. export controls for purposes adopted by CoCom shall expire the later of within six months of the Act or six months after the control is imposed.

(m) International Obligations.—This authorizes the implementation of U.N. resolutions and international agreements without regard to other limitations in the Act.

(n) Information Sharing.—The Secretary and other appropriate officials shall establish a procedure for information sharing.

(o) Denied Parties, sanctions parties, specially designated nationals, and other parties presenting unacceptable risks of diversion.—The Secretary shall publish the identities of those denied export privileges or sanctioned under the Act, and those who are specially designated nationals. The Secretary shall maintain a list of parties for whom licenses will presumptively be denied.

(p) FOIA Exemption.—The identity of parties for whom licenses will presumptively be denied shall not be subject to the Freedom of Information Act ("FOIA").

SECTION 6. SHORT SUPPLY CONTROLS

(a) Authority.—This provision authorizes the President to impose short supply controls.

(b) Monitoring.—This provision authorizes the Secretary to monitor exports for short supply reasons.

(c) Domestically Produced Crude Oil.—Subject to certain exceptions, this provision prohibits the export of specified domestic crude oil. The Administration has this provision under review and may propose changes in it later this year.

(d) Agricultural commodities.—This provision prohibits imposing short supply controls on agricultural commodities without the Secretary of Agriculture's approval.

(e) Barter Agreements.—This provision provides that exports bartered for items imported into the United States may be exempt from quantitative short supply limits.

(f) Unprocessed Red Cedar.—This provision prohibits the export of unprocessed western red cedar logs harvested from State or Federal lands everywhere but Alaska.

(g) Effect of Controls on Existing Contracts.—This provision allows the export of western red cedar subject to export contracts entered into before October 1, 1979. Any short supply controls imposed on agricultural commodities or forest or fishery products will not affect any contract entered into before the date the controls are imposed.

(h) Oil Exports for Use by United States Military Facilities.—Under this provision, shipments of crude oil, refined petroleum products, or partially refined petroleum products from the United States for use by the Department of Defense or U.S.-supported installations or facilities are not considered exports.

SECTION 7. FOREIGN BOYCOTTS

(a) Prohibitions and Exceptions.—This provision prohibits United States persons, acting in interstate or U.S. foreign commerce, from taking specified actions, in support of a foreign boycott of a country that is friendly to the U.S. and not subject to a U.S. boycott. There are certain exceptions to this prohibition.

(b) Regulations.—This provision requires U.S. persons to report receipt of boycott requests to the Secretary.

(c) Preemption.—This provision preempts non-Federal laws relating to foreign boycotts.

SECTION 8. PROCEDURES FOR PROCESSING EXPORT LICENSE APPLICATIONS; OTHER INQUIRIES

(a) Primary Responsibility of the Secretary.—This provision gives the Secretary the primary responsibility to make export license application determinations subject to the procedures provided in this section. The Secretary shall, to the extent necessary, request information and recommendations from other agencies. The implementing regulations shall describe the required procedures, the responsibilities of Commerce and other agencies in reviewing applications, the rights of the applicant, and the extent of any multilateral review of an application.

(b) Initial screening.—This provision requires the Secretary to refer, issue, or deny a license application within nine days of receipt.

(c) Action by other Departments and Agencies.—This provision requires the Secretary, at the President's direction, to refer license applications to other agencies for review. Reviewing agencies must promptly request additional information, if needed, and provide a recommendation, either to approve or deny, within 30 days of receipt of a referral. Such recommendations shall be with the benefit of consultation and discussions in interagency groups established to provide expertise and coordinate interagency consultation. Denial recommendations must include a statement of reasons consistent with the Act and cite the statutory and regulatory basis for the recommendation. Failure to provide a timely and reasoned recommendation is deemed "no objection" to the application.

The Secretary shall establish an interagency committee, and select its chairman, to review and decide initially all applications on which the reviewing agencies disagree. Agencies that disagree with the chairman's decision must appeal in writing by an appropriate level official. Upon receiving all comments from other agencies on an application on which there is no disagreement or 49 days after receiving an application on which there is interagency disagreement, the Secretary shall: (A) approve the application and issue the license; (B) notify the applicant of the application's referral to the interagency resolution process.

(d) Interagency Resolution.—The President is authorized to establish a process for resolving disagreements among the reviewing agencies on the disposition of applications subject to interagency review under paragraph (c). Any such process shall: (1) be chaired by Commerce; (2) resolve the disagreement or refer the application to the President within 90 days of the application's filing; and (3) deem failure to take a timely position to be no objection.

(e) Actions by the Secretary.—Under this provision, the Secretary shall issue a license or notify the applicant of the intent to deny within nine days of receipt of an application not requiring referral to other agencies. For denials, the Secretary must inform the applicant of: (A) the determination; (B) the statutory and regulatory basis; (C) possible modifications to allow approval; (D) specific considerations, as permitted by national security and foreign policy, that led to denial; and (E) appeal procedures. Applicants have 20 days to respond to an intent to deny notification although the Secretary and the applicant may mutually agree to suspend the time periods to obtain modifications.

(f) Multilateral Control Regimes.—This provision provides for referral of applications to the appropriate multilateral regime according to the terms of that regime. Applications submitted for multilateral review must be referred to the appropriate regime within five days of a decision to approve. Subsequent approval or notice of intent to deny must be made within five days of receipt of a decision by the reviewing regime.

(g) Exceptions from Required Time Periods.—This provision requires all applications to be resolved or referred to the President within 90 days of receipt. This time period does not include delays agreed to by the applicant, the time for pre-license checks (if requested within five days), the time to obtain government-to-government assurances, the time for required multilateral review, or the time required for mandatory Congressional notifications.

(h) Appeals.—This provision requires the Secretary to establish procedures for appeals of license denials and other administrative action. If action on an application is not taken within the specified times, the applicant may petition the Secretary for compliance with the time requirements. The Secretary shall immediately take action to correct the situation and notify the applicant. If the processing of the application does not conform to the time requirements within 20 days of the petition or it has but the applicant has not been notified, the applicant may seek judicial relief.

(i) Classification Requests and Other Inquiries.—This provision requires the Secretary to provide commodity classifications within 14 days, and advisory opinions within 30 days, of receipt of such requests.

SECTION 9. VIOLATIONS

(a) Criminal Penalties.—This provision establishes a maximum penalty for individuals of the greater of five times the value of the exports involved or $500,000 per violation and/or imprisonment for up to 10 years. The maximum penalty for persons other than individuals is the greater of 10 times the value of the export involved or $1,000,000 per violation. These penalties do not apply to antiboycott violations.

The maximum criminal penalty for antiboycott violations by individuals is the greater of five times the value of the exports or $250,000 per violation and/or imprisonment for up to 10 years. The maximum criminal penalty for antiboycott violations by entities is the greater of five times the value of the exports or $500,000 per violation.

(b) Forfeiture of Property Interest and Proceeds.—Persons convicted of violations other than antiboycott violations also forfeit to the U.S. any interest in: (A) the items that were the subject of the violation; (B) property used in the export that was the subject of the violations; and (C) property derived from proceeds obtained from the violation. Forfeiture proceedings shall be governed by 18 U.S.C. Chapter 46.

(c) Civil Penalties; Administrative Sanctions.—Under this provision, the maximum civil penalty for export control violations is $250,000 per violation and $50,000 per violation for antiboycott violations. In addition, the Secretary may deny the export privileges of any person for any violation of the Act or any regulation, license or order issued under the Act.

(d) Procedures Relating to Civil Penalties and Sanctions.—Under this provision, administrative sanctions can be imposed only after notice and an opportunity for a hearing on the record in accordance with the Administrative Procedure Act ("APA"). Any administrative sanction shall be subject to judicial review in accordance with the APA.

(e) Payment of Civil Penalties.—When a civil penalty imposed under the Act is due but unpaid, its payment may be made a condition of use or receipt of an export license. In addition, payments of civil penalties under the Act may be deferred or suspended for a probation period.

(f) Refunds.—Civil penalties shall be paid into the Treasury as miscellaneous receipts. Civil penalties may be refunded, within two years of payment, based on a material error of fact or law in the imposition of the penalty. No actions for refunds of penalties, however, may be maintained in any court.

(g) Collection.—This provision authorizes the Secretary to ask the Attorney General to bring civil actions in district courts to collect unpaid civil penalties. Any such collection must be initiated within five years of the date the order imposing the civil penalty becomes final. In such an action, the validity, amount, and appropriateness of the penalty are exempt from judicial review.

(h) Prior Convictions.—This provision authorizes the Secretary to deny export privileges to persons convicted of violating specified statutes.

(i) Statute of Limitations.—This provision provides that, generally, the statute of limitations for the initiation of administrative enforcement proceedings is five years from the date of the unlawful activity. The statute of limitations is tolled against all persons named in a criminal indictment alleging violations of the Act.

(j) Imposition of Temporary Denial Order.—This provision authorizes the Secretary to issue a temporary denial order when there is reasonable cause to believe that a person is engaging in or is about to engage in activities that constitute or may constitute a violation of the Act or other statutes enumerated in subsection 9(h). The subject of a temporary denial order may appeal to an administrative law judge. The Secretary shall review any appeal of the administrative law judge's decision. Any affirmation by the Secretary of the administrative law judge's decision may be appealed by the U.S. Court of Appeals for the District of Columbia.

(k) Violations Defined by Regulation.—This provision authorizes the Secretary to define violations of the Act by regulation.

(l) Other Authorities.—Under this provision, subsections (c), (e), (f), (g), (h), or (i) do not limit the availability of: (1) other administrative or judicial remedies for violations under the Act; (2) the authority to settle administrative proceedings for violations under the Act; or (3) the authority to adjust seizures and forfeitures under section 1(b) of title VI of the Act of June 15, 1917 (22 U.S.C. §401(b)).

SECTION 10. ENFORCEMENT

(a) General Authority and Designation.—This provision makes the Secretary, in consultation with the Secretary of Treasury and other agency heads as appropriate, responsible for providing guidance on enforcement issues under the Act. To enforce the Act, the Commissioner of Customs may: (1) make investigations in and outside the U.S., including specified U.S. ports of entry and exit; and (2) search, detail, and seize goods at certain U.S. ports of entry and exit and certain places outside the United States. The Secretary: (1) may make investigations in the U.S.; (2) shall conduct pre-license and post-shipment verifications and antiboycott investigations outside the U.S.; (3) search, detain, and seize goods at U.S. places other than the specified U.S. ports of entry and exit; and (4) search, detain, and seize goods at specified U.S. ports of entry and exit with the concurrence of Customs.

This subsection also allows the Secretary and the Commissioner of Customs to enter into agreements and arrangements for the enforcement of the Act. In addition, Commerce and Customs can take specified action to carry out the enforcement authority under the Act.

(b) Forfeiture.—This provision requires goods seized under subsection 9(a) to be forfeited to the United States.

(c) Undercover Investigative Operations.—This provision exempts certain export enforcement funds from specified provisions of law. Proceeds from the liquidation of entities established as part of an undercover operation and the remaining balance of funds for closed undercover operations shall be deposited into the Treasury as miscellaneous receipts. Commerce shall audit closed undercover investigative operations. The Secretary shall provide annual reports to Congress on such operations.

(d) Reference to Enforcement.—This provision provides that a reference to enforcement or violation of the Act includes references to the enforcement or violation of any regulation, license, or order issued under the Act.

SECTION 11. AUTHORITY AND PROCEDURES

(a) Under Secretary of Commerce.—Under this provision, the President shall appoint, with the advice and consent of the Senate, an Under Secretary and two Assistant Secretaries.

(b) Regulations.—This provision authorizes the Secretary to issue implementing regulations. The Secretary shall consult with the technical advisory committees. Regulations issued to implement section 5 must be reviewed by the appropriate agencies. This required review does not, however, confer the right of concurrence or approval.

(c) Confidentiality of Information.—This provision provides that information obtained under the Export Administration Act of 1979, as amended and its predecessor statutes prior to 1980 shall not be subject to disclosure under the FOIA nor is it to be disclosed unless the Secretary determines that withholding it is contrary to the national interest. Information obtained under the Act, the Export Administration Act of 1979 after 1980, or the Export Administration Regulations, as maintained and amended by the International Emergency Economic Powers Act ("IEEPA"), may be withheld only as permitted by statute, except that information connected to an export license application under the Act, the Export Administration Act of 1979 after 1980, or the Export Administration Regulations, as maintained and amended by the International Emergency Economic Powers Act, including classification requests, information from foreign availability assessments, investigations, and

information related to multilateral agreements, treaties, or obligations is not subject to disclosure under FOIA and may not be released unless the Secretary determines that its withholding is contrary to the national interest.

Commerce may not withhold information from the Congressional oversight committees or the General Accounting Office ("GAO"). Those specified committees and subcommittees may provide other members of Congress with information obtained under the Act. Such information may not be further disclosed unless one of the oversight committees determines that withholding the information is contrary to the national interest.

Information requested by GAO shall only be provided by the originating agency consistent with the protection of intelligence, counterintelligence, and law enforcement sources, methods, and activities. Information may be disclosed to Customs to facilitate licensing and enforcement efforts. Unauthorized disclosure of information covered by subsection 11(c) by U.S. employees is subject to a criminal fine of up to $1,000, imprisonment, removal from office, and an administrative penalty of up to $1,000.

(d) Public Participation.—This provision notes the intent of Congress to allow for public comment on regulations implementing the Act.

(e) Control List Development and Review.—This provision requires the Secretary, in consultation with appropriate departments and agencies, to establish and maintain a control list which specifies controlled items, destinations, and validated license requirements. The Secretary of State, in consultation with appropriate departments and agencies, shall be responsible for conducting negotiations and developing negotiating positions with other countries regarding multilateral regime control lists. It also requires periodic review of items controlled by multilateral regimes and consultation with the appropriate technical advisory committees regarding changes in the control list.

(f) Authority for Seminar and Publications Fund.—This provision authorizes the Secretary to cooperate with other entities in connection with seminars, publications, and related activities to carry out functions such as educating the public on the Act. The Secretary is also authorized to accept contributions to recover the costs of such activities.

(g) Support of Other Countries' Export Control Program.—This provision authorizes the Secretary to participate in the education and training of officials of other countries on export controls.

(h) Applicability of Administrative Procedure Act.—This provision exempts implementation of the Act from the APA except as specified in subsection 9(d). Final agency action under the Act may be appealed to the U.S. Court of Appeals for the District of Columbia, except as provided by subsections 9(d), 9(g), and 9(j). The scope of the court's review is limited as specified in this subsection.

(i) Incorporated Commodities, Technology, and Software.—This provision prohibits requiring a license for a commodity solely because the commodity contains parts or components subject to control if those parts or components: (A) are essential to the commodity's function; (B) are customarily included in sales of the commodity to non-target countries; and (C) comprise 25% or less of the total value of the commodity, unless the commodity itself would significantly contribute to the military or proliferation potential of a target country or end user to the detriment of U.S. national security.

It also prohibits imposing reexport controls on foreign-made items incorporating 25% or less U.S. content by value except for boycotted or terrorist-supporting countries. For those countries, a 10% standard applies.

(j) Exceptions for Medical and Humanitarian Purposes.—This provision prohibits imposing controls on medical equipment and for specified humanitarian purposes.

(k) Sanctity of Existing Contracts and Licenses.—This provision provides for contract and license sanctity for unilateral controls. It allows the President, however, to prohibit exports or reexports otherwise allowed under contract or license sanctity by certifying to Congress that: (i) a breach of the peace poses a threat to U.S. strategic interests; (ii) the prohibition will directly help remedy the threat; and (iii) the emergency controls will continue only while the threat persists.

(l) Fact Finding Authority.—This provision provides authority to compel testimony and document production in connection with the administration of the Act.

(m) Militarily Critical Technologies List Development, Review and Use.—This provision specifies the development and use of the Militarily Critical Technologies List to be established and maintained by the Secretary of Defense in accordance with subsection 4(c) of the Act.

SECTION 12A. SANCTIONS FOR PROLIFERATION ACTIVITY AND THE USE OF CHEMICAL AND BIOLOGICAL WEAPONS AND MISSILES

This section combines and harmonizes the existing missile and chemical and biological warfare sanction provisions. It also provides for sanctions against a country that uses such weapons.

(a) Determinations.—This provision requires the President to determine whether any foreign person knowingly and materially contributed to efforts to use, design, develop, produce, stockpile, or otherwise acquire chemical or biological weapons or missiles through exports of Missile Technology Control Regime (MTCR) Annex items or items which may contribute to a chemical or biological weapons program such as those listed by the Australia Group (AG). It also requires the President to determine whether a foreign government has used chemical or biological weapons in violation of international law or against its own nationals. These determinations apply to activities taken on or after the enactment of this section.

(b) Entities Against Which Sanctions Are to be Imposed.—Following an affirmative determination, this provision requires sanctions against the foreign person who engaged in, facilitated, or solicited the conduct determined to fall within subsection 12(a). The President has the discretion to sanction other parties based upon control relationships.

(c) Sanctions.—For nonproliferation violations, this provision provides a two-year ban on the export and import of items listed by the relevant regime and a ban on government procurement. Use of chemical or biological weapons draws a mandatory two-year denial of foreign assistance, arms sales, arms financing, government credit, and export of items controlled for national security reasons. If a country fails to stop the use of such weapons, additional mandatory sanctions include denial of multilateral bank support and commercial bank loans, restrictions on virtually all exports and imports, suspension of landing rights, and changes in diplomatic relations.

(d) Deferral and Limitation.—This provision allows the President to delay the imposition of sanctions to protect ongoing criminal investigations or intelligence sources and methods. It also authorizes delay for up to 180 days for negotiations with the country in question and allows multilateral sanctions instead of unilateral ones.

(e) Exceptions.—This provision provides certain exceptions to sanctions, including certain defense articles and medical or other humanitarian items.

(f) Termination of Sanctions for Using Chemical or Biological Weapons.—This provision authorizes removal of sanctions provided the sanctioned government takes several steps, including allowing on-site inspections and restitution.

(g) Waiver.—This provision authorizes the President to waive sanctions if he or she certifies to Congress that a waiver is important to the national interests of the United States.

(h) Regulatory Implementation of Sanctions.—This provision provides for implementing regulations specifying the scope of products and entities subject to the sanctions. The Secretary will issue regulations for items covered by the Act and the Secretary of State will issue regulations for items subject to the Arms Export Control Act.

SECTION 12B. SANCTIONS FOR PROLIFERATION ACTIVITY AND THE USE OF CHEMICAL AND BIOLOGICAL WEAPONS

This section amends Section 72 of the Arms Export Control Act (Sanctions Against Certain Foreign Persons and Countries) to conform to section 12 of the Act.

SECTION 13. ANNUAL REPORT

The section combines the current annual report and the annual foreign policy report (to be a report on unilateral controls). In addition, it puts reporting requirements into the annual report to the maximum extent possible.

SECTION 14. DEFINITIONS

This section provides definitions.

SECTION 15. EFFECTS ON OTHER ACTS

(a) Commodity Jurisdiction.—This provision prohibits overlapping control. Resolution of disputes regarding conflicting claims of jurisdiction between the Commerce Control List and the U.S. Munitions List shall be resolved by the Department of State in a timely fashion and in consultation with other agencies.

(b) In General.—This provision states that except as otherwise provided in the Act, nothing in it will affect other laws authorizing control over exports.

(c) Amendments to the International Emergency Economic Powers Act.—This provision provides for confidentiality consistent with subsection 11(c) of the Act. It also authorizes penalties for attempted violations, as well as violations, of IEEPA.

(d) Civil Aircraft Equipment.—With certain exceptions, this provision makes specified aircraft equipment exclusively subject to the Act.

(e) Nuclear Nonproliferation Controls.—This provision provides that nothing in section 5 of the Act supersedes procedures imposed under the Nuclear Non-Proliferation Act of 1978. It also provides that the procedures published pursuant to the Nuclear Non-Proliferation Act shall be superseded if they are inconsistent with the provisions of section 8 of the Act.

(f) Conforming Amendment to the Arms Export Control Act.—This provision repeals the Arms Export Control Act ("AECA") sections regarding sanctions.

(g) Effect on Section 38(e) of the Arms Export Control Act.—This provision modifies provisions of the Export Administration Act of 1979 which are incorporated by reference in section 38(e) of the AECA. The changes made to such provisions shall have no effect on the administration and enforcement of section 38(e). This provision will also contain conforming amendments for the approximately 60 statutory references to the Export Administration Act of 1979 in other Federal statutes.

SECTION 16. AUTHORIZATION OF APPROPRIATIONS

This section authorizes appropriations for fiscal years 1995 and 1996 to carry out the Act. This authorization includes additional amounts, if necessary, for non-discretionary costs.

SECTION 17. EFFECTIVE DATE

This section makes the Act effective upon expiration of the Export Administration Act of 1979.

SECTION 18. SAVINGS PROVISION

(a) In General.—This provision continues in effect all currently effective administrative actions taken under the Export Control Act of 1949, the Export Administration Act of 1969, the Export Administration Act of 1979, or the AECA except as affected by the Act or the AECA.

(b) Repeal.—This provision repeals title XVII of the National Defense Authorization Act for Fiscal Year 1991 (Pub. L. No. 101-510) and the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (Pub. L. No. 102-182) and amendments to those statutes.

(c) Administrative Proceedings.—Under this provision, the Act does not apply to administrative proceedings commenced or license applications made, under the Export Administration Act of 1979, pending when the Act takes effect.

SECRETARY OF COMMERCE,
Washington, DC, March 2, 1994.

Hon. DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR DON: The existing Export Administration Act (EAA) is a relic of the Cold War. The EAA which is needed for today and for the foreseeable future must address a complex and evolving mix of proliferation, security and foreign policy concerns. The legislation must take meaningful account of the legitimate need of American business to be free from unnecessary export controls, while assuring that legitimate nonproliferation and other concerns are met.

President Clinton has stated on many occasions that effective export controls are essential to preserving United States nonproliferation, national security and foreign policy interests, but that the current system is in dire need of reform. The bill I am sending to the Congress substantially rewrites the EAA. This bill strikes a proper balance between export promotion and effective implementation of export controls, it helps fulfill President Clinton's commitment to improve the export control system, and it reflects the realities of a changing world.

Of perhaps greatest significance, the new export control system that we are proposing no longer asks the business community to shoulder a disproportionate burden in responding to world conflicts. This bill recognizes that the most effective control regimes are multilateral, and that unilateral controls are appropriate only in very limited circumstances. This bill, therefore, emphasizes reliance on multilateral regimes in controlling exports rather than unilateral action by the United States

We also recognize that export controls must not undermine the competitive position of American business in the international marketplace, and that our licensing system must be more streamlined and timely for its users. This bill strips away many of the overly restrictive and bureaucratic provisions in existing law and provides for a more efficient, responsive and transparent export licensing system. An export control system reformed in this manner allows us to fix our attention on those truly sensitive items that must be the focus of export controls.

We recognize the importance of strong enforcement action against export control violations. This bill increases penalties substantially. It also provides important new tools to ensure that we are well-equipped to investigate and enforce the Act.

The bill I send to you is a continuation of the commitment to revamp and liberalize export controls as evidenced by the Administration's announcement in September 1993 reducing our barriers to exporting, consistent with national security and foreign policy interests. It is our belief that a reformed export control system will help American business become more competitive.

I have been advised by the Office of Management and Budget that enactment of this legislative proposal would be in accord with the President's program.

I would appreciate it if you would introduce this proposal on behalf of the Administration. I look forward to working with all Members of the Congress in enacting an export control law that meets the needs of our changing world.

Sincerely,

RONALD H. BROWN.●

● Mr. SASSER. Mr. President, I rise this morning, as chairman of the Subcommittee on International Finance and Monetary Policy, along with the chairman of the full Banking Committee, to introduce at the request of the administration its proposal to reauthorize the Export Administration Act [EAA]. The bill is being introduced as a courtesy to the administration.

I want to commend the administration for coming up with a unified position. Such unity within the executive branch has not been achieved in over a decade. This is a difficult issue, one that must be viewed from several critical perspectives. It involves several executive branch agencies. But in the end, a balance must be struck. The administration is to be commended for reaching an internal consensus.

This EAA proposal is yet another example of the ability of different parts of this administration to work together. We saw this cooperative approach on the export promotion side last year with the work of the Trade Promotion Coordinating Committee. Now we see this same approach on the export control side.

Following last year's simple extension, the Export Administration Act expires on June 30, 1994. The subcommittee is working in its traditional bipartisan manner to put a new EAA on the books.

The EAA has not been significantly changed since it was amended by the Omnibus Trade and Competitiveness Act of 1988. In both 1990 and 1992, the Senate passed on a bipartisan basis bills to amend the EAA. Neither, however, became law.

The administration recognizes that the EAA must be changed to reflect the changed world circumstance.

The Soviet Union has collapsed and the strategic military threat facing the United States has been dramatically reduced. Throughout the post World War II era, the Soviet Union had been the primary target of United States export control policy.

Another threat has not decreased, but increased. And that is the threat by the proliferation of weapons of mass destruction and their means of delivery. Several events have alerted the world to this growing danger. Two of the most troubling have been evidence of Iraq's program to build nuclear weapons and the recent controversy surrounding North Korea's nuclear program.

A new act must reflect these post cold war realities.

A new EAA must also fit today's technological context. That context is quite different from when this law's predecessor was originally put on the books back in 1949.

The United States then had a monopoly on many critical technologies. Today the production of sophisticated technology is diffuse; it has become globalized.

Product life cycles that once were measured in years, are now measured in months.

In this changed environment, unnecessary export controls and delays in license processing can unfairly hamstring American companies and put them at a competitive disadvantage.

The committee is working on coming up with a bipartisan bill that fits today's realities. The administration's proposal is an important step in this process. Again I commend the administration for coming up with a unified position.●

By Mr. BAUCUS (for himself, Mr. BURNS, and Mr. INOUYE):

S. 1903. A bill to ratify a compact between the Assiniboine and Sioux Indian Tribes of the Fort Peck Reservation and the State of Montana; to the Committee on Indian Affairs.

FORT PECK INDIAN TRIBES-MONTANA RESERVED WATER RIGHTS LEGISLATION

● Mr. BAUCUS. Mr. President, on behalf of myself and Senators BURNS and INOUYE I am introducing legislation to ratify the Fort Peck Indian Tribes-Montana Reserved Water Rights compact.

Identical legislation was reported out of the then-Select Committee on Indian Affairs in 1992, but proceeded no further because of concerns raised re-

garding certain provisions of this compact with respect to the impact it could have on water flows in the Missouri River. Let me clearly state that it is my intent to move this legislation forward.

Let me also clearly state that it is my intent to work closely with the Fort Peck Tribes, the distinguished chairman of the Indian Affairs Committee, the State of Montana and my distinguished colleagues from downstream States to address those concerns in a manner that is mutually satisfactory. I do not anticipate that this will be easy, but it is essential.

We have delayed the implementation of the Fort Peck Indian Tribe-Montana Compact for far too long. Although difficult issues remain, we cannot allow them to stand in the way of resolution. We must sit at the table together until we reach an accord. I am committed to that effort and look forward to the work that lies ahead.•

By Mr. ROCKEFELLER (for himself, Mr. MURKOWSKI, Mr. DECONCINI, Mr. GRAHAM, Mr. AKAKA, Mr. DASCHLE, and Mr. CAMPBELL):

S. 1904. A bill to amend title 38, United States Code, to improve the organization and procedures of the Board of Veterans' Appeals; to the Committee on Veterans' Affairs.

By Mr. ROCKEFELLER (for himself, Mr. DECONCINI, Mr. GRAHAM, Mr. AKAKA, Mr. DASCHLE, and Mr. CAMPBELL):

S. 1905. A bill to improve the processing of benefits claims by the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

By Mr. ROCKEFELLER (for himself, Mr. DECONCINI, Mr. GRAHAM, Mr. AKAKA, and Mr. DASCHLE):

S. 1906. A bill to provide that service connection for disabilities arising from exposure to ionizing radiation or dioxin may be established by direct evidence; to the Committee on Veterans' Affairs.

By Mr. ROCKEFELLER (for himself, Mr. GRAHAM, and Mr. DASCHLE):

S. 1907. A bill to require that the Department of Veterans Affairs adjudicate and resolve certain claims relating to medical malpractice in the health care services provided by the Department; to the Committee on Veterans' Affairs.

By Mr. ROCKEFELLER (for himself, Mr. DECONCINI, Mr. GRAHAM, Mr. AKAKA, and Mr. DASCHLE):

S. 1908. A bill to provide for a study of the processes and procedures of the Department of Veterans Affairs for the disposition of claims for veterans' benefits; to the Committee on Veterans' Affairs.

VA CLAIMS ADJUDICATION SYSTEMS ADJUSTMENTS

Mr. ROCKEFELLER. Mr. President, I am introducing today five bills, all of which—directly or indirectly—relate to the Department of Veterans Affairs [VA] system for adjudicating claims for benefits. As everyone familiar with VA knows, VA currently faces a tremendous, rapidly growing backlog of cases, both at the regional office level, where initial claims are made and considered, and at the Board of Veterans' Appeals level, where veterans take their appeals of regional office decisions. A number of factors have caused the present problems, and the system, which will only deteriorate further if the problems are not addressed, is in dire need of fundamental change. For those who look for guidance to the old adage—"Don't fix it if it ain't broke"—it is entirely accurate to say at this point that VA's adjudication system is completely broken and in clear need of repair.

Mr. President, more than 5 years ago, after a long difficult fight that spanned a decade, the 100th Congress finally provided veterans with the fundamental, due process, right to appeal decisions by VA on claims for benefits to an entity outside of and independent of VA. With the Veterans' Judicial Review Act of 1988 [VJRA], Public Law 100-687, Congress created the U.S. Court of Veterans Appeals, for the express purpose of reviewing the decisions of the Board of Veterans' Appeals [BVA]. Until 1988, the Board was the "court of last resort" for veterans.

Mr. President, judicial review of VA benefit decisions is a right veterans long deserved, and the VJRA is true landmark legislation. However, the enactment of judicial review was actually much more of a beginning than an ending. The decisions of the court have time and again clearly illustrated the necessity for judicial review by bringing to light the many deficiencies of the VA adjudication system—a unique system that had grown up and developed over the years and was not subject to court review. These decsions of the court also have made it evident that some changes will have to be made in order to achieve long-term improvements in the system. Judicial review was just one step in what is, in my view, an evolution of the VA system.

Before judicial review, VA created and developed a claims adjudication system that was designed to be informal and nonadversarial. Many aspects of this system were intended to be beneficial to veterans, such as procedures related to the development of claims and assistance to the claimant. However, as the court has recognized in numerous decisions, many of the elements were not being delivered as promised. For example, the court has repeatedly held that VA has not fulfilled its duty to assist the claimant in the development of the claim, has often failed to give the claimant the benefit of the doubt, and has failed to provide claimants with an adequate explanation for its denials.

"User-friendliness" has always been, and still is, a goal of this nonadversarial system. However, a user-friendly system must provide timely and efficient resolution of benefit claims. No matter how nonadversarial the process, if it takes months or years to resolve a claim, the individual claimant is not being treated properly.

Mr. President, my fundamental goal as chairman of the Committee on Veterans' Affairs is to ensure that any veteran or other beneficiary who seeks any VA benefit—compensation, pension, education benefits, health care or whatever—receives the quality services from VA that he or she deserves. VA's mission is to serve this Nation's veterans and their families. We must see to it that the Department can and will do just that.

A critical part of that mission—and one that is not being entirely fulfilled today—is to make sure veterans and their families receive fair, efficient, and timely adjudication of their benefit claims. Timeliness is simply vital. The benefits that veterans receive can make a profound difference in their lives. In the 9 years that I have served on the committee, I have heard repeatedly from angry veterans in my own State of West Virginia—and now from around the country—who are completely frustrated in dealing with VA. On the other side, I have heard from VA of its institutional frustration at having too many claims to adjudicate with an insufficient number of employees.

Mr. President, some within VA argue that the court is the sole source of the backlog problem. I wholeheartedly reject this argument. This point of view reflects a complete failure to accept responsibility for living up to existing statutory mandates—while simultaneously arguing that VA was fulfilling the requirements of governing law.

I have often heard it said that the court's decisions obligate VA to provide more detailed explanations for decisions than before. While this certainly is true, the obligation to inform claimants of the reason underlying a decision is not a new requirement. VA has always had that obligation and routinely asserted that it met this responsibility in the years leading up to judicial review. The court has merely enforced VA's responsibilities under the law. The court's decisions have forced VA to be accountable for its decisions.

VA must fulfill its obligation to assist the veteran in the development of the claim, must provide the veteran with the benefit of the doubt, and can no longer simply deny a case without

an adequate explanation. The court's decision *Gilbert* v. *Derwinski*, 1 Vet. App. 49 (1990) provides one of the best illustrations of VA's failure to fulfill these mandates.

Gilbert was one of the earliest decisions of the court that addressed all of these basic obligations on the part of VA. For example, this case was the touchstone concerning the "duty to assist." The court stated in Gilbert, "Once a veteran's initial burden [of submitting a facially valid claim] is met, the Secretary is then obligated under [section 5107 of title 38] to 'assist such a claimant in developing the facts pertinent to the claim'" (1 Vet. App. at 55). Numerous subsequent cases have reiterated this fundamental responsibility.

It was Gilbert that also clearly defined the benefit of the doubt doctrine. In that case, the court noted the unique nature of the standard of proof applying to veterans' benefit claims. The court stated: "Unlike other claimants and litigants * * * a veteran is entitled to the 'benefit of the doubt' when there is an 'approximate balance of positive and negative evidence'" (1 Vet. App. at 53).

Finally, the Court set out in Gilbert VA's obligation to provide the claimant with an explanation for the decision. The Court said:

[T]he Board must identify those findings it deems crucial to its decision and account for the evidence which it finds to be persuasive or unpersuasive. These decisions must contain clear analysis and succinct but complete explanations. A bare conclusory statement, without both supporting analysis and explanation, is neither helpful to the veteran, nor "clear enough to permit effective judicial review", nor in compliance with statutory requirements (1 Vet. App. at 57).

Naturally, meeting these obligations has resulted in more work for VA as it has realized that it cannot fulfill its obligations by proceeding in the way that it has for decades.

Mr. President, while the court's actions may have contributed to the backlog, it is only because the court has forced VA to examine the way it has operated for so long. That is precisely one of the reasons the court was created.

Despite the backlog, judicial review has brought about some extremely positive changes. VA has undertaken an effort to provide more detailed explanations for its denials, to assist veterans in developing claims, and to provide veterans the benefit of the doubt.

Mr. President, our present task is to take our collective experience with judicial review and determine how we might adjust VA's entire claims system to better achieve the full intent of judicial review.

If we fail to act, not only will the current backlog go unresolved, other factors will increase the pressure on the system. Our committee and the House Committee on Veterans' Affairs have been actively considering how it might be reformed. We all know the problems VA faces—large numbers of remands to the BVA and from the BVA to the regional offices, an enormous and growing backlog of pending claims, insufficient adjudication personnel, and inadequate funding, to name just the most apparent ones. While there are certain short-term actions we can take to facilitate a decrease in the claims backlog, a permanent solution to these problems requires more than stopgap measures. There must be fundamental change.

However, as I studied the situation in an effort to determine the best way to proceed with reform of the VA adjudication system, I realized that it is too early to propose dramatic changes to the status quo. We simply do not have enough hard data about how the system has operated over the past several years and how it currently operates, nor is there any consensus concerning what changes should be made. I have arrived at the conclusion that the system must be objectively evaluated by an outside, independent entity.

Mr. President, recognizing that some immediate changes are desperately needed, and acknowledging that it is too soon to pursue any comprehensive reform based on insufficient information, I am introducing today a number of legislative measures.

Mr. President, the first of these bills would institute some changes in the procedures of the BVA in an effort to begin reducing immediately the case backlog that exists at the Board. The second would make some fairly minor, but significant, changes in the procedures for developing the evidence in certain types of claims at the regional office level.

Two of the bills I am introducing respond to decisions of the Court of Veterans Appeals. One addresses the adjudication of claims filed for compensation based on injuries in VA facilities. This measure would ensure that VA is fulfilling its responsibility with respect to such claims. The other bill would overrule a decision of the court with respect to the meaning of Public Law 98-542, the Veterans' Dioxin and Radiation Exposure Compensation Standards Act.

The final bill I am introducing would mandate a comprehensive study of the VA adjudication system by the Administrative Conference of the United States.

Mr. President, I look forward to working with my colleagues on the committee, in the full Senate, and on the House committee, as well as the veterans service organizations, on this legislation specifically, and more generally, on reform of the VA adjudication system.

Mr. President, I will now describe each of the bills I am introducing.

S. 1904—AMENDMENTS TO THE PROCEDURES OF THE BOARD OF VETERANS' APPEALS

Mr. ROCKEFELLER. Mr. President, as chairman of the Committee on Veterans' Affairs, I am introducing today S. 1904, a bill to improve the organization and procedures of the Board of Veterans' Appeals [BVA]. I am enormously pleased that several of my colleagues on the committee have joined me as original cosponsors of this important measure, including ranking minority member FRANK MURKOWSKI and Senators DENNIS DECONCINI, BOB GRAHAM, DANIEL AKAKA, TOM DASCHLE, and BEN NIGHTHORSE CAMPBELL. This bill would amend certain provisions of title 38, United States Code, affecting the operation and procedures of the Board of Veterans' Appeals.

Mr. President, as I indicated earlier today, VA's claims adjudication system, including its appellate system at the Board of Veterans' Appeals, is in dire need of change. BVA's current problems will require long-term, fundamental changes, but there are certain immediate changes Congress could institute that would allow the Board to begin to reduce its present backlog of about 40,000 appeals. In fiscal year 1993, the average time it took BVA to render a decision on appeal was 466 days. Based on information in the first quarter of fiscal year 1994, the BVA currently estimates that by the end of this fiscal year, that time will increase to 1,843 days—5 years. This is completely unacceptable.

Mr. President, while we work on permanent solutions to the problems faced by BVA, I am proposing the measures in this bill, some of which have been requested by the Secretary of Veterans Affairs and the Chairman of BVA. VA indicated that these provisions will allow BVA to become more productive and thereby immediately assist in the reduction of the backlog at the Board.

Mr. President, section 1 of this bill would amend section 7101 of title 38, relating to the composition of the Board. This section would remove the 65-member limitation on the number of members that may be appointed to the Board; remove the current provision giving the Chairman of BVA authority to appoint temporary Board members; and move the authority to appoint acting members from current section 7102 to section 7101, while keeping intact the present limitation on the amount of time an individual can serve as an acting member. However, the provision would specifically allow acting members of the Board to complete work on any pending cases, notwithstanding that time limitation.

Section 2 of this legislation would amend section 7102 of title 38 to allow the Chairman of BVA to assign an appeal to a single member or to a panel of members consisting of at least three members. Under current law, appeals have to be assigned to a panel of at

least three members. According to VA, this authorization of single-member decisions would significantly reduce the backlog at BVA. Amended section 7102 also would provide that reconsideration of a case must be assigned to a panel of members if the original appeal was decided by a single member, and to an enlarged panel of members if the original appeal was decided by a panel. In either case, the panel carrying out the reconsideration could not include any Board member who was involved in deciding the original appeal.

Section 3 would amend the provisions governing BVA hearings to allow the Board to conduct hearings through the use of voice, or voice and picture transmission, by electronic or other means. The measure also would require that before BVA conducts the hearing through use of voice, or voice and picture transmission, the appellant must be given the opportunity to appear at a personal hearing before a Board member, either in a regional office or in Washington, DC, if the appellant so desires. Section 3 also would provide that if an appellant is seriously ill or is under severe financial hardship, the hearing may be held earlier than it otherwise would be.

Mr. President, as I mentioned a moment ago, certain provisions in this bill would directly respond to a request I received from the Secretary of Veterans Affairs, Jesse Brown, dated February 10, 1994. Secretary Brown asked for my assistance in the enactment of legislation that would first, remove the limit on the number of Board members, second, allow the Chairman of BVA to assign appeals to one member of the Board for disposition, and third, remove the limitation on the time an acting member may serve. This bill includes the first two of the statutory provisions requested by the Secretary.

With reference to the acting member issue, Secretary Brown apparently seeks that provision in an effort to avoid a problem that may arise when the BVA Chairman appoints acting members, of the statutory time limitation expiring while appeals which the acting member considered are still pending. This bill addresses that concern by allowing acting members to complete all work on any pending cases, even if that would require them to work beyond the time limit.

Mr. President, these changes are important. My hope is that we can enact these measures quickly so that veterans may begin to feel the effects of an improved appeals system as soon as possible. Veterans deserve no less. They have a right to the efficient processing of their claims for the benefits they earned through their military service. We are working to ensure that they receive just that over the long term, but in the meantime, I strongly believe these provisions are a step in the right direction.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

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

S. 1904

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ORGANIZATION AND PROCEDURES OF BOARD OF VETERANS' APPEALS.

(a) NUMBER OF MEMBERS.—Subsection (a) of section 7101 of title 38, United States Code, is amended by striking out "(not more than 65)".

(b) ACTING AND TEMPORARY MEMBERS.—(1) Such section is further amended—

(1) in subsection (c)—

(A) by striking out paragraph (1) and inserting in lieu thereof the following new paragraph (1):

"(1)(A) The Chairman may from time to time designate one or more employees of the Department to serve as acting members of the Board. Except as provided in subparagraph (B), any such designation shall be for a period not to exceed 90 days, as determined by the Chairman.

"(B) An individual designated as an acting member of the Board may continue to serve as an acting member of the Board in the making of any determination on a proceeding for which the individual was designated as an acting member of the Board, notwithstanding the termination of the period of designation of the individual as an acting member of the Board under subparagraph (A) or (C).

"(C) An individual may not serve as an acting member of the Board for more than 270 days during any 1-year period.";

(B) by striking out paragraph (2);

(C) by redesignating paragraph (3) as paragraph (2); and

(D) in paragraph (2), as so redesignated, by striking out "the number of temporary Board members" and all that follows though the period at the end and inserting in lieu thereof "the number of acting members of the Board designated under such paragraph (1) during the year for which the report is made."; and

(2) in subsection (e), by striking out "a temporary or" and inserting in lieu thereof "an".

(c) REPORT ON BOARD ACTIVITIES.—Subsection (d) of such section is amended—

(1) in paragraph (2)—

(A) by striking out "and" at the end of subparagraph (D);

(B) by striking out the period at the end of subparagraph (e) and inserting in lieu thereof "; and"; and

(C) by adding at the end the following new subparagraph:

"(F) the number of employees of the Department designated under subsection (c)(1) of this section to serve as acting members of the Board during that year and the number of cases in which each such member participated during that year."; and

(2) in paragraph (3)(B), by striking out "as required by section 7103(d) of this title".

(d) APPEALS DECISIONS.—(1) Chapter 71 of such title is amended by striking out sections 7102 and 7103 and inserting in lieu thereof the following new sections 7102 and 7103:

§ 7102. Decisions by the Board

"A proceeding instituted before the Board may be assigned to one or more members of the Board. A proceeding assigned to more than one member shall be assigned to a panel of not less than three members of the Board. A member or panel assigned a proceeding shall make a determination thereon, including any motion filed in connection therewith. The member or panel, as the case may be, shall make a report under section 7104(d) of this title on any such determination, which report shall constitute the final disposition of the proceeding by the member or panel.

§ 7103. Reconsideration; correction of obvious errors

"(a) Subject to subsections (b) and (c) of this section, the decision of the Board determining a matter under section 7102 of this title is final.

"(b) The Chairman may order reconsideration of the decision in a case in accordance with subsection (c) of this section. Such an order may be made on the Chairman's initiative or upon motion of the claimant.

"(c)(1) Upon the order of the Chairman for reconsideration of a decision in a case, the case shall be referred—

"(A) in the case of a matter originally heard by a single member of the Board, to a panel of not less than three members of the Board.

"(B) in the case of a matter originally heard by a panel of members of the Board, to an enlarged panel of the Board.

"(2) A panel referred to in paragraph (1) of this subsection may not include the member or members who made the original decision subject to reconsideration.

"(3) A panel reconsidering a matter under this subsection shall render its decision after reviewing the entire record before the Board. The decision of a majority of the members of the panel shall be final.

"(d) The Board on its own motion may correct an obvious error in the record, without regard to whether there has been a motion or order for reconsideration.".

(2) The table of sections at the beginning of such chapter is amended by striking out the items relating to sections 7102 and 7103 and inserting in lieu thereof the following:

"7102. Decisions by the Board.
"7103. Reconsideration; correction of obvious errors.".

(e) PROCEDURES RELATING TO APPEALS.—(1)(A) Section 7107 of such title is amended to read as follows:

"§ 7107. Appeals: dockets; hearings

"(a)(1) All cases received pursuant to application for review on appeal shall be considered and decided in regular order according to their places upon the docket.

"(2) A case referred to in paragraph (1) of this subsection may, for cause shown, be advanced on motion for earlier consideration and determination. Any such motion shall set forth succinctly the grounds upon which it is based and may not be granted unless the case involves interpretation of law of general application affecting other claims, or for other sufficient cause shown.

"(b) The Board shall decide any appeal only after affording the appellant an opportunity for a hearing.

"(c) A hearing docket shall be maintained and formal recorded hearings shall be held by such member or members of the Board as the Chairman may designate. Such member or members designated by the Chairman to conduct the hearing shall participate in making the final determination of the claim.

"(d)(1) An appellant may request a hearing before the Board at its principal location or at a regional office of the Department.

"(2)(A) Except as provided in subparagraph (B) of this paragraph, hearings shall be

scheduled in the order in which requests for such hearings are received by the Department.

"(B) In a case in the which the Secretary is aware that the appellant is seriously ill or is under severe financial hardship, a hearing may be scheduled at a time earlier than would be provided for under subparagraph (A) of this paragraph.

"(e)(1) At the request of the Chairman, the Secretary may provide suitable facilities and equipment to the Board or other components of the Department to enable an appellant located at a facility within the area served by a regional office to participate, through voice transmission or through picture and voice transmission, by electronic or other means, in a hearing with a Board member or members sitting at the Board's principal location.

"(2) When such facilities and equipment are available, the Chairman may afford the appellant an opportunity to participate in a hearing before the Board through the use of such facilities and equipment in lieu of a hearing held by personally appearing before a Board member or panel as provided in subsection (d) of this section. Any such hearing shall be conducted in the same manner as, and shall be considered the equivalent of, a personal hearing. If the appellant declines to participate in a hearing through the use of such facilities and equipment, the opportunity of the appellant to a hearing as provided in such subsection (d) shall not be affected.".

(B) The item relating to section 7107 in the table of sections at the beginning of chapter 71 of such title is amended to read as follows:

"7107. Appeals: dockets; hearings.".

(2)(A) Section 7110 of such title is repealed.

(B) The table of sections at the beginning of chapter 71 of such title is amended by striking out the item relating to section 7110.

(f) TECHNICAL CORRECTION.—Section 7104(a) of such title is amended by striking out "211(a)" and inserting in lieu thereof "511(a)".

S. 1905: VA CLAIMS PROCEDURES

Mr. ROCKEFELLER. Mr. President, as chairman of the Committee on Veterans' Affairs, I am introducing S. 1905, a bill to improve the processing of benefits claims by the Department of Veterans Affairs [VA]. I am enormously pleased that several of my colleagues on the committee have joined me as original cosponsors of this important measure, including Senators DENNIS DECONCINI, BOB GRAHAM, DANIEL AKAKA, TOM DASCHLE, and BEN NIGHTHORSE CAMPBELL. This bill would amend title 38 to make some miscellaneous changes concerning claims development.

Mr. President, as I discussed more extensively earlier today, the VA system for claims adjudication is fraught with problems. Some short-term measures to change the way that VA processes claims are desperately needed, as are more long-term solutions. In an effort to achieve some immediate improvement in the system, I am introducing this bill today, with the hope that these various changes relating to the development of certain types of evidence will help streamline the process and thereby contribute to a decrease in the VA claims backlog.

Mr. President, this bill includes four provisions that would make specific changes in the procedures for development of evidence for purposes of VA claims. First, this measure would eliminate the statutory mandate under current section 1506 of title 38, United States code, that VA require pension recipients to file annual eligibility verification reports [EVR's]. This measure would instead give VA discretionary authority to require the submission of the questionnaires. The requirement in current law means that VA must devote significant personnel to the task of processing and handling the submitted forms. Because VA now has computer matching programs with the Internal Revenue Service and the Social Security Administration for income verification purposes, the EVR is no longer necessary in every case. As VA indicated in prepared testimony for the Subcommittee on Compensation, Pension, and Insurance of the House Committee on Veterans' Affairs:

A large proportion of our [pension] beneficiaries * * * have either no income or only Social Security benefits as income. * * * We believe that much of the information gathered by these annual reports can be verified through other means. * * *

Mr. President, this measure would amend current law to allow VA to accept written statements or photocopies of documents as proof of relationships for purposes of VA benefits. Under current law, whenever a document is required to prove a relationship to a veteran, such as a birth of marriage certificate, the claimant must submit a certified copy of the document. This requirement arises primarily in connection with claims for benefits for or on behalf of dependents of veterans. If there is a question with respect to the validity of the statement or photocopy, the bill would allow VA to require the claimant to submit supporting documentation. My hope in introducing this measure is to relieve claimants of an unnecessary burden and expedite the decisionmaking process where evidence of this type is involved.

Mr. President, the third provision in this bill would allow VA to accept the medical examination report of a private physician as support of a diagnosis of a disability for purposes of either a compensation or pension claim. This would eliminate the current requirement that a veteran undergo an examination by a VA physician to confirm the diagnosis made by a veteran's private physician. Under this new authority, a private physician's report would be required to contain sufficient clinical data to support the diagnosis or provide a reliable basis for a disability rating.

Finally, this bill includes a provision that would require VA to report to the House and Senate Committees on Veterans' Affairs on the status of an agreement between the Department of Defense [DOD] and VA to provide for the immediate transfer of a servicemember's medical records upon discharge from the service. The report would be due to the committees within 90 days after enactment of the statute. This provision is intended to improve the transfer of military medical records from all branches of the military to VA through an agreement between the two Departments. Such an agreement currently exists between VA and the Army and according to reports, is working well. An agreement between DOD and VA covering all branches of the service would improve the amount of time it takes to process a VA claim because a significant amount of time is spent waiting for the transfer of medical records. VA stated in prepared testimony for the House Subcommittee on Compensation, Pension, and Insurance on draft legislation that contained a comparable provision: "We hope to be able to report complete success on this agreement because it is one of the ways VA can expedite claims adjudication."

Mr. President, all of the provisions in this bill would relieve VA of certain evidentiary requirements in the development of certain claims. These provisions are intended to assist in streamlining the claims process, at least with respect to these particular aspects of developing claims. In effect, these measures might even allow VA to devote personnel currently tasked with the processing and handling of these aspects of claims development to other, more crucial elements involved in the disposition of claims.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

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

S. 1905

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ELIMINATION OF REQUIREMENT FOR ANNUAL INCOME QUESTIONNAIRES.

Section 1506 of title 38, United States Code, is amended—

(1) in paragraph (2), by striking out "shall" and inserting in lieu thereof "may"; and

(2) in paragraph (3), by striking out "file a revised report" and inserting in lieu thereof "notify the Secretary".

SEC. 2. STATEMENTS TO BE ACCEPTED AS PROOF OF RELATIONSHIPS.

Notwithstanding any other provision of law, the Secretary of Veterans Affairs shall accept the written statement of a claimant as proof of the existence of a marriage, the dissolution of a marriage, the birth of a child, or the death of any family member for the purpose of acting on such individual's claim for benefits under any law administered by the Secretary. The Secretary may require the submission of documentation in support of such statement if the statement on its face raises a question as to its validity.

SEC. 3. ACCEPTANCE OF PRIVATE PHYSICIAN EXAMINATIONS.

Notwithstanding any other provision of law, for purposes of establishing a claim for

disability compensation under chapter 11 of title 38, United States Code, or a claim for pension under chapter 15 of such title, a medical examination report of a private physician provided by a claimant in support of a claim for benefits shall be accepted without confirmation by an examination by a physician employed by the Veterans Health Administration if such report contains sufficient clinical data to support the diagnosis of a disability or to provide a reliable basis for an evaluation of the degree of any such disability.

SEC. 4. TRANSFER OF MILITARY SERVICE MEDICAL RECORDS.

Not later than 90 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report setting forth the status of an agreement between the Secretary and the Secretary of Defense to provide for the immediate transfer from the Department of Defense to the Department of Veterans Affairs of the medical records of members of the Armed Forces upon the separation of such members from active duty.

S. 1906: ADJUDICATION OF VA CLAIMS BASED ON EXPOSURE TO RADIATION

Mr. ROCKEFELLER. Mr. President, as Chairman of the Committee on Veterans' Affairs, I am introducing today S. 1906, a bill to provide that service connection for disabilities arising from exposure to ionizing radiation or dioxin may be established by direct evidence. I am enormously pleased that four of my colleagues on the Committee have joined me as original cosponsors of this important measure, including Senators DENNIS DECONCINI, BOB GRAHAM, DANIEL AKAKA, and TOM DASCHLE. This bill would amend Public Law 98–542 so as to overrule the decision of the U.S. Court of Veterans Appeals in *Combee* v. *Principi*, 4 Vet.App. 78 (1993).

Mr. President, the Court held in *Combee* that a veteran may not establish direct service connection for a condition based on radiation exposure unless the condition is on VA's regulatory list of radiogenic diseases. The essence of the Court's decision is that, by establishing a process in Public Law 98–542 relating to claims involving radiation exposure, Congress repealed the general compensation law as to such claims. Stated another way, the Court's decision stands for the proposition that the Congress, while providing an avenue by which veterans exposed to radiation might gain VA benefits, foreclosed these veterans from utilizing the route available to all other veterans seeking to establish service connection. This simply is not what happened and it must be reversed.

In *Combee*, there was no dispute that the veteran had taken part in a radiation-risk activity, as required under both section 1112 of title 38, United States Code, for purposes of presumptive service connection of the disease, and section 3.311b of title 38, Code of Federal Regulations, for purposes of proving direct service connection of the disease. However, he sought disability compensation for a condition that was neither on the list of conditions presumptively service-connected based on radiation exposure under section 1112 of title 38, nor on the list of diseases considered to be radiogenic by VA for purposes of direct service connection under 38 CFR 3.311b, implementing Public Law 98–542. Because the veteran's claim involved a condition that did not appear on either list, the Court held that he could not show direct service connection under general authorities available to all other veterans.

Mr. President, there is absolutely nothing in the legislative history of Public Law 98–542 that indicates that Congress intended that law to preclude veterans from using the usual means of proving direct service connection, if the veteran is able to do so, by submitting sufficient supporting evidence. Although I was not yet a Member of Congress at the time Public Law 98–542 was enacted, I am certain that the Court's decision does not accurately reflect the underlying congressional intent of this statute.

The basic theory of service connection, as set forth in sections 1110 and 1131 of title 38, United States Code, requires that a veteran be given an opportunity to submit evidence in support of his or her claim for service connection. This involves a fundamental principle that the veteran must not be summarily prohibited from attempting to prove that the condition is directly related to service. That principle must apply even if the veteran's condition is not a condition Congress or VA automatically recognizes as associated with exposure to an environmental hazard.

In the *Combee* case, the veteran had submitted evidence from two physicians who both stated that a reasonable relationship existed between the veteran's exposure to radiation in service and his disabilities. Yet he was foreclosed from even attempting to prove service connection under section 1110 because his disease was not on a list deemed exclusive by VA. The Court, incorrectly in my view, affirmed that result.

Mr. President, although *Combee* involved a radiation claim, it has serious, negative implications because it undermines the theory of direct service connection in other instances, for example, in cases involving conditions that can be presumptively service connected based on other factors, such as Agent Orange exposure or as a result of having been a prisoner of war.

Mr. President, this bill we are introducing would clarify Congress' intent in enacting Public Law 98–542 and ensure that the general provisions governing disability compensation with respect to claims based on exposure to Agent Orange or radiation remain intact and available to all veterans.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

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

S. 1906

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SERVICE CONNECTION FOR CERTAIN DISABILITIES RELATING TO EXPOSURE TO IONIZING RADIATION OR DIOXIN.

Section 5 of the Veterans' Dioxin and Radiation Exposure Compensation Standards Act (Public Law 98–542; 98 Stat. 2725; 38 U.S.C. 1154 note) is amended by adding at the end the following new subsection:

"(d) The regulations prescribed under this section may not prohibit, or be construed to prohibit, a veteran from establishing pursuant to section 1110 of title 38, United States Code, service connection for a disease or disability that the veteran claims to be the result of the veteran's exposure to ionizing radiation or dioxin during a period of service referred to in subsection (a)(1), notwithstanding that such regulations do not specify that the disease or disability is a radiogenic disease or a disease or disability associated with dioxin.".

S.1907: CLAIMS FOR VA COMPENSATION UNDER SECTION 1151 OF TITLE 38, UNITED STATES CODE

Mr. ROCKEFELLER. Mr. President, as chairman of the Committee on Veterans' Affairs, I am introducing today S. 1907, a bill to require that the Department of Veterans Affairs [VA] adjudicate and resolve certain claims relating to medical malpractice in the health care services provided by the Department. I am enormously pleased that two of my colleagues on the committee, Senators BOB GRAHAM and TOM DASCHLE, have joined me as original cosponsors of this important measure. This bill would require VA to immediately adjudicate all claims that may be on hold pending final resolution of the issue decided by the United States Court of Veterans Appeals in *Gardner* v. *Derwinski*, 1 Vet.App. 584 (1991), *aff'd, sub nom. Gardner v. Brown*, 5 F.3d 1456 (Fed. Cir. 1993), and to grant those claims that could have been granted under the standard used by VA prior to the Gardner decision.

Mr. President, section 1151 of title 38, U.S. Code, governs claims for disability compensation or dependency and indemnity compensation [DIC] based on injury while receiving care in a VA medical facility or while pursuing a course of vocational rehabilitation. Under this provision, a veteran injured in a VA facility or in vocational rehabilitation can receive monthly disability compensation in the same manner as if he or she were injured during military service. A survivor of a veteran who dies as the result of such an injury can receive monthly DIC payments.

In Gardner, the Court of Veterans Appeals found that VA's regulations interpreting this provision were too restrictive and invalidated those regulations. Following the decision of the Court, VA placed a moratorium on all denials of claims filed under section 1151. VA appealed the decision to the U.S. Court of Appeals for the Federal

Circuit, which affirmed the lower court's decision. VA then filed a petition for certiorari with the U.S. Supreme Court which is now pending.

Mr. President, because the moratorium was placed only on denials, VA should continue to allow those claims that would have been granted under the restrictive, invalidated standard. However, the committee has received information from veterans indicating that VA has suspended all action on section 1151 claims. Therefore, claims that could be granted under the invalidated standard are not being granted.

Mr. President, this bill would require VA to adjudicate all claims filed under section 1151, using the standard under the law existing prior to the decision of the Court of Veterans Appeals in Gardner, and grant those claims that could have been allowed under the former VA standard. Those claims that would not have been granted under the prior regulation would continue to be held in abeyance.

Mr. President, I am introducing this bill in an effort to ensure that VA is fulfilling its responsibility to those veterans who have claims based on clear VA negligence, notwithstanding the Federal court decisions on this issue.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

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

S. 1907

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADJUDICATION AND RESOLUTION OF CERTAIN CLAIMS RELATING TO MEDICAL MALPRACTICE.

(a) ADJUDICATION AND RESOLUTION OF CLAIMS.—The Secretary of Veterans Affairs shall—

(1) take appropriate actions to determine whether the injury (or aggravation of an injury) of any veteran as the result of the treatment of the veteran was the result of medical malpractice on the part of the Department of Veterans Affairs (and not of the veteran's own willful misconduct); and

(2) in the case of any injury so determined, provide appropriate compensation to the veteran in accordance with section 1151 of title 38, United States Code.

(b) STATEMENT OF INTENT AND CONSTRUCTION.—Congress enacts the requirement set forth in subsection (a) in order to ensure the adjudication and resolution of certain claims following the decision in Gardner v. Derwinski, 1 Vet. App. 584 (1991), *aff'd, sub nom.* Gardner v. Brown, 5 F.3d 1456 (Fed. Cir. 1993). The requirement may not be construed as an expression of Congressional intent to limit the claims subject to adjudication under section 1151 of title 38, United States Code, to claims related to injuries resulting from medical malpractice.

(c) DEFINITIONS.—In this section—

(1) The term "treatment", in the case of a veteran, means any examination, hospitalization, medical or surgical treatment, or course of vocational rehabilitation under chapter 31 of title 38, United States Code, that is provided to the veteran by the Department of Veterans Affairs.

(2) The term "medical malpractice" means any carelessness, negligence, error in judgment, lack of proper medical skill, or similar instance of indicated fault in the treatment of a veteran.

S. 1908: STUDY OF VA CLAIMS PROCEDURES

Mr. ROCKEFELLER. Mr. President, as chairman of the Committee on Veterans' Affairs, I am introducing today S. 1908, a bill to provide for a study of the processes and procedures of the Department of Veterans Affairs for the disposition of claims for veterans benefits. I am enormously pleased that four of my colleagues on the committee have joined me as original cosponsors of this important measure, including Senators DENNIS DECONCINI, BOB GRAHAM, DANIEL AKAKA, and TOM DASCHLE.

Mr. President, this legislation would mandate a comprehensive, 18-month study of the VA adjudication and appeal systems by the Administrative Conference of the United States [ACUS].

As I discussed in more detail earlier today, veterans were finally provided judicial review in 1988, a change that inevitably has had a tremendous impact on the VA adjudication system. Certain aspects of that impact were anticipated. For example, the court's decisions have significantly improved the way VA makes decisions. Other aspects of the impact of judicial review never could have been precisely predicted. The collective effects of the court have been felt acutely in the past couple of years and it is now time to begin to define exactly where VA should go from here.

Mr. President, this bill would require a study and evaluation of the current VA adjudication and appeal system at all levels, from the initial claim at the VA regional office through the final decision by the Board of Veterans' Appeals. The study would involve review of how the system developed over the years, from the pre-judicial review era, and include consideration and evaluation of certain issues specified in the legislation.

The bill would require the involvement of and consultation with veterans service organizations and others who represent veterans before VA. For purposes of the study, the legislation would require VA to provide to ACUS and the Senate and House Committees on Veterans' Affairs within 90 days following enactment extensive information on claims processing for fiscal years 1989 through 1993.

Under this measure, ACUS would be required to submit the results of the study to VA and the two Committees on Veterans' Affairs within 1 year of the date of enactment. Within 18 months of the date of enactment, ACUS would be required to submit to VA and the committees a complete report on the study. The report would be required to include its findings and conclusions, as well as recommendations on how the system might be improved.

Finally, the bill would authorize an appropriation of $150,000 to the Department of Veterans Affairs, to be transferred to ACUS for the costs related to carrying out the study.

Mr. President, I believe that a comprehensive study as outlined in this measure is imperative to obtain an accurate and objective evaluation of the VA adjudication process, which is, without a doubt, broken. Before we can begin to determine the appropriate means for repairing the system, we must have sufficient information upon which we can base the fundamental changes that are inevitably necessary.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

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

S. 1908

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. STUDY OF SYSTEM OF DEPARTMENT OF VETERANS AFFAIRS FOR DISPOSITION OF CLAIMS FOR VETERANS BENEFITS.

(a) IN GENERAL.—The Administrative Conference of the United States shall carry out a study of the Department of Veterans Affairs system for the disposition of claims for veterans benefits. The Administrative Conference shall carry out the study in accordance with this Act.

(b) PURPOSE OF STUDY.—The purpose of the study required under this Act shall be to evaluate the Department of Veterans Affairs system for the disposition of claims for veterans benefits in order to determine—

(1) the efficiency of processes and procedures under the system for the adjudication, resolution, review, and final disposition of claims for veterans benefits and means of increasing such efficiency, including the effect of judicial review on such system;

(2) means of reducing the number of claims under the system for which final disposition is pending; and

(3) means of enhancing the ability of the Department of Veterans Affairs to dispose of claims under the system in a prompt and appropriate manner.

(c) CONTENTS OF STUDY.—The study of the Department of Veterans Affairs system for the disposition of claims for veterans benefits under this Act shall include an evaluation and assessment of the following:

(1) The historical development of the system, including the effect on such development of the provision under the Veterans' Judicial Review Act (division A of Pulbic Law 100-687; 102 Stat. 4105) of authority for judicial review of claims disposed of under the system.

(2) The preparation and submittal of claims by veterans under the system.

(3) The processes and procedures under the system for the disposition of claims, including—

(A) the scope and nature of the responsibility of the Secretary to assist veterans in the development of claims;

(B) the scope and nature of the hearings provided for at each stage in the claims disposition process under the system (including

79-059 O—97 Vol. 140 (Pt. 3) 37

hearings *de novo*, hearings before travelling members of the Board of Veterans' Appeals, hearings that are expedited for reason of illness or financial need, and hearings that permit the transmission of evidence or testimony by electronic means);

(C) the scope and nature of the review undertaken with respect to a claim at each stage in the claims disposition process;

(D) the number, Federal employment grade, and experience and qualifications required of the persons undertaking such review at each such stage;

(E) the effect on such review of the obligation of the Secretary to afford claimants with the benefit of the doubt when there is an approximate balance of positive and negative evidence with respect to a claim;

(F) opportunities for the submittal of new evidence; and

(G) the availability of alternative means of disposing of claims.

(4) The effect on the system of the participation of attorneys, members of veterans service organizations, and other advocates on behalf of veterans.

(5) The effect on the system of actions taken by the Secretary to modernize the information management system of the Department, including the utilization of electronic data management systems.

(6) The effect on the system of any work performance standards utilized by the Secretary at regional offices of the Department and at the Board of Veterans' Appeals.

(7) The extent of the implementation in the system of the recommendations of the Blue Ribbon Panel on Claims Processing submitted to the Committees on Veterans' Affairs of the Senate and House of Representatives on December 2, 1993, and the effect of such implementation on the system.

(8) The effectiveness in improving the system of any pilot programs carried out by the Secretary at regional offices of the Department and of efforts by the Secretary to implement such programs throughout the system.

(9) The effectiveness of the quality control practices and quality assurance practices under the system in achieving the goals of such practices.

(d) CONSULTATION WITH NON-DEPARTMENT ENTITIES.—Notwithstanding any other provision of law, the Administrative Conference of the United States shall, upon request, provide opportunities in the conduct of the study under this Act for consultation with appropriate representatives of veterans service organizations and of other organizations and entities that represent veterans before the Department of Veterans Affairs.

(e) COOPERATION OF SECRETARY.—(1) Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to the Administrative Conference of the United States, and to the Committees on Veterans' Affairs of the Senate and House of Representatives, such information as the Chairman of the Administrative Conference shall determine necessary to carry out the study required under this Act.

(2) The information referred to in paragraph (1) shall include information on the claims disposed of by the Department of Veterans Affairs during the 5-year period ending on September 30, 1993, including the following:

(A) The total number of claims finally disposed of during that period.

(B) The number of claims finally disposed of during each fiscal year of that period.

(C) The number of claims referred to in subparagraph (A) that were allowed by the Secretary solely on the basis of information contained in the initial claim for benefits.

(D) The number of claims referred to in subparagraph (A) that were allowed by a regional office of the Department at each of the various stages in the claims disposition process.

(E) The number of claims referred to in subparagraph (A) that were allowed by the Board of Veterans' Appeals.

(F) The number of claims referred to in subparagraph (E) that were reopened after a final decision by the Board of Veterans' Appeals.

(f) REPORTS ON STUDY.—(1) Not later than 1 year after the date of the enactment of this Act, the Administrative Conference of the United States shall submit to the Secretary and to the Committees on Veterans' Affairs of the Senate and House of Representatives a preliminary report on the study required under subsection (c). The report shall contain the preliminary findings and conclusions of the Administrative Conference with respect to the evaluation and assessment required under the study.

(2) Not later than 18 months after such date, the Administrative Conference shall submit to the Secretary and to such committees a report on such study. The report shall include the following:

(A) The findings and conclusions of the Administrative Conference, including its findings and conclusions with respect to the matters referred to in subsection (c).

(B) The recommendations of the Administrative Conference for means of improving of the Department of Veterans Affairs system for the disposition of claims for veterans benefits.

(C) Such other information and recommendations with respect to the system as the Administrative Conference considers appropriate.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $150,000 to the Department of Veterans Affairs for payment to the Administrative Conference of the United States under section 1535 of title 31, United States Code, of the cost of carrying out the study and report required under this Act.

(h) DEFINITIONS.—For the purposes of this Act—

(1) The term "Administrative Conference of the United States" means the Administrative Conference provided for under subchapter V of chapter 5 of title 5, United States Code.

(2) The term "Department of Veterans Affairs system for the disposition of claims for veterans benefits" means the processes and procedures of the Department of Veterans Affairs for the adjudication, resolution, review, and final disposition of claims for benefits under the laws administered by the Secretary.

(3) The term "Secretary" means the Secretary of Veterans Affairs.

(4) The term "veterans service organizations" means any organization approved by the Secretary under section 5902(a) of title 38, United States Code.

By Mr. BRYAN:

S. 1909. A bill to improve the interstate enforcement of child support and parentage court orders, and for other purposes; to the Committee on Finance.

CHILD SUPPORT ENFORCEMENT ACT OF 1994

Mr. BRYAN. Mr. President, today I am introducing the Interstate Child Support Act of 1994. This legislation will strengthen our efforts to get "dead beat" parents to provide for their children.

There has been such discussion of late on the issue of family values. A child growing up in poverty and a mother put through needless financial stress by a father not living up to his responsibilities is without a doubt an issue worthy of much consideration.

The facts are that 1-in-4 children live in a single-parent household. Most of us know how difficult it is to make ends meet with a two-income family. It does not take much imagination to envision how hard it must be for a single parent trying to juggle a job and family.

One of the most startling statistics is that only half the single parents have sought out and obtained child support orders. That means that 50 percent of the single mothers either have been unable to track down the father or have not pursued or are unaware of their legal rights.

Of the parents who have sought out and obtained child support, only half receive the full amount they are entitled to. In other words, 50 percent of the mothers don't even have child support orders and of the 50 percent that do, only half of them are getting what their children are entitled to.

Approximately 25 percent of the single parents who have child support orders actually receive nothing at all. These are the worst offenders—the so-called dead beat dads. It is all too true that many single parents must seek public support. As the public is asked to lend a helping hand, we must ensure that the absent father is doing the best he can. Public assistance should not become an escape valve for those who want to evade their responsibility.

These facts should concern us all. When it comes to giving children of single parents a decent chance to make something of their lives, we should make every effort to see that they are not handicapped by delinquent parents.

Over the past several years, significant progress has been made to improve the collection of child support payments. In fact, starting the first of this year, employers are required to automatically withhold child support payments from paychecks.

We were also successful in enacting legislation, which I sponsored in the Senate, which requires credit bureaus to report on an individual's credit file when he or she is delinquent on their child support payments. This provides one more incentive for parents to stay current in their payments.

But more needs to be done. The legislation I am introducing today adds to the arsenal available to those trying to enforce child support orders and makes it more difficult for parents to hide assets in order to avoid making the appropriate child support payments.

First, this legislation authorizes the State and Federal Government to deny delinquent parents an array of benefits. A delinquent parent could be denied an occupational, professional, or business license, a Federal loan or guarantee, and could even have his or her passport revoked if the threat of fleeing the country was likely. The goal is not to drive those who want to meet their responsibilities away, but rather to make sure that those who are ignoring their children understand that society will not tolerate that behavior.

These provisions should be particularly effective in dealing with delinquent parents who are self-employed and, thereby, not effected by the mandatory employer withholding that went into effect earlier this year.

The bill also builds on our past efforts of using the credit reporting system. It permits State agencies to obtain credit files in order to track down delinquent parents, or to help determine the appropriate amount of child support.

Second, the bill improves the interstate enforcement process by establishing a jurisdictional basis for State courts recognition of child support orders of other States. The problems associated with collecting child support are magnified when parents live in different States. Part of the difficulty stems from differences in State laws, policies, and procedures.

I have heard numerous cases of frustrating experiences in attempts to serve process on out-of-State delinquent parents and to have certain evidence obtained in one State admitted at a hearing in another State. One in three child support orders involve parents in different States. On average, it takes 1 year to locate an absent parent, and 2 years to establish a court order if a parent has deserted a family.

Finally, the bill makes it more difficult for parents to hide assets in an attempt to avoid paying their fair share of child support. A difficult problem to resolve is when a delinquent parent transfers property to a friend or relative for little compensation to avoid child support payments.

I believe we must give our courts and law enforcement agencies the tools that they need to crack down on delinquent parents. The goal of this legislation is to help children receive adequate and consistent child support.

ADDITIONAL COSPONSORS

S. 455

At the request of Mr. HATFIELD, the names of the Senator from Alabama [Mr. SHELBY], the Senator from Pennsylvania [Mr. SPECTER], and the Senator from Michigan [Mr. RIEGLE] were added as cosponsors of S. 455, a bill to amend title 31, United States Code, to increase Federal payments to units of general local government for entitlement lands, and for other purposes.

S. 1458

At the request of Mrs. KASSEBAUM, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 1458, a bill to amend the Federal Aviation Act of 1958 to establish time limitations on certain civil actions against aircraft manufacturers, and for other purposes.

S. 1485

At the request of Mr. DECONCINI, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 1485, a bill to extend certain satellite carrier compulsory licenses, and for other purposes.

S. 1541

At the request of Mr. COVERDELL, the names of the Senator from Wyoming [Mr. WALLOP] and the Senator from Indiana [Mr. LUGAR] were added as cosponsors of S. 1541, a bill to provide that a nongovernmental person may use a private express carriage of certain letters and packets without being penalized by the Postal Service, and for other purposes.

S. 1842

At the request of Mr. CAMPBELL, the names of the Senator from South Dakota [Mr. PRESSLER] and the Senator from Idaho [Mr. KEMPTHORNE] were added as cosponsors of S. 1842, a bill to amend title 23, United States Code, to exempt a State from certain penalties for failing to meet requirements relating to motorcycle helmet laws if the State has in effect a motorcycle safety program, and to delay the effective date of certain penalties for States that fail to meet certain requirements for motorcycle safety and passenger vehicle safety laws, and for other purposes.

S. 1860

At the request of Mr. DODD, the names of the Senator from Delaware [Mr. BIDEN], the Senator from Mississippi [Mr. COCHRAN], the Senator from Iowa [Mr. HARKIN], the Senator from Idaho [Mr. KEMPTHORNE], the Senator from New Jersey [Mr. BRADLEY], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Ohio [Mr. METZENBAUM], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Hawaii [Mr. INOUYE], the Senator from Oregon [Mr. HATFIELD], the Senator from Maryland [Ms. MIKULSKI], the Senator from Rhode Island [Mr. CHAFEE], the Senator from West Virginia [Mr. ROCKEFELLER], and the Senator from Ohio [Mr. GLENN] were added as cosponsors of S. 1860, a bill to authorize the minting of coins to commemorate the 1995 Special Olympics World Games.

S. 1862

At the request of Mr. MCCONNELL, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 1862, a bill to repeal the public financing of and spending limits on Presidential election campaigns.

SENATE JOINT RESOLUTION 146

At the request of Mr. WOFFORD, the names of the Senator from Nebraska [Mr. EXON], and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of Senate Joint Resolution 146, a joint resolution designating May 1, 1994, through May 7, 1994, as "National Walking Week."

SENATE JOINT RESOLUTION 163

At the request of Mr. LEAHY, the name of the Senator from Illinois (Ms. MOSELEY-BRAUN] was added as a cosponsor of Senate Joint Resolution 163, a joint resolution to proclaim March 20, 1994, as "National Agricultural Day."

SENATE RESOLUTION 182

At the request of Mr. D'AMATO, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of Senate Resolution 182, a resolution entitled "A Call for Humanitarian Assistance to the Pontian Greeks."

SENATE RESOLUTION 185—RELATING TO PHIL RIZZUTO'S INDUCTION INTO THE BASEBALL HALL OF FAME

Mr. D'AMATO submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 185

Whereas Yankee shortstop Phil "Scooter" Rizzuto was born on September 25, 1917, in Brooklyn, New York;

Whereas the famous Casey Stengel, while manager of the Brooklyn Dodgers, looked at a young Phil Rizzuto and dismissed him saying: "Get yourself a shoe shine box, kid. You're too small";

Whereas the "Scooter" appeared in 5 All-Star Games, starred on 10 pennant winning teams, and in 9 World Series;

Whereas in the 1947 World Series Phil Rizzuto hit .308 and was a key player in the New York Yankees' memorable 7-game World Series win over the Brooklyn Dodgers;

Whereas in 1949 Phil Rizzuto hit .275 and fielded .971, leading the New York Yankees in games played, hits, runs, doubles, and total bases stolen, resulting in his being named Player of the Year by the baseball writers;

Whereas Phil Rizzuto, as an announcer, has endeared thousands of fans to the great game of baseball; and

Whereas Phil Rizzuto has waited 38 long, hopeful years to be inducted into the Baseball Hall of Fame in Cooperstown, New York, a dream which has finally been realized: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the outstanding contributions of Phil Rizzuto to the great game of baseball; and

(2) congratulates Phil Rizzuto on the occasion of his induction into the Baseball Hall of Fame.

SEC. 2. TRANSMITTAL OF COPY OF RESOLUTION.

The Secretary of the Senate shall transmit a copy of this resolution to Phil Rizzuto.

Mr. D'AMATO. Mr. President, I rise today to recognize one of the greatest shortstops to ever play the game of baseball—Phil Rizzuto. Phil Rizzuto

was inducted into the Baseball Hall of Fame, in Cooperstown, NY, on Friday, February 25, 1994.

Phil Rizzuto will long be remembered for his days with the Yankees. His contributions to the club were instrumental in the great pennant race of 1947, leading the Yankees to a seven-game series win over the Brooklyn Dodgers.

Phil Rizzuto played in 5 All-Star Games, 9 World Series, and starred on 10 pennant-winning teams. In 1950, Phil Rizzuto was named the American League's Most Valuable Player, a rare honor for a shortstop who was told by baseball great, Casey Stengel, "Get yourself a shoeshine box, kid. You're too small." Mr. President, it is hard to even fathom the size of the salary that would be offered in today's market for a player like Phil Rizzuto.

The Scooter did not end his dedication to the game of baseball after retirement from the league. As an announcer, Phil Rizzuto endeared thousands of fans to the great game of baseball. His infamous "Holy Cow!" will live forever in the minds of fans of all ages.

It is only fitting that the U.S. Senate recognize the great contributions of Phil Rizzuto to the game of baseball. For that reason, Mr. President, I offer this resolution.

SENATE RESOLUTION 186—AUTHORIZING THE TESTIMONY BY AND REPRESENTATION OF SENATE EMPLOYEES

Mr. HOLLINGS (for Mr. MITCHELL, for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 186

Whereas, in the case of *Haywood Galbreath v. Associated Press*, Case No. CV 933132, pending in the United States District Court for the Central District of California, the defendant Associated Press seeks the testimony of Maurice Johnson, an employee of the Senate who is the Superintendent of the Press Photographers's Gallery of the Senate;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2) (1988), the Senate may direct its counsel to represent committees, Members, officers and employees of the Senate with respect to testimony and documents provided in their official capacity: Now, therefore, be it

Resolved, That Maurice Johnson, and any other employee of the Senate from whom testimony or the production of documents is required, are authorized to testify and to produce documents in the case of *Haywood Galbreath v. Associated Press*, except concerning matters for which a privilege should be asserted.

SEC. 2. That the Senate Legal Counsel is directed to represent Maurice Johnson, and any other employee of the Senate whose testimony is required, in connection with the testimony and production of documents authorized under section 1.

SENATE RESOLUTION 187—AUTHORIZING THE PRODUCTION OF A CLOSED SESSION TRANSCRIPT

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 187

Whereas, the United States District Court for the Eastern District of Pennsylvania has requested, through the United States Attorney, that the Select Committee on Intelligence make available to the Court for in camera inspection a transcript of testimony received by the Committee in closed session, to determine the relevance of the transcript to the case of *United States* v. *Robert Clyde Ivy*, Cr. No. 91-602-04, pending in that court;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that documents, papers, and records under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Resolved, That the Chairman and Vice Chairman of the Select Committee on Intelligence, acting jointly, are authorized to provide to the United States District Court for the Eastern District of Pennsylvania, in accordance with appropriate security procedures, the closed session transcript which the court has requested.

AMENDMENTS SUBMITTED

NATIONAL COMPETITIVENESS ACT OF 1993

KASSEBAUM (AND OTHERS) AMENDMENT NO. 1477

Mrs. KASSEBAUM (for herself, Mr. DOLE, Mr. DANFORTH, Mr. MCCAIN, Mr. GORTON, Mr. HATCH, and Mr. COVERDELL) proposed an amendment to the bill (S. 4) to promote the industrial competitiveness and economic growth of the United States by strengthening and expanding the civilian technology programs of the Department of Commerce, amending the Stevenson-Wydler Technology Innovation Act of 1980 to enhance the development and nationwide deployment of manufacturing technologies, and authorizing appropriations for the Technology Administration of the Department of Commerce, including the National Institute of Standards Technology, and for other purposes; as follows:

At the end of the committee substitute, add the following:

TITLE VII—GENERAL AVIATION REVITALIZATION

SEC. 701. SHORT TITLE.

This title may be cited as the "General Aviation Revitalization Act of 1994".

SEC. 702. TIME LIMITATION ON CIVIL ACTIONS AGAINST AIRCRAFT MANUFACTURERS.

Title XI of the Federal Aviation Act of 1958 (49 U.S.C. App. 1510-1518) is amended by adding at the end the following new section:

"SEC. 1119. TIME LIMITATION ON CIVIL ACTIONS AGAINST AIRCRAFT MANUFACTURERS.

"(a) IN GENERAL.—No civil action for damages for death or injury to persons or damage to property arising out of an accident involving a general aviation aircraft may be brought against the manufacturer of the aircraft or the manufacturer of any component, system, subassembly, or other part of the aircraft, if the accident occurred—

"(1) more than 15 years after—

"(A) the date of delivery of the aircraft to its first purchaser or lessee, if delivered directly from the manufacturer; or

"(B) the date of first delivery of the aircraft to a person engaged in the business of selling or leasing such aircraft; or

"(2) with respect to any component, system, subassembly, or other part which replaced another product originally in, or which was added to, the aircraft, and which is alleged to have caused the claimant's damages, more than 15 years after the date of the replacement or addition.

"(b) GENERAL AVIATION AIRCRAFT DEFINED.—For the purposes of this section, the term 'general aviation aircraft' means any aircraft for which a type certificate or an airworthiness certificate has been issued by the Administrator, which, at the time such certificate was originally issued, had a maximum seating capacity of fewer than 20 passengers, and which was not, at the time of the accident, engaged in scheduled passenger carrying operations as defined under regulations issued under this Act.

"(c) RELATIONSHIP TO OTHER LAWS.—This section supersedes any Federal or State law to the extent that such law permits a civil action described in subsection (a) to be brought after the applicable deadline for such civil action established by subsection (a).".

NOTICE OF MOTION TO SUSPEND THE RULE TO PROPOSE AN AMENDMENT (NONGERMANE AMENDMENT TO AN APPROPRIATIONS BILL)

NATIONAL COMPETITIVENESS ACT OF 1993

AMENDMENT NO. 1478

(Ordered to lie on the table.)

Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 4 to promote the industrial competitiveness and economic growth of the United States by strengthening and expanding the civil-

ian technology programs of the Department of Commerce, amending the Stevenson-Wydler Technology Innovation Act of 1980 to enhance the development and nationwide deployment of manufacturing technologies, and authorizing appropriations for the Technology Administration of the Department of Commerce, including the National Institute of Standards Technology, and for other purposes; as follows:

NOTICE TO SUSPEND RULE XVI

Mr. MCCAIN submitted the following notice in writing:

Mr. President, it is my intention to move to amend the Standing Rules of the Senate. An amendment to be proposed by myself would amend Rule XVI of the Standing Rules of the Senate by adding at the end thereof the following:

Resolved,

SECTION 1. RULES OF PROCEDURE OF THE SENATE.

(a) AMENDMENT TO THE STANDING RULES OF THE SENATE.—Rules XVI of the Standing Rules of the Senate is amended by adding at the end the following:

"(a) It is not in order to consider any appropriation bill, amendment to such bill or conference report on such bill containing any program, project, or activity for any fiscal year if such measure or matter contains appropriations not authorized by law. The Presiding Officer shall rule on appropriations in accordance with the preceding sentence upon a point of order being made by a Senator regarding such measure or matter. The first sentence may be waived with respect to an appropriation for a program, project, or activity for a fiscal year with the agreement of not less than 60 Senators.

(b) When the Senate is considering a conference report on, or an amendment between the Houses in relation to, an appropriations bill—

(1) a point of order being made by an Senator against unauthorized appropriations, and

(2) such point of order being sustained, such material contained in such conference report or amendment shall be deemed stricken, and the Senate shall proceed, without intervening action or motion, to consider the question of whether the Senate shall recede from its amendment and concur with a further amendment, as the case may be, which further amendment shall consist of only that portion of the Conference report or House amendment, as the case may be, not so stricken. Any such motion in the Senate shall be debatable for two hours. In any case in which such point of order is sustained against a conference report or Senate amendment derived from such conference report by operation of this subsection, no further amendment shall be in order.

(c) GENERAL POINT OF ORDER.—Notwithstanding any other law or rule of the Senate, it shall be in order for a Senator to raise a single point of order that several provisions of a bill, resolution, amendment, motion, or conference report violate this section. The Presiding Officer may sustain the point of order as to some or all of the provisions against which the Senator raised the point of order. If the Presiding Officer so sustains the point of order as to some of the provisions (including provisions of an amendment, motion, or conference report) against which the Senator raised the point of order, then only those provisions (including provisions of an amendment, motion or conference report) against which the Presiding Officer sustains the point of order shall be deemed stricken pursuant to this section. Before the Presiding Officer rules on such a point of order, any Senator may move to waive such a point of order as it applies to some or all of the provisions against which the point of order was raised. Such a motion to waive is amendable in accordance with the rules and precedents of the Senate. After the Presiding Officer rules on such a point of order, any Senator may appeal the ruling of the Presiding Officer on such a point of order as it applies to some or all of the provisions on which the Presiding Officer ruled.

COHEN AMENDMENT NO. 1479

(Ordered to lie on the table.)

Mr. COHEN submitted an amendment intended to be proposed by him to the bill S. 4, supra; as follows:

On page 167, between lines 18 and 19, insert the following:

SEC. 309. REPORTS ON FOREIGN INDUSTRIAL ESPIONAGE.

(a) IN GENERAL.—(1) In order to assist Congress in its oversight functions with respect to this Act and to improve the awareness of United States industry of foreign industrial espionage and the ability of such industry to protect against such espionage, the President shall submit to Congress a report that describes, as of the time of the report, the following:

(A) The respective policy functions and operational roles of the agencies of the executive branch of the Federal Government in identifying and countering threats to United States industry of foreign industrial espionage, including the manner in which such functions and roles are coordinated.

(B) The means by which the Federal Government communicates information on such threats, to United States industry in general and to United States companies known to be targets of foreign industrial espionage.

(C) The specific measures that are being or could be undertaken in order to improve the activities referred to in subparagraphs (A) and (B), including proposals for any modifications of law necessary to facilitate the undertaking of such activities.

(D) The threat to United States industry of foreign industrial espionage and any trends in that threat, including—

(i) the number and identity of the foreign governments conducting foreign industrial espionage;

(ii) the industrial sectors and types of information and technology targeted by such espionage; and

(iii) the methods used to conduct such espionage.

(2) The President shall submit the report required under this subsection not later than 6 months after the date of the enactment of this Act.

(b) ANNUAL UPDATE.—Not later than 1 year after the date referred to in paragraph (2) of subsection (a), and on the expiration of each year thereafter, the President shall submit to Congress a report updating the information referred to in paragraph (1)(D) of that subsection.

(c) FORM OF REPORTS.—To the maximum extent practicable, the reports referred to in subsections (a) and (b) shall be submitted in an unclassified form, but may be accompanied in an unclassified form, but may be accompanied by a classified appendix.

(d) REPORT UNDER DEFENSE PRODUCTION ACT.—Section 721(k)(1)(B) of the Defense Production Act of 1950 (50 U.S.C. App. 217(k)(1)(B)) is amended by inserting "or directly assisted" after "directed".

(e) DEFINITION.—For the purposes of this section, "foreign industrial espionage" means industrial espionage conducted by a foreign government or by a foreign company with direct assistance of a foreign government against a private United States company and aimed at obtaining commercial secrets.

NOTICES OF HEARINGS

COMMITTEE ON RULES AND ADMINISTRATION

Mr. FORD. Mr. President, I wish to announce that the Committee on Rules and Administration will meet at 9:30 a.m., in S–301, Russell Senate Office Building, on Tuesday, April 19, and Thursday, April 28, 1994. The committee will hold hearings on the proposals for biennial budgeting and other budget process changes contained in S. 1824, the Legislative Reorganization Act of 1994. These provisions are included in subtitle A, parts I and II of title III of the bill.

Senators who wish to appear as a witness or to submit a statement for the record should have their staffs contact Jack Sousa of the Rules Committee staff. Individuals and organizations wishing to submit a statement for the record are requested to contact Mr. Sousa. He can be reached at 202–224–5648.

COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will be holding an Oversight Hearing on Wednesday, March 9, 1994, beginning at 10:00 a.m., in 485 Russell Senate Office Building on the President's budget request for fiscal year 1995 for the Indian programs within the Departments of Housing and Urban Development, Education, Labor, and the Administration for Native Americans.

Those wishing additional information should contact the Committee on Indian Affairs at 224–2251.

NOTICE OF JOINT HEARING

SUBCOMMITTEE ON MINERAL RESOURCES DEVELOPMENT AND PRODUCTION SUBCOMMITTEE ON PUBLIC LANDS, AND NATIONAL PARKS AND FORESTS

Mr. AKAKA. Mr. President, I would like to announce for my colleagues and the public that a joint hearing has been scheduled before the Subcommittee on Mineral Resources Development and Production and the Subcommittee on Public Lands, National Parks and Forests.

The purpose of the hearing is to receive testimony on H.R. 1137, the Old Faithful Protection Act of 1993.

The hearing will take place on Wednesday, March 16, 1994 at 2:30 p.m. in room SD–366 of the Dirksen Senate

Office Building, First and C Streets, NE, Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for inclusion in the printed hearing record should send their comments to the Committee on Energy and Natural Resources. U.S. Senate, Washington, DC 20510.

For further information, please contract Lisa Vehmas at (202) 224-7555 or Kira Finkler (202) 224-7933.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Tuesday, March 8, 1994, at 2:30 p.m., in open session, to receive testimony on the Defense authorization request for fiscal year 1995 and the future years Defense program.

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

COMMITTEE ON ENERGY AND NATRUAL RESOURCES

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 a.m., March 8, 1994, to receive testimony on the Department of Energy's fiscal year 1995 budget on renewable energy programs.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be authorized to meet during the session of the Senate on Tuesday, March 8, beginning at 10:00 a.m. to conduct a hearing on the Environmental Protection Agency's fiscal year 1995 budget request.

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

COMMITTEE ON FINANCE

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet today at 10:00 a.m. to hear testimony on the subject of medical education.

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

COMMITTEE ON THE JUDICIARY

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Tuesday, March 8, 1994.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on Mental Health and Substance Abuse: Coverage in Health Care Reform, during the session of the Senate on March, 8, 1994, at 10:00 a.m.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, March 8, 1994 at 2:30 p.m. to hold a closed hearing on intelligence matters.

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

SUBCOMMITTEE ON DEFENSE TECHNOLOGY, ACQUISITION, AND INDUSTRIAL BASE

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Subcommittee on Defense Technology, Acquisition, and Industrial Base of the Committee on Armed Services be authorized to meet on Tuesday, March 8, 1994, at 9:00 a.m., in open session to receive an overview of the Department of defense and military services technology base programs in review of the Defense authorization request for fiscal year 1995 and the future years Defense program.

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

SUBCOMMITTEE ON WESTERN HEMISPHERE AND PEACE CORPS AFFAIRS

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Subcommittee on Western Hemisphere and Peace Corps Affairs of the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Tuesday, March 8, 1994 at 9 a.m. and 2 p.m. to hold hearings on United States policy toward Haiti.

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

ADDITIONAL STATEMENTS

THE 1994 SAGARMATHA EXPEDITION

• Mr. GORTON. Mr. President, this Saturday, March 12, 1994, two Washington State residents will attempt to summit Mt. Everest without the use of oxygen and remove 2,000 pounds of trash from the peak's South Col route. Brent Bishop and Scott Fisher will make the climb as a part of the 1994 Sagarmatha Environmental Expedition.

Brent Bishop is the son of Dr. Barry Bishop, a member of the first U.S. expedition to reach the summit of Mt. Everest in 1963. It has been a lifelong dream of both climbers to reach the world's highest peak. Not only will the climbers be accomplishing an extraordinary feat by reaching the summit without oxygen, they will also be making an impact on the Mountain's environment by removing the trash.

I applaud the efforts of these young men and wish them the best of luck for this outstanding exhibition. If successful, Brent Bishop and Scott Fisher will be remembered for their contribution to the sport of mountain climbing and to the cause of the environment.•

PROSECUTING WAR CRIMES REQUIRES U.S. LEADERSHIP

• Mr. DECONCINI. Mr. President, developments over the past few weeks have given me some cause to believe that the long-overdue effort to hold war criminals from the former Yugoslavia personally accountable are finally beginning to take shape. In particular, the judges of the U.N. International Criminal Tribunal have now hammered out their draft rules of evidence and procedure and an acting deputy prosecutor has been named with the authority to proceed with investigations, indictments, and trials.

Most significant, however, are reports from Germany and Denmark that the Governments of those two countries have each separately arrested a suspect from the former Yugoslavia. In Germany, authorities have taken into custody a Bosnian Serb, Dusan "Dusko" Tadic, whom they plan to try for acts of genocide in the on-going war. In Demark, similar action has been initiated against a Bosnian Moslem accused of atrocities against Croats. Both suspects gained entry to those countries posing as refugees.

For the time being, both countries plan to proceed with trials under their national legislation against these two suspects. There are, however, provisions in the U.N. statute for the International Criminal Tribunal for the former Yugoslavia that would permit these cases to be transferred to that forum.

Mr. President, I raise these cases here because I believe they should give pause to us all regarding the obligations of the United States with respect to the International Criminal Tribunal. As it now stands, today, if an alleged criminal from the former Yugoslavia were to gain entry to the United States, we would have the legal grounds neither to try that person here for heinous acts nor to surrender him or her to The Hague for trial. Lest anyone think that the possibility of war criminals coming to the United States is too remote, we need only recall that this is exactly what happened when Radovan Karadic—a man named by Secretary of State Eagleburger as a war criminal—came to New York in 1993.

I understand that the Department of State has been working on a draft implementing legislation to enable the United States to fulfill our obligations with respect to the U.N. Tribunal. More to the point, the prompt passage of implementing legislation will enable

the United States to play a much needed leadership role with respect to other countries which are more likely, in fact, to gain custody of war criminals. If the United States fails to become engaged and fails to play a strong and active leadership role, the prospects for accountability will diminish accordingly. We must not let that happen.•

HOMICIDES BY GUNSHOT IN NEW YORK CITY

• Mr. MOYNIHAN. Mr. President, as has become my practice during this session of the 103d Congress, I rise today to announce to the Senate that during this past week, 15 people were killed by gunshot in New York City.•

TRIBUTE TO DR. JOHN M. SMITH, JR.

• Mr. MCCONNELL. Mr. President, I rise today to pay tribute to an outstanding Kentuckian who dedicated more than four decades of service to the people of rural Lee County, KY. Dr. John M. Smith, Jr., will be honored as the Beattyville Lee County Chamber of Commerce Citizen of the Year this weekend for his outstanding commitment to the community.

When Dr. Smith first practiced medicine in Lee County in 1951, he was obligated to stay 1 year. His first year of medical school at the University of Kentucky was funded with assistance from the rural medical fund of the Kentucky Medical Association. In exchange, Dr. Smith was required to serve 1 year in a county identified by the State as needing a doctor. He chose Lee County, in part because of his own roots in nearby Perry and Jackson counties. Now, 43 years later, he continues to serve the people of Beattyville and Lee County faithfully and compassionately from his own clinic.

John Smith returned to the eastern Kentucky mountains after a stint as a Navy physician. Although he grew up in the region, he surely was not fully prepared for the unique challenges which face a country doctor. In Beattyville circa 1952, no pharmacy or x-ray machine was available, the nearest hospital was about an hour away, and many homes could not be reached by car.

Legendary Kentucky writer Joe Creason once profiled Dr. Smith in the Louisville Courier-Journal. Mr. Creason wrote of Dr. Smith being transported by tractor and rowboat to reach patients and of his accepting almost any form of payment, including country hams, chickens, and farm produce. Ironically, Mr. Creason's article was published just 1 year after Dr. Smith began his practice in Lee County. I would suspect that he could now write a book on the unusual, yet rewarding experiences of this dedicated physician.

Dr. Smith's early years as a doctor were not the first time he gave selflessly to help others. Prior to medical school, he enlisted in the U.S. Navy as a line officer during World War II. A lieutenant on board the U.S.S. *Weeden*, Dr. Smith participated in the campaign to take back the Philippines and traveled to Nagasaki just after the bomb was dropped to pick up United States prisoners there. Dr. Smith also served during the Korean war, as a Navy physician at the Louisville recruiting station.

John Smith also continued his medical education after he established his practice in Beattyville. He attended the Armed Forces Institute of Pathology in Washington, DC, completed a residency in radiology at Memphis Methodist Hospital and the University of Kentucky, and gained experience as a staff radiologist in Morehead, at the Woodford County Hospital, and at the Lexington Clinic.

Clearly, Dr. Smith could have pursued countless opportunities to take his practice to a larger city or work in a hospital of national prestige. However, the seventh-generation Kentuckian returned to Lee County whether he has truly made a difference in the lives of thousands of rural citizens. His experience, dedication, and compassion make Dr. John Smith a role model for young Kentuckians who are considering a career in medicine.

Mr. President, I congratulate Dr. John Smith for his recognition as Beattyville-Lee County Chamber of Commerce Citizen of the Year and for the many years he has devoted to the people of Lee County and surrounding communities. Please include an October 26, 1952, article from the Courier-Journal in today's RECORD.

The article follows:

[From the Louisville Courier-Journal, Oct. 26, 1952]

BEYOND THE CALL OF DUTY

(By Joe Creason)

Here's an example of the success of the Medical Scholarship Fund, created to provide more doctors for the rural areas of the state.

John M. Smith, Jr., has a pretty good idea he'd be in for some unusual times when he hung up his shingle and started the practice of medicine in Beattyville, Ky.

After all, he knew beforehand that Lee County was one of some 40 in Kentucky that was critically short on doctors, having then—in 1951—only one for a population of more than 8,000 people.

And he knew six other neighboring counties of mountainous East Central Kentucky—Clay, Owsley, Jackson, Wolfe, Powell and Menifee—likewise were on short rations indeed, so far as doctors were concerned.

So he must have suspected he'd face a lot of situations and experiences not generally covered in medical textbooks.

But, even with all that forewarning, it's extremely doubtful if Dr. John M. Smith, Jr., expected the time would come when a tractor would be the only way he'd be able to get into a remote area to see a patient.

Or that he'd have to cross the rain-swollen Kentucky River in a rowboat in the dead of winter with a half-blind woman at the oars.

Or that he'd ever take country hams—at the exchange rate of $1 a pound—in line of payment for medical services.

Or that a dozen and one other unusual experiences would come his way in less than a year and a half.

For that's just the length of time Dr. John M. Smith, Jr., one of the first 12 products of the Rural Kentucky Medical Scholarship Fund, has been practicing in Beattyville.

The Rural Medical Fund, sponsored by the Kentucky State Medical Association in cooperation with the University of Louisville School of Medicine, was started in the 1946–47 school year. The purpose of the fund, raised by public subscription, was to provide better medical care for the people of rural Kentucky. Medical students needing financial help may borrow from the fund and make repayment on the basis of a year of practice in a doctor-short section for each year of aid.

To translate the intention of the fund into a real situation, John Smith received help from it for one year—1946–47. That was his first in medical school and the year the first of his two sons was born. Having very little he could use for money, he borrowed in order to get started in school. After that he needed no help.

In return for that year of financial assistance, he was obligated to devote one year's practice to a county approved by the State Board of Health as needing doctors. After looking over the field, he chose Lee County.

If John Smith is a fair sample, then the Rural Medical Fund can be pronounced quite a large success. He now has served his year of obligation, owns a home in town and shows no signs of leaving, which is exactly what sponsors of the fund were hoping for. They reasoned that if they could get young doctors into rural areas for a year or so, some of them, at least, would settle down to permanent practice.

During his year-plus in Lee County, Dr. John Smith has given medical help to hundreds of people from a rather populous and mountainous seven-county area who, conceivably, would have had none otherwise.

Moreover, the people he serves are the kind who don't go rushing off to the doctor with every stomach-ache, or some such.

"Most of these folks are stoic and will suffer a long time before coming in," he says.

"Why, I've had patients with pneumonia walk in to the office from seven or eight miles away.

"I do all I can for them and send them to the hospital—the nearest one is in Richmond, 52 miles away—only in emergencies," he adds. "After all, many of my patients can't afford to go to the hospital with every ache and pain like city folks."

Sponsors of the fund actually got a more than somewhat rare bargain in John Smith. They didn't get just one rural doctor—they got two. For his wife also is a doctor, a 1945 medical graduate of New York University, and she recently opened an office at Booneville, 12 miles south in adjoining Owsley County.

Although there were two doctors in Booneville, both were old. One had suffered a stroke. Smith was receiving so many patients from that area it seemed a perfect spot for his wife to open an office to relieve some of the strain.

Now that he's settled in Lee County, John Smith has become a family doctor in every sense of the word. He's known as "Doc" everywhere and can call most of the folks he passes on the road by their first names. He can point to children he brought into the

world. He is taken into confidences, sought out for advice on every conceivable situation.

Since opening his office, he has been too busy even to attend a single movie. The only days he has been away from work was once during a medical meeting and the couple of days he was out last winter with the flu.

Incidentally, that case of the deep sniffles came in the line of duty. He was called to see a woman in the Oakdale section of the county who was sick with pneumonia. He had to follow a narrow path above an ice-laced creek in reaching the home.

As he inched along the bank, it suddenly caved in and he was dunked, bag, baggage and pill bottles, into waist-deep water. He went on and completed the call before changing clothes, something he'd raise Cain with a customer for doing, and the result was flu.

Smith keeps a pair of galoshes in the back of his car for hiking over terrain not suited even for the most sturdy horseless carriage. And it's quite often that a car can't make it back into a particularly rough, hilly section. As, for instance, when the husband of a sick woman had to ride him in and out on a tractor, the only transportation that could make the trip.

Then there was the boat ride last winter that he—a veteran of three years of destroyer-escort duty in the Navy—never will forget. He had gone to call on a patient who lived on the other side of the North Fork of the Kentucky River some distance above Beattyville. The only way across the river was by boat. The return was long after sundown and in inky darkness. The pilot was a partially blind woman.

"I crouched in the bottom of the boat," he recalls, "and wondered about my life insurance.

"How she hit the tiny landing on the other side of the river in that darkness and pulling into a swift current. I'll never know."

Numerous times he has been called to see patients in parts of the area he doesn't know. In such cases, the family of the sick person will more or less blaze a trail for him. They'll place a forked stick at the place he's supposed to turn off the main road and leave assorted other signs along the way.

He gets night calls, of course, but not as many as might be expected.

"These folks are sturdy, and they'll usually stick it out until morning," he says.

But the night calls do come. This spring he was roused at 1 a.m. He went with the caller to see the man's wife, gave her some pills and returned home to bed.

Less than 30 minutes later, he was brought out of bed again. It was the same man.

"Better come again, Doc," he urged, "she ain't a bit better."

Lots of patients have been unable to pay cash for doctor-work. So Smith has taken almost everything in payment. He keeps well supplied in ham, chicken and farm produce.

"At first my wife had a little trouble understanding what some patients were talking about," he says.

"Folks would come in and say, 'Take a look at this kid, Doc, he's been daunceyin' 'round,' and she'd have a hard time figuring what they meant.

"But since I was born in Perry County and grew up in Jackson County, I knew when they talked about 'daunceying 'round' or 'punying 'round,' another very descriptive bit of speech, they meant the child was sort of dragging around and showing little life."

Since he opened his office, another young doctor has come to Beattyville. Sam D. Taylor, born there, and also a U. of L. graduate, returned home in August to start practice. The two have worked out a scheme whereby one day a week they take the other's office calls. That allows them to get one day all to themselves.

Smith has his office in what was an old drugstore across the street from the Courthouse. He has divided the gunbarrel-shaped space into a reception room, office, drug room, examination room and delivery room. He delivers babies at homes, but prefers to have expectant mothers come to his office where he has all necessary equipment, including oxygen. He keeps them 10 to 12 hours after the delivery and sends them home in an ambulance.

Beattyville has no pharmacist, so Smith has to dispense his own pills and medicines. Neither is there an X-ray machine in town, although he hopes to install one soon.

Besides his unusual doctoring experiences, Smith has the rather unique distinction of having served as an officer in two different branches of the Navy within a five-year period.

After being graduated from the University of Kentucky in 1942, the 30-year-old Smith went into the Navy as a line office. Upon his discharge, he entered medical school and was graduated in 1949. Then, following his intern work, along came the war in Korea and he volunteered to go back into the Navy, this time as a medical officer. He served for more than a year in Louisville at the recruiting station.

His second discharge came July 6, 1951. He opened his office 10 days later.

In the nearly seven years since the Rural Medical Fund was set up, 64 students have received $100,450 in financial help. Twelve of those students, including Smith, have served at least one year in rural areas. Nine are still there. Of the three who left the rural field, one is in the Army, one is sick and one moved to another state.

Besides Smith, other fund-helped doctors with at least one year in rural practice are O. C. Cooper, Wickliffe; Carson E. Crabtree, Buffalo; Oscar A. Cull, Corinth; William G. Edds, Calhoun; Clyde J. Nichols, Clarkson; Benjamin C. Stigall, Livermore; William L. Taylor, Guthrie, and Loman C. Trover, Earlington.

Six other doctors who were helped by the fund completed their internship in July and now are practicing in the country.

"Rural practice gets next to a fellow," John Smith says. "You have to make a lot of changes from what they say in the books—you have to be down-to-earth and forget all about dignity and professional manners at times.

"But there's an awful lot of satisfaction in serving people who really need help."

Which pretty nearly describes the country doctor.●

MEDIA COVERAGE OF THE NAFTA DEBATE

● Mr. LEVIN. Mr. President, the battle over the ratification of the North American Free Trade Agreement last fall received extensive attention in the Nation's media, but a strong case can be made that the coverage was not very balanced. Our distinguished colleague, Senator BYRON DORGAN of North Dakota, has calculated that, for example, the Washington Post devoted some 756 column inches to pro-NAFTA editorials and columns, while anti-NAFTA op-ed pieces got only 132 inches. His thought-provoking critique of the media's handling of the NAFTA debate was published in the January/February, 1994 issue of the Columbia Journalism Review. Senator DORGAN forcefully criticizes the biases and premises of major media outlets and attacks their over-simplification and mischaracterization of NAFTA opponents' arguments against the Treaty. I commend Senator DORGAN's article to the attention of my colleagues. I ask that a copy of this article be printed in the RECORD following my remarks.

The article follows:

[From the Columbia Journalism Review, February 1994]

THE NAFTA DEBATE THAT NEVER WAS

(By Byron L. Dorgan)

At a forum on journalists and NAFTA last month, James Glassman, a regular contributor to The Washington Post business page, defended his paper's lopsided coverage of the recent trade debate. There are issues, Glassman said, on which to be fair to both sides is to do a "disservice to the debate." In other words, NAFTA opponents like myself just couldn't match his mental voltage, and to take us seriously was merely to propagate our ignorance.

"To me," Glassman said, "NAFTA never should have been this close."

That admission does not surprise me. Nor does it surprise me that, for all the ink that flowed on NAFTA, people still tell me they have only a vague notion of what the issues really were. For months, I and other members of Congress tried to engage a real public debate over the economics of NAFTA, and we just couldn't.

Instead, the media caricatured NAFTA opponents and created straw men: Pat Buchanan the nativist and primitive, Ross Perot the kook, plus a bunch of Smoot-Hawley retards, labor dupes, and backwoods isolationists. (Our opposition was based solely on "fear of change and fear of foreigners," asserted Anthony Lewis in The New York Times, expressing the condescension of the mainstream press.)

As the debate heated up, the media reduced it to the familiar horse race—how many more votes does the president need?—and gave short shrift to both the specifics of the treaty and its antiquated conceptual underpinnings. Throughout, the media showed great reverence for credentialed experts (in the Times, Sylvia Nasar cited economist Paul Samuelson's "legendary textbook") and an inability to consider the possibility that these experts were—gasp!—wrong. The phrase "economists say" became the end of the discussion, when it should have been the beginning.

As a result, we NAFTA opponents felt trapped in an Alice-in-Wonderland world in which things reported were the opposite of things that were. For example, we read that we were hysterical alarmists, while the mainstream media were the ones who were hyperventilating. If we sent NAFTA back for more work, Business Week warned in large ominous type, "the consequences for the world could be dire." We were lectured on the bracing rigors of competition by reporters and columnists whose own jobs were safe, by reason of language and caste, from the inroads of dollar-an-hour Mexican labor. Most of all, we kept hearing about an imposing anti-NAFTA juggernaut, while these same

newspapers and magazines were in effect forming a pro-NAFTA juggernaut of their own.

The cheerleading became so loud that I decided to count copy. From January on, The Washington Post devoted some sixty-three feet to pro-NAFTA editorials and columns, while the anti-NAFTA side got only eleven feet. At other major papers, the ratio was about the same, or even more lopsided. The news pages, meanwhile, were implicitly conveying the same message: we opponents deserved no more than the obligatory balancing quote. Stories in The New York Times quoted three NAFTA supporters for every NAFTA opponent, according to FAIR, the media-watch group. At the Post, the tilt was more than four to one.

In other words, while the major papers preached free trade for the economic marketplace, they practiced intellectual protectionism—a kind of journalistic Smoot-Hawley—in the marketplace of ideas.

Meanwhile, the way the media dealt with NAFTA itself was grossly simplistic. Dismissing what they clearly considered petty details and focusing on "the big picture," reporters, columnists, and commentators almost uniformly played NAFTA as an abstract debate over "free trade" rather than as a specific trade agreement that is severely flawed in ways large and small. It was as though the media were debating the merits of medical insurance, as opposed to the specific proposals for providing it.

Most Americans never found out, for example, that, behind the veil of "free trade," NAFTA protects Mexican producers of everything from potatoes to beans. The U.S. agreed to phase out its tariffs on Mexican potatoes over five years, while Mexico will take ten years to eliminate its own tariffs. America opens the door to Mexican french fries immediately, while Mexico sets a quota for U.S. fries at less than the 1991 level and continues its current 15-20 percent tariff for ten years.

Free trade? Or just a great deal for corporate food processors who want to move to Mexico and to sell back into the U.S.? That kind of question—and potatoes and french fries are just two of thousands of such issues—rarely got asked.

The media were similarly myopic on the "big picture" itself—the economic premises on which the whole agreement was based. A piece by David Rosenbaum in the Times on September 19 was typical. Good Economics Meet Protective Politics was the headline, embracing two erroneous assumptions in just five words. In The New Yorker, Sidney Blumenthal quoted Mickey Kantor, the administration's trade rep, approvingly. The only obstacle to the agreement was dumb, benighted politics. Kantor said, "We have won the intellectual argument on this."

Just possibly they won because the media permitted only a straw man to get into the debate. The debate was not over fair and open trade. Of course, we need that. Rather, the debate was—or should have been—over the rules for such trade, and over the system of governance to enforce those rules. Ultimately, it was—or should have been—over whether NAFTA is based on the world economy that actually exists or the relic that inhabits economic theory.

"Since the time of Adam Smith more than 200 years ago," Rosenbaum wrote, "Western economists have been trained in the principle that unrestricted trade is the best policy." Great. But isn't that precisely the kind of conventional wisdom that reporters ought to be questioning? As James Fallows pointed out in The Atlantic last month, "Western" really means "Anglo-American." Much of the rest of the world simply doesn't follow the pronouncements that economists in Britain and America take as gospel. In addition, Rosenbaum typically didn't go on to ask the crucial question: Exactly how does the conventional Anglo-American belief apply in a world that is fundamentally different from the one in which Smith wrote?

The modern corporation, for example, the dominant part of our economic landscape, didn't even exist in Adam Smith's day. Back then, producers were rooted in locality and nation, and their interests could hardly be separated from the national interest. Today, by contrast, capital is "mobile," in the economists' phrase. It's a sort of international free agency, a ball game in which the major players can change sides in the middle of the game.

In this context, orthodox free trade becomes a contest to attract corporate producers. Rather than competing to sell products, nations compete to attract the corporate investment to make the products. The result is to intensify "smokestack chasing," the kind of bidding war that has driven states to offer massive taxpayer subsidies to private organizations and that, on the international level, can drag down safety and environmental standards.

In this sense, NAFTA was not so much wrong as half-baked. It frees capital investment, but lacks a system of governance to ensure that the resulting trade is fair and really works to the benefit of this nation. We could have drafted a better version that addressed this defect, but we didn't.

NAFTA does create a governance system. But it's one that enables corporations to challenge our environmental and other laws as "barriers to trade." My state has a law against corporate farming. Will that now be seen as a "barrier" to foreign investment that corporations can strike down? Rarely did the media explore the implications of the dispute process. Nor did reporters ask how it would work in practice. North Dakota has had sobering experience, under the Canadian Free Trade Agreement which was a kind of preview of NAFTA.

To make a long story short, Canadian farmers flooded the American market with subsidized durum wheat, the kind used in pasta. The price was so low that they displaced about a third of the durum acreage in my state. Yet the special panel created under the agreement decided that the Canadian subsidies didn't count. It turned out that the U.S. negotiators had made a secret deal to that effect. Are there any such secret deals in NAFTA? Do we have any reason to believe that the dispute process in the Mexican agreement will work out any better? Few reporters bothered to ask. Nor did the media explore such questions as how the IRS, with its outdated multinational tax enforcement methods, is going to stop corporations from juggling profits between their subsidiaries on both sides of the border.

Already, some 72 percent of foreign-controlled corporations (and more than half of U.S.-controlled multinationals) pay not a penny in federal income taxes, thanks largely to such juggling. If the IRS does not scrap its green-eyeshade-era methods, NAFTA will only make the problem worse.

On October 26, 1993, while the NAFTA fracas raged on, the New York Times ran a front-page analysis of the economics of medical care that challenged the textbook market model. The reporter, the same David Rosenbaum who didn't question NAFTA's gospel, showed why that premise just doesn't work in the medical industry as it exists today. That's the kind of thinking reporters should bring to the realm of trade. Watergate taught the media to be skeptical of elected officials. Now it's time for a similar skepticism regarding credentialed economic experts. The media also should practice what they preach. If they are going to lecture on the importance of free and open markets, then they should permit free and open debate in their own marketplace of ideas.•

A BILL TO MAKE SSA AN INDEPENDENT AGENCY

• Mr. PRYOR. Mr. President, I would like to speak on behalf of a bill that was approved by the Senate on March 2, 1994: The Social Security Administration Independence Act, S. 1560. While I was unable to participate in the Senate floor debate that day, I want to state my whole-hearted support for the bill, and to mark the importance of its approval by the Senate. This is legislation whose time has come. In fact, it is long overdue. This Senator introduced the first bill in the U.S. Senate to make SSA independent in 1984. Since that time, both Houses of Congress have stepped up to the plate on this issue numerous times, without ever scoring a run.

At this time, under the able leadership of the chairman of the Finance Committee, I truly believe we will accomplish our longstanding goal of making SSA independent. Chairman MOYNIHAN has been a tireless leader on this and all issues concerning Social Security. Due in large part to his leadership, March 2 will be remembered as a historic breakthough in the history of this critical agency.

Mr. President, SSA deserves to be independent. It affects virtually every household in America. Nearly one out of every six Americans receives direct benefits from Social Security or Supplemental Security Income. Over 130 million Americans pay Social Security taxes. To carry out these huge responsibilities, SSA is one of the largest agencies in the Federal Government, with 64,000 employees, a network of 1,300 field offices, and an annual budget of over $300 billion.

As an independent agency, SSA would be larger than most Federal departments. In fact, SSA currently has more employees than if you combined the staffs of the Department of State, the Department of Labor, the Department of Education, and the Department of Housing and Urban Development—SSA has more employees than all of these together.

We need to remember that SSA started in the 1930's as an independent agency. The bill before us would restore SSA to its original position. Given how much the agency has grown since then, it is more important now than ever that SSA be made independent.

The public demands and deserves the highest quality of service from SSA.

Unfortunately, they haven't been getting that kind of service lately. When someone calls with an inquiry or concern about an important Social Security benefit, they ought to be able to get a direct, clear, and accurate answer. They should not get a busy signal, have to wait in a long line, or be transferred to some distant office on an 800 number. They should not get wrong information or an incomplete response.

Until recent years, SSA was considered a flagship agency for quality service to the public. SSA, in my opinion, has lost that reputation for excellence. One way to turn this around is to make SSA independent, so it can more directly manage its own affairs, hire the people it needs, and get them out where they need to be in the field.

Another step that needs to be taken is to completely remove Social Security from the Federal budget, so that its funds are not used in the budget arithmetic for something unrelated to Social Security. Despite having taken Social Security off budget, games are still being played with SSA's administrative budget. I would like to work with the chairmen of the Finance and Budget Committees, who have led efforts to take SSA administrative expenses off budget, to get that accomplished.

This bill contains a number of key reforms, including its structure with a single administrator at the head of the Agency, overseen by a bipartisan advisory board. In 1989, I asked the National Academy of Public Administration to conduct a study as to the best governing structure for SSA. The study concluded, based on historical examples of problems faced by agencies that were run by boards, that the structure contained in this bill was the best model. The General Accounting Office reached the same conclusion.

The Social Security Administration is one of the few Government agencies that touches the life of every American citizen at one time or another. I congratulate the chairman of the Committee on Finance, Mr. MOYNIHAN, and my colleagues on the passage of this legislation, which will benefit the millions of Americans who participate in Social Security, and for those who will be participating for years to come.●

THE FCC'S ACTION ON CABLE RATES

● Mr. LIEBERMAN. Mr. President, 2 weeks ago, the Federal Communications Commission took a brave stand for America's consumers and against the well-heeled special interests when it announced new rate regulations for cable television. By its action, the FCC reaffirmed that Congress meant what it said when it passed the 1992 cable act—that it was to be the Cable Television Consumer Protection and Competition Act.

When we passed the 1992 Cable Act, we made a very simple pledge to consumers: You will no longer have to pay monopoly prices for cable television. Under that Act, the FCC and local franchising authorities were given the power and the responsibility to protect consumers against being charged more in monopoly systems than they would have to pay if there was real head-to-head competition. Where head-to-head competition exists, however, there is no rate regulation.

What the FCC did on Tuesday was to uphold Congress' promise to consumers. The initial 10 percent rate cut the Commission had ordered last year did not come close to bringing cable rates down to competitive levels. Even at that time, surveys had indicated that cable prices were nearly 30 percent lower in systems with head-to-head competition than in monopoly systems. With the additional rate cuts ordered on Tuesday, prices in monopoly systems will finally begin to approach those that would exist in a competitive marketplace.

Mr. President, we have all heard dire threats over the past 2 days that somehow the FCC's action will halt construction of the information superhighway. The critics argue that by taking away the money that would otherwise go to build new services. If these arguments sound familiar, it is because these are precisely the arguments that Congress considered and rejected when it passed the 1992 Cable Act. It is, once again, what Bush administration FCC Chairman Al Sikes once called "The Myth of 'Benevolent Monopoly.'"

The American people know better. They know that monopolies are rarely benevolent. They know that competition is their best protection. And they also know that they need to be protected against monopoly cable prices until competition actually comes. That is what the Cable Television Consumer Protection and Competition Act of 1992 does, and that is why it was the only bill passed over the President's veto during the entire Bush administration.

Over the last several months, Mr. President, I have received numerous letters from consumers complaining about rate increases under the FCC's previous rate regulations. In Connecticut, rates for one or more cable tiers actually increased in over half of the cable systems. To these consumers, those rate increases were signs of another broken promise by the Federal Government, one which many of them believed was the result of Washington paying more attention to the special interests than to them. Mr. President, it is my hope that the action the FCC took on Tuesday will show these consumers that we meant what we said when we passed a cable consumer protection act, and that the system can work for them.

Mr. President, I want to congratulate our new FCC Chairman Reed Hundt for the strong leadership he has shown on this matter. It was not easy to come into the Commission and pursue a reexamination of the rate regulations, and to withstand the pressure to maintain the status quo put on the Commission by the cable industry. I also want to congratulate and commend former acting Chairman James Quello and Commissioner Andrew Barrett for their willingness to reassess the rate benchmarks in light of additional information and analysis. They have all shown great dedication to the public interest in carrying out an extremely difficult task, one which will now mean many dollars in monthly savings for millions of American families.●

REGULATORY CONSOLIDATION ACT OF 1994

● Mr. RIEGLE. Mr. President, I ask unanimous consent that the full text of S. 1895, the Regulatory Consolidation Act of 1994, be printed in the RECORD.

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

S. 1895

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 "Regulatory Consolidation Act of 1994".

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

Sec. 1. Short title; table of contents.
Sec. 2. Purposes.
Sec. 3. Definitions.

TITLE I—FEDERAL BANKING COMMISSION ESTABLISHED

Sec. 101. Establishment.
Sec. 102. Membership.
Sec. 103. Chairperson and vice chairperson.
Sec. 104. Appointed commissioners' terms.
Sec. 105. Political affiliation.
Sec. 106. Vacancies.
Sec. 107. Employment and other restrictions on commissioners.
Sec. 108. Appointed commissioners' compensation.

TITLE II—POWERS AND DUTIES TRANSFERRED TO FEDERAL BANKING COMMISSION

Sec. 201. Powers and duties transferred.
Sec. 202. Designated transfer date.
Sec. 203. Office of Comptroller of the Currency abolished.
Sec. 204. Office of Thrift Supervision abolished.
Sec. 205. Federal Financial Institutions Examination Council abolished.
Sec. 206. Savings provisions.

TITLE III—OPERATIONS OF FEDERAL BANKING COMMISSION

Sec. 301. Regulations and orders.
Sec. 302. Delegation of authority.
Sec. 303. Personnel.
Sec. 304. Litigation Authority.
Sec. 305. Funding.
Sec. 306. Contracting and leasing authority.
Sec. 307. Access to Commission's records.
Sec. 308. Federal Reserve's participation in examinations.
Sec. 309. Federal Reserve's authority to take enforcement action against largest banking organizations.

Sec. 310. Commission's supervision of certain State depository institutions.
Sec. 311. Advisory councils.
Sec. 312. Regulatory appeals process.
Sec. 313. Inspector General.
Sec. 314. Legislative and regulatory coordination.

TITLE IV—TRANSITIONAL PROVISIONS

Sec. 401. Commission's interim authority.
Sec. 402. Federal banking agencies' interim responsibilities.
Sec. 403. Employees transferred.
Sec. 404. Property transferred.
Sec. 405. Funds transferred.
Sec. 406. Disposition of affairs.
Sec. 407. Continuation of services.

TITLE V—CONFORMING AMENDMENTS TO FEDERAL DEPOSIT INSURANCE ACT

Sec. 501. Amendments to section 2.
Sec. 502. Amendments to section 3.
Sec. 503. Amendments to section 5.
Sec. 504. Amendments to section 7.
Sec. 505. Amendments to section 8.
Sec. 506. Amendments to section 10.
Sec. 507. Amendments to section 11.
Sec. 508. Amendment to section 12.
Sec. 509. Amendments to section 13.
Sec. 510. Amendment to section 14.
Sec. 511. Amendments to section 18.
Sec. 512. Amendment to section 20.
Sec. 513. Amendment to section 28.
Sec. 514. Amendment to section 30.
Sec. 515. Amendments to section 32.
Sec. 516. Amendment to section 33.
Sec. 517. Amendments to section 34.
Sec. 518. Amendments to section 35.
Sec. 519. Amendments to section 36.
Sec. 520. Amendments to section 37.
Sec. 521. Amendments to section 38.
Sec. 522. Amendments to section 39.
Sec. 523. Amendment to section 41.
Sec. 524. Amendment to section 42.

TITLE VI—CONFORMING AMENDMENTS TO OTHER BANKING STATUTES

Sec. 601. Amendments to the Act of June 30, 1876.
Sec. 602. Amendments to the Act of March 29, 1886.
Sec. 603. Amendments to the Act of May 1, 1886.
Sec. 604. Amendments to the Act of November 7, 1918.
Sec. 605. Amendments to the Act of February 25, 1930.
Sec. 606. Amendments to the Act of March 9, 1933.
Sec. 607. Amendments to the Act of August 17, 1950.
Sec. 608. Amendments to the Act of September 8, 1959.
Sec. 609. Amendments to the Act of September 28, 1962.
Sec. 610. Amendments to the Alternative Mortgage Transaction Parity Act of 1982.
Sec. 611. Amendments to the Bank Conservation Act.
Sec. 612. Amendments to the Bank Enterprise Act of 1991.
Sec. 613. Amendments to the Bank Holding Company Act of 1956.
Sec. 614. Amendments to the Bank Holding Company Act Amendments of 1970.
Sec. 615. Amendments to the Bank Protection Act of 1968.
Sec. 616. Amendments to the Bank Service Corporation Act.
Sec. 617. Amendments to the Banking Act of 1933.
Sec. 618. Amendments to the Banking Act of 1935.
Sec. 619. Amendments to the Community Reinvestment Act of 1977.
Sec. 620. Amendments to the Competitive Equality Banking Act of 1987.
Sec. 621. Amendments to the Depository Institutions Deregulation and Monetary Control Act of 1980.
Sec. 622. Amendments to the Depository Institutions Disaster Relief Act of 1992.
Sec. 623. Amendments to the Depository Institutions Disaster Relief Act of 1993.
Sec. 624. Amendments to the Depository Institution Management Interlocks Act.
Sec. 625. Amendments to the Electronic Fund Transfer Act.
Sec. 626. Amendments to the Emergency Homeowners' Relief Act.
Sec. 627. Amendments to the Equal Credit Opportunity Act.
Sec. 628. Amendments to the Expedited Funds Availability Act.
Sec. 629. Amendments to the Fair Credit Reporting Act.
Sec. 630. Amendments to the Fair Debt Collection Practices Act.
Sec. 631. Amendments to the Federal Credit Union Act.
Sec. 632. Amendments to the Federal Deposit Insurance Corporation Improvement Act of 1991.
Sec. 633. Amendments to the Federal Financial Institutions Examination Council Act of 1978.
Sec. 634. Amendments to the Federal Home Loan Bank Act.
Sec. 635. Amendments to the Federal Reserve Act.
Sec. 636. Amendments to the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.
Sec. 637. Amendments to the Home Mortgage Disclosure Act of 1975.
Sec. 638. Amendments to the Home Owners' Loan Act.
Sec. 639. Amendments to the Housing Act of 1948.
Sec. 640. Amendments to the Housing and Community Development Act of 1992.
Sec. 641. Amendments to the Housing and Urban Rural Recovery Act of 1983.
Sec. 642. Amendments to the International Banking Act of 1978.
Sec. 643. Amendments to the International Lending Supervision Act of 1983.
Sec. 644. Amendments to the National Housing Act.
Sec. 645. Amendments to the Real Estate Settlement Procedures Act.
Sec. 646. Amendments to the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991.
Sec. 647. Amendments to the Revised Statutes.
Sec. 648. Amendments to the Right to Financial Privacy Act of 1978.
Sec. 649. Amendments to the Truth in Lending Act.
Sec. 650. Amendments to the Truth in Savings Act.
Sec. 651. Comptroller's currency-related functions repealed.

TITLE VII—CONFORMING AMENDMENTS TO OTHER STATUTES

Sec. 701. Amendments to the Balanced Budget and Emergency Deficit Control Act of 1985.
Sec. 702. Amendments to the Bankruptcy Code.
Sec. 703. Amendments to the Commodity Exchange Act.
Sec. 704. Amendments to the Crime Control Act of 1990.
Sec. 705. Amendments to the Energy Conservation and Production Act.
Sec. 706. Amendments to the Farm Credit Act of 1971.
Sec. 707. Amendments to the Federal Trade Commission Act.
Sec. 708. Amendments to the Financial Reports Act of 1988.
Sec. 709. Amendments to the Flood Disaster Protection Act of 1973.
Sec. 710. Amendments to the Internal Revenue Code of 1986.
Sec. 711. Amendments to the Investment Advisers Act of 1940.
Sec. 712. Amendments to the Investment Company Act of 1940.
Sec. 713. Amendments to the Neighborhood Reinvestment Corporation Act.
Sec. 714. Amendments to the Paperwork Reduction Act of 1980.
Sec. 715. Amendments to the Securities and Exchange Act of 1934.
Sec. 716. Amendments to the Small Business Investment Act of 1958.
Sec. 717. Amendments to the title 5, United States Code.
Sec. 718. Amendments to the title 18, United States Code.
Sec. 719. Amendments to the title 25, United States Code.
Sec. 720. Amendments to the title 28, United States Code.
Sec. 721. Amendments to the title 31, United States Code.
Sec. 722. Amendments to the title 44, United States Code.
Sec. 723. Amendments to the Trust Indenture Act of 1939.

SEC. 2. PURPOSES.

The purposes of this Act are as follows:

(1) To promote the safety and soundness of insured depository institutions.

(2) To protect the deposit insurance funds.

(3) To improve the supervision and examination of insured depository institutions and their affiliates.

(4) To preserve and enhance the dual banking system.

(5) To reduce the cost of regulating depository institutions and their affiliates.

(6) To eliminate needless regulatory burdens, thus allowing insured depository institutions to compete more effectively and better serve consumers.

(7) To eliminate overlap, confusion, and inconsistency in supervision and regulation of insured depository institutions and their affiliates.

(8) To take better account of diferences among insured depository institutions.

(9) To eliminate unwarranted impediments to credit availability for businesses (including small businesses) and consumers.

(10) To promote stable, predictable, and fair supervision of insured depository institutions and their affiliates.

SEC. 3. DEFINITIONS.

For purposes of titles I through IV of this Act, the following definitions shall apply:

(1) APPOINTED COMMISSIONER.—The term "appointed commissioner" or "appointed commissioners" means a commissioner or commissioners appointed by the President under section 102(3).

(2) BOARD OF GOVERNORS.—The term "Board of Governors" means the Board of Governors of the Federal Reserve System.

(3) CHAIRPERSON.—The term "Chairperson" means the Chairperson of the Federal Banking Commission.

(4) COMMISSION.—The term "Commission" means the Federal Banking Commission.

(5) DESIGNATED TRANSFER DATE.—The term "designated transfer date" means the date designated under section 202.

(6) SECRETARY.—The term "Secretary" means the Secretary of the Treasury.

(7) CERTAIN OTHER TERMS.—The terms "affiliate", "bank holding company", "control" (when used with respect to a depository institution), "depository institution", "including", "insured branch", "insured depository institution", "national member bank", "State bank supervisor", "State depository institution", "State member bank", "State nonmember bank", and "subsidiary" have the same meanings as in section 3 of the Federal Deposit Insurance Act.

TITLE I—FEDERAL BANKING COMMISSION ESTABLISHED

SEC. 101. ESTABLISHMENT.

There is established the Federal Banking Commission as an independent establishment in the executive branch.

SEC. 102. MEMBERSHIP.

The Commission shall consist of the following 5 commissioners:

(1) The Secretary (or the Secretary's designee).

(2) The Board of Governors, acting through a member of the Board of Governors designated as a commissioner by resolution of the Board of Governors; and

(3) 3 commissioners appointed by the President, by and with the advice and consent of the Senate—

(A) from among individuals who are citizens of the United States; and

(B) at least 1 of whom (other than the commissioner designated as the Chairperson under section 103(a)(1)) shall be a person who has demonstrated knowledge of, and competence in, State supervision and regulation of depository institutions.

SEC. 103. CHAIRPERSON AND VICE CHAIRPERSON.

(a) CHAIRPERSON.—

(1) DESIGNATION.—The President shall, by and with the advice and consent of the Senate, designate 1 of the appointed commissioners, at the time of that person's appointment to the Commission, to serve as the Chairperson of the Commission.

(2) CHIEF EXECUTIVE OFFICER.—The Chairperson shall be the Commission's chief executive officer, subject to the supervision of the Commission.

(b) VICE CHAIRPERSON.—

(1) SELECTION.—The Commission shall select a Vice Chairperson from among its members.

(2) ACTING CHAIRPERSON.—The Vice Chairperson shall act as Chairperson if—

(A) the position of Chairperson is vacant; or

(B) the Chairperson is absent or unable to perform the functions of Chairperson.

SEC. 104. APPOINTED COMMISSIONERS' TERMS.

(a) CHAIRPERSON.—The Chairperson shall be appointed for a term expiring 4 years after the term of the predecessor Chairperson expires.

(b) OTHER APPOINTED COMMISSIONERS.—Each of the other 2 appointed commissioners shall be appointed for a term of 5 years.

(c) REMOVAL ONLY FOR CAUSE.—The President may remove any appointed commissioner for inefficiency, neglect of duty, or malfeasance in office.

(d) UNEXPIRED TERMS.—Any commissioner appointed to fill a vacancy occurring before the end of the term to which the commissioner's predecessor was appointed shall be appointed only for the remainder of the term.

(e) CONTINUATION OF SERVICE.—

(1) IN GENERAL.—Each appointed commissioner may continue to serve after the expiration of the term of office to which the commissioner was appointed until a successor has been appointed and qualified.

(2) CONTINUATION NOT TO AFFECT CHAIRPERSON'S TERM.—Any continuation of service by the Chairperson under paragraph (1) shall not cause the successor Chairperson's term to expire later than as provided under subsection (a).

(f) INITIAL APPOINTMENTS STAGGERED.—Notwithstanding subsections (a) and (b)—

(1) the first Chairperson shall be appointed for a term that expires March 31, 1997; and

(2) of the first 2 other appointed commissioners—

(A) 1 shall be appointed for a term that expires 5 years after the designated transfer date; and

(B) 1 shall be appointed for a term that expires 2½ years after the designated transfer date,

as designated by the President at the time of their appointments.

SEC. 105. POLITICAL AFFILIATION.

Not more than 2 of the appointed commissioners may be members of the same political party.

SEC. 106. VACANCIES.

Any vacancy on the Commission shall be filled in the same manner in which the original appointment was made.

SEC. 107. EMPLOYMENT AND OTHER RESTRICTIONS ON COMMISSIONERS.

During service on the Commission, no commissioner may—

(1) hold any office or position, or otherwise be employed by, any insured depository institution or company having control of an insured depository institution;

(2) hold stock of any insured depository institution or company having control of an insured depository institution; or

(3) serve as an officer, director, or employee of any Federal reserve bank or Federal home loan bank.

SEC. 108. APPOINTED COMMISSIONERS' COMPENSATION.

(a) CHAIRPERSON.—The Chairperson shall receive compensation at the rate prescribed for Level II of the Executive Schedule under section 5313 of title 5, United States Code.

(b) OTHER APPOINTED COMMISSIONERS.—The 2 other appointed commissioners shall each receive compensation at the rate prescribed for Level III of the Executive Schedule under section 5314 of title 5, United States Code.

TITLE II—POWERS AND DUTIES TRANSFERRED TO FEDERAL BANKING COMMISSION

SEC. 201. POWERS AND DUTIES TRANSFERRED.

(a) COMPTROLLER OF THE CURRENCY.—

(1) TRANSFER OF FUNCTIONS.—All functions of the Comptroller of the Currency are transferred to the Commission.

(2) COMMISSION'S AUTHORITY.—The Commission shall have all powers and duties that were vested in the Comptroller of the Currency on the day before the designated transfer date.

(b) DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION.—

(1) TRANSFER OF FUNCTIONS.—All functions of the Director of the Office of Thrift Supervision are transferred to the Commission.

(2) COMMISSION'S AUTHORITY.—The Commission shall have all powers and duties that were vested in the Director of the Office of Thrift Supervision on the day before the designated transfer date.

(c) BOARD OF GOVERNORS.—

(1) TRANSFER OF FUNCTIONS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), all functions of the Board of Governors (and any Federal reserve bank) relating to the supervision and regulation of the following entities are transferred to the Commission:

(i) National member banks and State member banks.

(ii) Bank holding companies and their affiliates, and other companies having control over depository institutions.

(iii) Foreign banks and branches, agencies, and representative offices of foreign banks (as those terms are defined in section 1 of the International Banking Act of 1978), and affiliates of foreign banks.

(iv) Commercial lending companies (as that term is defined in section 1 of the International Banking Act of 1978).

(v) Companies operating under the International Banking Act of 1978 and sections 25 and 25A of the Federal Reserve Act.

(vi) Companies that are subject to supervision or regulation by the Board of Governors under any title of the Consumer Credit Protection Act or any other consumer protection statute.

(B) FUNCTIONS NOT TRANSFERRED.—Notwithstanding subparagraph (A), the functions of the Board of Governors relating to monetary policy and open market operations, administration of the payment system, and discount window operations are not transferred to the Commission.

(2) COMMISSION'S AUTHORITY.—The Commission shall have all powers and duties that, on the day before the designated transfer date, were vested in the Board of Governors (and any Federal reserve bank) relating to the supervision and regulation of the entities listed in paragraph (1)(A).

(d) FEDERAL DEPOSIT INSURANCE CORPORATION.—

(1) TRANSFER OF FUNCTIONS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), all functions of the Federal Deposit Insurance Corporation (and its Board of Directors) relating to the supervision and regulation of State nonmember banks and insured branches are transferred to the Commission.

(B) FUNCTIONS NOT TRANSFERRED.—Notwithstanding subparagraph (A), the functions of the Federal Deposit Insurance Corporation relating to deposit insurance, conservatorship, or receivership are not transferred to the Commission.

(2) COMMISSION'S AUTHORITY.—The Commission shall have all powers and duties that, on the day before the designated transfer date, were vested in the Federal Deposit Insurance Corporation (or its Board of Directors) relating to the supervision and regulation of State nonmember banks and insured branches.

(e) SCHOOLS FOR EXAMINERS.—All functions of the Federal Financial Institutions Examination Council relating to the conduct of schools for examiners and assistant examiners under section 1006(d) of the Federal Financial Institutions Examination Council Act of 1978 are transferred to the Commission.

(f) EFFECTIVE DATE.—Subsections (a) through (e) shall become effective on the designated transfer date.

SEC. 202. DESIGNATED TRANSFER DATE.

(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary—

(1) shall, in consultation with the Comptroller of the Currency, the Director of the

Office of Thrift Supervision, the Chairman of the Board of Governors, and the Chairperson of the Federal Deposit Insurance Corporation, designate a single calendar date for the transfer of functions to the Commission under section 201; and

(2) shall publish notice of that designation in the Federal Register.

(b) CHANGING DESIGNATION.—The Secretary—

(1) may, in consultation with the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Chairman of the Board of Governors, and the Chairperson of the Federal Deposit Insurance Corporation, change the date designated under subsection (a); and

(2) shall publish notice of any changed designation in the Federal Register.

(c) PERMISSIBLE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), any date designated under this section shall be not earlier than 120 days nor later than 1 year after the date of enactment of this Act.

(2) EXTENSION OF TIME.—The Secretary may designate a date that is later than 1 year after the date of enactment of this Act if the Secretary transmits to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives—

(A) a written certification that orderly implementation of this Act is not feasible before the last date designated under this section;

(B) an explanation of why orderly implementation of this Act is not feasible before the last date designated under this section;

(C) a description of the steps that have been taken to effect an orderly implementation of this Act—

(i) within the period described in paragraph (1); or

(ii) if the Secretary has previously designated a date under this paragraph, before that date; and

(D) a description of the steps that will be taken to effect an orderly and timely implementation of this Act.

(3) EXTENSION LIMITED.—In no case shall any date designated under this section be later than 18 months after the date of enactment of this Act.

SEC. 203. OFFICE OF COMPTROLLER OF THE CURRENCY ABOLISHED.

Effective 90 days after the designated transfer date, the Office of the Comptroller of the Currency and the position of Comptroller of the Currency are abolished.

SEC. 204. OFFICE OF THRIFT SUPERVISION ABOLISHED.

Effective 90 days after the designated transfer date, the Office of Thrift Supervision and the position of Director of the Office of Thrift Supervision are abolished.

SEC. 205. FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL ABOLISHED.

(a) IN GENERAL.—Effective on the designated transfer date, the Federal Financial Institutions Examination Council is abolished.

(b) APPRAISAL SUBCOMMITTEE RECONSTITUTED APPRAISAL COMMITTEE.—

(1) IN GENERAL.—Effective on the designated transfer date, the Appraisal Subcommittee established by section 1011 of the Federal Financial Institutions Examination Council Act of 1978 is redesignated as the "Appraisal Committee" and reconstituted in accordance with paragraphs (2) and (3).

(2) FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL ACT AMENDED.—Effective on the designated transfer date, section 1011 of the Federal Financial Institutions Examination Council Act of 1978 is amended to read as follows:

"SEC. 1011. ESTABLISHMENT OF APPRAISAL COMMITTEE.

"There shall be a committee to be known as the 'Appraisal Committee', which shall consist of the designees of the Chairperson of the Federal Banking Commission, the Chairperson of the Federal Deposit Insurance Corporation, and the Chairman of the National Credit Union Administration Board. Each such designee shall be a person who has demonstrated knowledge and competence concerning the appraisal profession.".

(3) FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT AMENDED.—Effective on the designated transfer date, section 1104 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 is amended—

(A) in the heading, by striking "appraisal subcommittee" and inserting "appraisal committee";

(B) by amending subsection (a) to read as follows:

"(a) CHAIRPERSON.—The members of the Appraisal Committee shall select the first chairperson of the Appraisal Committee. Thereafter the chair shall rotate among the members of the Appraisal Committee. The term of the Chairperson shall be 2 years"; and

(C) in subsection (b), by striking "Appraisal Subcommittee" each place it appears and inserting "Appraisal Committee".

SEC. 206. SAVINGS PROVISIONS.

(a) OFFICE OF THE COMPTROLLER OF THE CURRENCY.—

(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Sections 201(a)(1) and 203 shall not affect the validity of any right, duty, or obligation of the United States, the Comptroller of the Currency, the Office of the Comptroller of the Currency, or any other person, that existed on the day before the designated transfer day.

(2) CONTINUATION OF SUITS.—This Act shall not abate any proceeding commenced by or against the Comptroller of the Currency or the Office of the Comptroller of the Currency before the designated transfer date, except that the Commission shall be substituted for the Comptroller or the Office of the Comptroller of the Currency as a party to any such proceeding as of the designated transfer date.

(b) OFFICE OF THRIFT SUPERVISION.—

(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Sections 201(b)(1) and 204 shall not affect the validity of any right, duty, or obligation of the United States, the Director of the Office of Thrift Supervision, the Office of Thrift Supervision, or any other person, that existed on the day before the designated transfer date.

(2) CONTINUATION OF SUITS.—This Act shall not abate any proceeding commenced by or against the Director of the Office of Thrift Supervision or the Office of Thrift Supervision before the designated transfer date, except that the Commission shall be substituted for the Director or the Office of Thrift Supervision as a party to any such proceeding as of the designated transfer date.

(c) BOARD OF GOVERNORS.—

(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Section 201(c)(1) shall not affect the validity of any right, duty, or obligation of the United States, the Board of Governors (or any Federal reserve bank), or any other person that—

(A) arises under any provision of law relating to the supervision and regulation of the entities listed in section 201(c)(1)(A); and

(B) existed on the day before the designated transfer date.

(2) CONTINUATION OF SUITS.—This Act shall not abate any proceeding commenced by or against the Board of Governors (or any Federal reserve bank) before the designated transfer date with respect to any function of the Board of Governors (or any Federal reserve bank) transferred to the Commission by this Act, except that the Commission shall be substituted for the Board of Governors (or Federal reserve bank) as a party to any such proceeding as of the designated transfer date.

(d) FEDERAL DEPOSIT INSURANCE CORPORATION.—

(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Section 201(d)(1) shall not affect the validity of any right, duty, or obligation of the United States, the Federal Deposit Insurance Corporation, the Board of Directors of that Corporation, or any other person, that—

(A) arises under any provision of law relating to the supervision and regulation of State nonmember banks or insured branches; and

(B) existed on the day before the designated transfer date.

(2) CONTINUATION OF SUITS.—This Act shall not abate any proceeding commenced by or against the Federal Deposit Insurance Corporation or the Board of Directors of that Corporation before the designated transfer date with respect to any function of the Corporation or Board of Directors transferred to the Commission by this Act, except that the Commission shall be substituted for the Corporation or Board of Directors, as the case may be, as a party to any such proceeding as of the designated transfer date.

(e) CONTINUATION OF EXISTING ORDERS, RESOLUTIONS, DETERMINATIONS, AGREEMENTS, AND REGULATIONS.—All orders, resolutions, determinations, agreements, and regulations, that have been issued, made, prescribed, or allowed to become effective by the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Board of Governors (or any Federal reserve bank), or the Federal Deposit Insurance Corporation (including orders, resolutions, determinations, and regulations that relate to the conduct of conservatorships and receiverships), or by a court of competent jurisdiction, in the performance of functions that are transferred by this Act and that are in effect on the day before the designated transfer date, shall continue in effect according to the terms of those orders, resolutions, determinations, agreements, and regulations, and shall be enforceable by or against the Federal Banking Commisssion until modified, terminated, set aside, or superseded in accordance with applicable law by the Commission, by any court of competent jurisdiction, or by operation of law.

(f) IDENTIFICATION OF REGULATIONS CONTINUED.—Not later than the designated transfer date, the Commission—

(1) shall, after consultation with the Chairman of the Board of Governors and the Chairperson of the Federal Deposit Insurance Corporation, identify the regulations continued under subsection (e) that will be enforced by the Commission; and

(2) shall publish a list of such regulations in the Federal Register.

(g) STATUS OF REGULATIONS PROPOSED OR NOT YET EFFECTIVE.—

(1) PROPOSED REGULATIONS.—Any proposed regulation of the Office of the Comptroller of

the Currency, the Office of Thrift Supervision, the Board of Governors, or the Federal Deposit Insurance Corporation, which that agency, in performing functions transferred by this Act, has proposed before the designated transfer date but has not published as a final regulation before that date, shall be deemed to be a proposed regulation of the Commission.

(2) REGULATIONS NOT YET EFFECTIVE.—Any interim or final regulation of the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Board of Governors, or the Federal Deposit Insurance Corporation, which that agency, in performing functions transferred by this Act, has published before the designated transfer date but which has not become effective before that date, shall become effective as a regulation of the Commission according to its terms.

TITLE III—OPERATIONS OF FEDERAL BANKING COMMISSION

SEC. 301. REGULATIONS AND ORDERS.

In addition to any powers transferred to the Commission by this Act, the Commission may prescribe such regulations and issue such orders as the Commission determines to be appropriate to carry out this Act and the powers and duties transferred to the Commission by this Act.

SEC. 302. DELEGATION OF AUTHORITY.

(a) IN GENERAL.—The Commission may delegate any authority of the Commission to—

(1) any commissioner;

(2) any employee or agent of the Commission; or

(3) an administrative law judge.

(b) DELEGATIONS MAY BE CONDITIONAL.—The Commission may impose on any delegation under subsection (a) such conditions as the Commission determines to be appropriate, including reservation to the Commission of a right of review.

SEC. 303. PERSONNEL.

(a) APPOINTMENT.—The Commission may fix the number of, and appoint and direct all employees of the Commission.

(b) COMPENSATION: PAY AND BENEFITS.—

(1) PAY.—The Commission shall fix, adjust, and administer the pay of all employees of the Commission without regard to the provisions of other laws (other than this Act) applicable to officers or employees of the United States, including establishing a position classification system without regard to the provisions of chapter 51 of title 5, United States Code.

(2) ADDITIONAL BENEFITS.—The Commission may provide benefits to Commission employees in addition to the retirement, health insurance, and life insurance benefits provided to other employees of the United States under title 5, United States Code, without regard to the provisions of other laws (other than this Act) applicable to officers or employees of the United States.

(3) ANNUAL REPORT REQUIRED.—The Commission shall report annually to the Congress on the structure of pay and benefits for employees of the Commission.

SEC. 304. LITIGATION AUTHORITY.

The Commission may employ attorneys to conduct litigation brought by or against the Commission, its officers, or employees, or in which the Commission has an interest, but such litigation may be conducted only with the prior consent of the Attorney General of the United States and subject to the Attorney General's direction and control.

SEC. 305. FUNDING.

(a) AUTHORITY TO IMPOSE AND COLLECT ASSESSMENTS, FEES, AND OTHER CHARGES.—

(1) 1-BASIS POINT FEE IN LIEU OF CURRENT FDIC SPENDING FROM DEPOSIT INSURANCE FUNDS FOR SUPERVISION.—

(A) IN GENERAL.—When collecting semiannual assessments under section 7(b) of the Federal Deposit Insurance Act, the Federal Deposit Insurance Corporation shall collect from insured depository institutions an amount equal to one-half basis point per dollar of domestic deposits of all insured depository institutions.

(B) REMITTANCE.—The Federal Deposit Insurance Corporation shall, not later than 75 days after the close of each semiannual period (as defined in section 7(b) of the Federal Deposit Insurance Act), remit to the Commission the amounts collected under subparagraph (A).

(C) EFFECTIVE DATE.—This paragraph shall become effective with respect to the semiannual period in which the designated transfer date occurs.

(D) SPECIAL RULE UNTIL BANK INSURANCE FUND ACHIEVES DESIGNATED RESERVE RATIO.—For purposes of section 7(b)(2)(E) of the Federal Deposit Insurance Act, the amounts collected by the Federal Deposit Insurance Corporation from Bank Insurance Fund members under this paragraph shall be included in the total amount raised by semiannual assessments on members of the fund.

(2) TRANSITIONAL PAYMENT REFLECTING SAVINGS TO FEDERAL RESERVE.—

(A) PAYMENTS BY BOARD OF GOVERNORS.—The Board of Governors shall make annual payments to the Commission not later than December 31 of each calendar year, as follows:

(i) INITIAL 5-YEAR PERIOD.—For each of the first 5 calendar years beginning with the calendar year that includes the designated transfer date, the Board of Governors shall pay the identified savings amount for that calendar year.

(ii) PAYMENT TO DECREASE OVER SUBSEQUENT 9-YEAR PERIOD.—For each of the 9 calendar years following the expiration of the 5-year period referred to in clause (i), the Board of Governors shall pay the applicable percentage of the identified savings amount for that calendar year, as set forth in the following table:

For the following period:	The applicable percentage is:
First Year	90 percent
Second Year	80 percent
Third Year	70 percent
Fourth Year	60 percent
Fifth Year	50 percent
Sixth Year	40 percent
Seventh Year	30 percent
Eighth Year	20 percent
Ninth Year	10 percent
Thereafter	0 percent.

(B) IDENTIFIED SAVINGS AMOUNT DEFINED.—

(i) IN GENERAL.—The term "identified savings amount" means $ (i.e. the net amount by which this Act will reduce the expenses of the Board of Governors for each of the 14 calendar years referred to in subparagraph (A), currently estimated at over $300 million);

(ii) IDENTIFIED SAVINGS AMOUNT ADJUSTED FOR INFLATION.—The dollar amount referred to in clause (i) shall be adjusted annually and cumulatively using the percent by which the average urban consumer price index for the quarter preceding the date of the payment differs from the average of that index for the same quarter in the prior year.

(3) FEES AND OTHER CHARGES.—

(A) IN GENERAL.—The Commission may assess fees and other charges against any institution or entity supervised or regulated by the Commission, as the Commission deems necessary or appropriate to carry out its duties and recover its costs.

(B) SUPERVISORY FEES ON INSURED DEPOSITORY INSTITUTIONS.—

(i) IN GENERAL.—The Commission shall assess fees at rates based on an insured depository institution's total assets, taking into account the extent to which large institutions are, per dollar of assets, less costly to supervise.

(ii) SPECIAL RULE FOR STATE BANKS.—Fees on State member banks and State nonmember banks shall be at rates that—

(I) do not exceed 50 percent of the rate applied to national banks of comparable size; and

(II) are not applied to the first $1 billion of the bank's total assets.

(iii) AGGREGATION OF BANK ASSETS.—For purposes of the $1 billion threshold referred to in clause (ii)(II), the total assets of State member banks and State nonmember banks commonly controlled by a bank holding company shall be aggregated.

(C) PROCESSING FEES.—The Commission may assess against any person who submits to the Commission an application, filing, notice, request, or similar submission, fees to recover the Commission's cost of processing the submission.

(4) INTERIM COLLECTIONS FROM THE CORPORATION OR THE BOARD OF GOVERNORS DURING TRANSITION.—

(A) IN GENERAL.—During the 5-year period following the designated transfer date, the Federal Deposit Insurance Corporation shall make payments under paragraph (1) and the Board of Governors shall make payments under paragraph (2) before the payment dates specified in those paragraphs if the Commission certifies that earlier payments are needed to meet the Commission's operating expenses.

(B) RECONCILIATION OF EARLY PAYMENTS.—The Commission shall make adjustments to subsequent payments due under paragraphs (1) and (2) as necessary to reconcile any underpayment or overpayment of payments made under subparagraph (A).

(b) FEDERAL BANKING COMMISSION FUND.—

(1) SEPARATE FUND IN TREASURY ESTABLISHED.—There is established in the Treasury a separate fund called the "Federal Banking Commission Fund".

(2) ALL TRANSFERRED FUNDS DEPOSITED.—All amounts transferred to the Commission under section 405 shall be deposited into the Federal Banking Commission Fund.

(3) ALL RECEIPTS DEPOSITED.—The Commission shall deposit into the Federal Banking Commission Fund all moneys that it receives, whether obtained under subsection (a) or otherwise.

(c) USE OF FUNDS.—

(1) IN GENERAL.—Funds transferred to, or deposited into, the Federal Banking Commission Fund shall be immediately available to the Commission, and remain available until expended, to pay the Commission's expenses in carrying out its duties and responsibilities.

(2) ASSESSMENTS AND OTHER FUNDS NOT GOVERNMENT FUNDS.—Funds transferred to, or deposited in, the Federal Banking Commission Fund shall not be construed to be Government funds or appropriated monies.

(3) AMOUNTS IN FUND NOT SUBJECT TO APPORTIONMENT.—Notwithstanding any other provision of law, amounts in the Federal Banking Commission Fund shall not be subject to appointment for purposes of chapter 15 of title 31, United States Code, or under any other authority.

SEC. 306. CONTRACTING AND LEASING AUTHORITY.

The Commission may—

(1) enter into and perform contracts, execute instruments, and acquire, in any lawful manner, such goods and services, or personal or real property (or property interest) as the Commission deems necessary or convenient to carry out the Commission's duties and responsibilities; and

(2) hold, maintain, sell, lease, or otherwise dispose of that property (or property interest),

without regard to the Federal Property and Administrative Services Act of 1949 and other laws of a similar type governing the procurement of goods and services or the acquisition or disposition of personal or real property (or property interest) by executive agencies.

SEC. 307. ACCESS TO COMMISSION'S RECORDS.

(a) ACCESS BY BOARDS OF GOVERNORS.—For the purposes of carrying out its functions under the Federal Reserve Act (as amended by this Act), the board of Governors shall have access, without any deletions, to all of the following:

(1) all books, accounts, records, reports, files, memoranda, and papers belonging to or in use by the Commission;

(2) all reports of examination;

(3) all work papers and correspondence files related to the documents described in paragraph (1) and (2),

that relate to insured depository institutions or other depository institutions (as defined in section 19(b)(1)(A) of the Federal Reserve Act) or companies having control of insured depository institutions or other depository institutions or subsidiaries of these companies.

(b) ACCESS BY FEDERAL DEPOSIT INSURANCE CORPORATION.—For the purpose of carrying out its functions under the Federal Deposit Insurance Act (as amended by this Act), the Federal Deposit Insurance Corporation shall have access, without any deletions, to all of the following:

(1) all books, accounts records, reports, files, memoranda, and papers belonging to or in use by the Commission;

(2) all reports of examination;

(3) all work papers and correspondence files related to the documents described in paragraphs (1) and (2),

that relate to insured depository institutions or companies have control of insured depository institutions.

(c) ACCESS BY OFFICE OF MANAGEMENT AND BUDGET.—

(1) IN GENERAL.—For the purpose of preparing budget estimates, the Director of the Office of Management and Budget shall have access to—

(A) financial data collected by the Commission, or derived by the Commission from data so collected, relating to insured depository institutions or companies having control of insured depository institutions;

(B) the Commission's financial operating plans and forecasts as prepared by the Commission in the ordinary course of its operations or at the request of the Director of the Office of Management and Budget; and

(C) any reports of the Commission's financial condition and results of operations as prepared by the Commission in the ordinary course of its operations.

(2) DATA AGGREGATION PERMITTED.—In providing access to financial data under paragraph (1)(A), the Commission may aggregate data by size or type of depository institution or by geographic region.

(d) ACCESS BY EMPLOYEES.—The Board of Governors, the Federal Deposit Insurance Corporation, and the Director of the Office of Management and Budget may each permit their employees to have access to Commission information on the same terms on which they have access.

(e) NO PRIVILEGE WAIVED.—The Commission does not waive any privilege by providing access to its records under this section.

SEC. 308. FEDERAL RESERVE'S PARTICIPATION IN EXAMINATIONS.

(a) JOINT EXAMINATIONS OF LARGE ORGANIZATIONS.—

(1) IN GENERAL.—The Board of Governors may select for joint examinations during any calender year not more than 10 of the 20 largest banking organizations, if the total assets of the insured depository institution subsidiaries of the banking organizations selected do not exceed 25 percent of the total assets of all insured depository institutions.

(2) LARGEST BANKING ORGANIZATIONS JOINTLY DETERMINED.—The Commission and the Board of Governors shall jointly determine not less than once each calendar year the 20 largest banking organizations based on the total assets of each banking organization's insured depository institution subsidiaries.

(3) LEAD ROLE IN JOINT EXAMINATIONS OF LARGE BANKING ORGANIZATIONS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Commission shall be the lead agency in joint examinations of banking organizations selected under paragraph (1).

(B) EXCEPTION FOR CERTAIN BANKING ORGANIZATIONS.—The Board of Governors may elect to be the lead agency in the joint examination of any banking organization selected under paragraph (1) that has a majority of the total assets of its insured depository institution subsidiaries in State member banks, if the total assets of the insured depository insitituion subsidiaries of all such banking organizations with respect to which the Board of Governors makes such an election for any calendar year do not exceed 10 percent of the total assets of all insured depository institutions.

(b) JOINT EXAMINATIONS OF SMALLER INSTITUTIONS.—

(1) IN GENERAL.—The Board of Governors may select for joint examinations State member banks and their affiliates that are not subsidiaries of any of the 20 largest banking organizations, as determined under subsection (a)(2), if the total assets of the State member banks selected for any calendar year (and any affiliated insured depository institutions) do not exceed 5 percent of the total assets of all insured depository institutions.

(2) LEAD ROLE IN JOINT EXAMINATIONS OF SMALLER INSTITUTIONS.—The Commission shall be the lead agency in joint examinations conducted under this subsection.

(c) SCOPE OF PARTICIPATION IN JOINT EXAMINATIONS.—In any joint examination conducted under this section the lead agency shall include examiners from the other agency in—

(1) planning the scope and timing of, and the respective examiners' roles in, the examination, subject to the overall direction and management of the examiner-in-charge of the lead agency; and

(2) any meetings between examiners of the lead agency and the senior management and board of directors of the examined organization or institution when examination findings are transmitted.

(d) PROCEDURES.—The Commission and the Board of Governors shall jointly establish procedures under which the Board of Governors may—

(1) select banking organizations and State member banks for joint examinations under subsections (a) and (b); and

(2) elect to be the lead agency under subsection (a)(3)(B).

(e) BANKING ORGANIZATION DEFINED.—For purposes of this section, the term "banking organization" means a bank holding company and its subsidiaries.

SEC. 309. FEDERAL RESERVE'S AUTHORITY TO TAKE ENFORCEMENT ACTION AGAINST LARGEST BANKING ORGANIZATIONS.

(a) RECOMMENDING ACTION BY COMMISSION.—The Board of Governors may recommend in writing to the Commission that the Commission take any enforcement action authorized to be taken by the Commission with respect to any banking organization that is one of the 20 largest banking organizations as determined under section 308(a)(2). The recommendation shall be accompanied by a written explanation of the concerns giving rise to the recommendation.

(b) AUTHORITY TO ACT IF COMMISSION FAILS TO TAKE ACTION.—If the Commission does not, before the end of the 60-day period beginning on the date on which the Commission receives a recommendation under subsection (a), take the enforcement action recommended by the Board of Governors or provide a plan acceptable to the Board of Governors for responding to its concerns, the Board of Governors may take the recommended enforcement action if the Board of Governors determines, upon a vote of its members, that—

(1) the banking organization is in an unsafe or unsound condition; or

(2) the banking organization's current practices, if continued, are likely to render the banking organization in an unsafe and unsound condition in the foreseeable future.

(c) EFFECT OF EXIGENT CIRCUMSTANCES.—

(1) AUTHORITY TO ACT.—The Board of Governors may, upon a vote of its members, and after notice to the Commission, exercise its authority under subsection (b) in exigent circumstances without regard to the time period set forth in subsection (b).

(2) AGREEMENT ON EXIGENT CIRCUMSTANCES.—The Board of Governors shall, by agreement with the Commission, set forth those exigent circumstances in which the Board of Governors may act under paragraph (1).

(d) POWER AND DUTIES.—For purposes of this subsection—

(1) the Board of Governors shall have the same powers with respect to any banking organization as the Commission has with respect to the banking organization; and

(2) the banking organization shall have the same duties and obligations with respect to the Board of Governors as the banking organization has with respect to the Commission.

SEC. 310. COMMISSION'S SUPERVISION OF CERTAIN STATE DEPOSITORY INSTITUTIONS.

(a) AMENDMENTS TO FEDERAL DEPOSIT INSURANCE ACT.—Section 10(d) of the Federal Deposit Insurance Act is amended—

(1) in paragraph (1), by striking "appropriate Federal banking agency" and inserting "Commission";

(2) in paragraph (3), by striking "appropriate Federal banking agency" and inserting "Commission";

(3) by redesignating paragraph (5) as paragraph (6); and

(4) by inserting after paragraph (4) a new paragraph (5) as follows:

"(5) EXAMINATION OF CERTAIN SMALL INSTITUTIONS BY CERTIFIED STATES ACCEPTABLE.—

"(A) IN GENERAL.—For purposes of discharging its responsibility under paragraph

(1) with respect to an insured State depository institution, the Commission may accept an examination of the institution conducted by a State bank supervisor during the preceding 12-month period if—

"(i) the State depository institution—

"(I) has total assets of less than $250,000,000; and

"(II) is well capitalized, as defined in section 38; and

"(ii) the State bank supervisor that conducted the examination has been certified by the Commission under section 310(b) of the Regulatory Consolidation Act of 1994.

"(B) AGGREGATION OF BANK ASSETS.—For purposes of the $250,000,000 level referred to in subparagraph (A)(i)(I), the total assets of State depository institutions commonly controlled by a bank holding company shall be aggregated.".

(b) COMMISSION CERTIFICATION OF STATE BANK SUPERVISORS.—

(1) IN GENERAL.—For purposes of discharging the Commission's responsibility under section 10(d)(5) of the Federal Deposit Insurance Act, the Commission may certify a State bank supervisor to examine State depository institutions on behalf of the Commission.

(2) SCOPE OF CERTIFICATION.—The Commission may certify a State bank supervisor to determine—

(A) the condition of depository institutions chartered by that State, including whether the operations of the institutions are being conducted safely and soundly;

(B) whether the operations of depository institutions chartered by that State are being conducted in compliance with applicable Federal consumer protection and community investment laws; or

(C) both (A) and (B).

(3) CONDITIONS AND PROCEDURES FOR CERTIFICATIONS.—The Commission may establish such conditions and procedures for certifying State bank supervisors under this subsection as the Commission deems appropriate.

(4) PERIODIC REVIEW OF CERTIFICATIONS; REVOCATION.—

(A) PERIODIC REVIEW.—The Commission shall periodically review each certification of a State bank supervisor under this subsection to determine whether that agency continues to satisfy the conditions established by the Commission under paragraph (3); and

(B) REVOCATION.—The Commission may revoke its certification of a State bank supervisor.

(c) FEDERAL LAW VIOLATIONS REFERRED TO COMMISSION.—Whenever a certified State bank supervisor discovers, in the course of conducting an examination of an insured State depository institution on behalf of the Commission, evidence of a violation of—

(1) any Federal law;

(2) any order of any Federal banking agency which has become final;

(3) any condition imposed in writing by any Federal banking agency in connection with the grant of any application or other request by such institution; or

(4) any written agreement between the institution and any Federal banking agency, the State bank supervisor shall refer that violation to the Commission.

(d) COMMISSION'S PARTICIPATION IN STATE EXAMINATIONS PERMITTED.—Notwithstanding the Commission's certification of any State bank supervisor under this section, examiners from the Commission may participate in—

(1) any examination of any insured State depository institution conducted by a certified State bank supervisor;

(2) planning the scope and timing of, and the Commission's role in, the examination; and

(3) any meetings between the State bank supervisor examiners and the senior management and board of directors of the examined institution when the examination findings are transmitted.

SEC. 311. ADVISORY COUNCILS.

The Commission shall establish the following advisory councils:

(1) An Advisory Council on Consumer Affairs, to advise the Commission on matters affecting consumers.

(2) An Advisory Council on Community Depository Institutions, to advise the Commission on matters affecting community banks and savings associations, which council shall have a membership balanced in proportion to the ratio of Federal depository institutions to State depository institutions.

(3) An Advisory Council on Savings Associations, to advise the Commission on matters affecting savings associations; and

(4) An Advisory Council on Small Businesses, to advise the Commission on matters affecting small businesses.

SEC. 312. REGULATORY APPEALS PROCESS.

(a) IN GENERAL.—Not later than 120 days after the designated transfer date, the Commission shall establish an independent appellate process available for reviewing material supervisory determinations made by Commission examiners or officials with respect to insured depository institutions.

(b) REVIEW PROCESS.—In establishing the independent appellate process under subsection (a), the Commission shall ensure—

(1) that any appeal by an insured depository institution of a material supervisory determination is heard and decided expeditiously; and

(2) that appropriate safeguards exist for protecting the appellant from retaliation by Commission examiners or officials.

(c) COMMENT PERIOD.—Not later than 60 days after the designated transfer date, the Commission shall provide public notice and opportunity for comment on proposed guidelines for the establishment of an independent appellate process under this section.

(d) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) The term "material supervisory determinations" includes determinations relating to—

(A) examination ratings;

(B) the adequacy of loan loss reserve provisions; and

(C) loan classifications on loans that are significant to the institution.

(2) The term "independent appellate process" means a review by a Commission official who does not directly or indirectly report to the Commission examiner or official who made the material supervisory determination under review.

(e) EFFECT ON OTHER AUTHORITY.—Nothing in this section shall affect the authority of the Commission to take enforcement or supervisory action against an institution.

SEC. 313. INSPECTOR GENERAL.

(a) OFFICE OF THE INSPECTOR GENERAL ESTABLISHED.—

(1) IN GENERAL.—The Commission shall establish and maintain an Office of the Inspector General.

(2) INSPECTOR GENERAL ACT AMENDED.—Section 11 of the Inspector General Act of 1978 is amended—

(A) in paragraph (1), by inserting "or the Federal Banking Commission," after "the Chairperson of the Thrift Depositor Protection Oversight Board"; and

(B) in paragraph (2), by inserting "the Federal Banking Commission," after "the Environmental Protection Agency,".

(b) CERTAIN LIMITATIONS OF INSPECTOR GENERAL ACT INAPPLICABLE.—

(1) IN GENERAL.—Notwithstanding section 6(a)(7) of the Inspector General Act of 1978, the Inspector General of the Commission, in carrying out the provisions of the Inspector General Act of 1978, may select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the Office of the Inspector General without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to position classification and General Schedule pay rates.

(2) REPORTING REQUIREMENT.—The annual report required by section 303(b)(3) of this Act (relating to the pay structure for employees of the Commission) shall set forth the position classifications and pay rates for employees of the Office of the Inspector General.

(c) CERTAIN SPECIAL PROVISIONS OF INSPECTOR GENERAL ACT APPLICABLE.—Section 8C(a) of the Inspector General Act of 1978 (other than the provisions of subparagraphs (A), (B), (C), and (E) of section 8C(a)(1)) shall apply to the Inspector General of the Commission and to the Commission in the same manner as it applies to the Inspector General of the Department of the Treasury and the Secretary of the Treasury, respectively.

SEC. 314. LEGISLATIVE AND REGULATORY COORDINATION.

(a) LEGISLATIVE RECOMMENDATIONS, TESTIMONY, AND COMMENTS.—The Commission shall be considered to be an agency within the Executive branch for purposes of the coordination and clearance of legislative recommendations, testimony, and comments respecting matters of a general policy nature.

(b) REGULATIONS.—

(1) IN GENERAL.—The Commission shall submit to the Director of the Office of Management and Budget for review any significant proposed or final regulation before publishing it.

(2) OMB RECOMMENDATIONS.—The Director may recommend changes to the proposed or final regulation submitted to him under paragraph (1).

(3) COMMISSION PREROGATIVE.—The Commission may, by a majority vote of its members, decline to incorporate the changes recommended by the Director under paragraph (2).

(4) REPORT TO THE PRESIDENT.—If the Commission declines to incorporate the recommended changes of the Director, the Commission shall communicate the reasons for doing so to the President.

TITLE IV—TRANSITIONAL PROVISIONS

SEC. 401. COMMISSION'S INTERIM AUTHORITY.

Before the designated transfer date, the Commission shall—

(1) consult and cooperate with the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Chairman of the Board of Governors, and the Chairperson of the Federal Deposit Insurance Corporation to facilitate the orderly transfer of functions to the Commission;

(2) determine and redetermine, from time to time—

(A) the amount of funds necessary to pay the expenses of the Commission (including expenses for personnel, property, and administrative services) during the period beginning on the date of enactment of this Act and ending on the designated transfer date;

(B) what personnel are appropriate to facilitate the orderly transfer of functions by this Act; and

(C) what property and administrative services are necessary to support the Commission during the period beginning on the date of enactment of this Act and ending on the designated transfer date; and

(3) take such actions as may be necessary to provide for the orderly implementation of this Act.

SEC. 402. FEDERAL BANKING AGENCIES' INTERIM RESPONSIBILITIES.

(a) IN GENERAL.—When requested by the Commission to do so before the designated transfer date, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Board of Governors, and the Federal Deposit Insurance Corporation shall each—

(1) pay to the Commission, from funds obtained by those agencies through assessments, fees, or other charges that they are authorized by law to impose, one-quarter of the total amount that the Commission determines to be necessary under section 401(2)(A);

(2) detail to the Commission such personnel as the Commission determines to be appropriate under section 401(2)(B), subject to reimbursement; and

(3) make available to the Commission such property and provide the Commission such administrative services as the Commission determines to be necessary under section 401(2)(C), in each case subject to reimbursement.

(b) NOTICE REQUIRED.—The Commission shall give the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Board of Governors, and the Federal Deposit Insurance Corporation reasonable prior notice of any request that the Commission intends to make under subsection (a).

SEC. 403. EMPLOYEES TRANSFERRED.

(a) IN GENERAL.—

(1) ALL OCC AND OTS EMPLOYEES TRANSFERRED.—All employees of the Office of the Comptroller of the Currency and the Office of Thrift Supervision shall be transferred to the Commission for employment.

(2) CERTAIN FEDERAL RESERVE SYSTEM EMPLOYEES TRANSFERRED.—

(A) IDENTIFYING EMPLOYEES FOR TRANSFER.—The Commission and the Board of Governors shall—

(i) jointly determine the number of employees of the Board necessary to perform or support the functions of the Board of Governors that are transferred to the Commission by this Act; and

(ii) consistent with the number determined under clause (i), jointly identify employees of the Board of Governors for transfer to the Commission in a manner that the Commission and the Board of Governors, in their sole discretion, deem equitable.

(B) IDENTIFIED EMPLOYEES TRANSFERRED.—All employees of the Board of Governors identified under subparagraph (A)(ii) shall be transferred to the Commission for employment.

(C) FEDERAL RESERVE BANK EMPLOYEES.—Employees of any Federal reserve bank who, on the day before the designated transfer date, are performing functions on behalf of the Board of Governors shall be treated as employees of the Board of Governors for purposes of subparagraphs (A) and (B).

(D) SPECIAL RULE FOR ANY JOINT DETERMINATION BEFORE FIRST APPOINTED COMMISSIONER IS APPOINTED.—Until the first appointed commissioner is appointed and qualified, the commissioner from the Board of Governors shall not participate in the Commission's part of the joint determination to be made under subparagraph (A).

(3) CERTAIN FDIC EMPLOYEES TRANSFERRED.—

(A) IDENTIFYING EMPLOYEES FOR TRANSFER.—The Commission and the Board of Directors of the Federal Deposit Insurance Corporation shall—

(i) jointly determine the number of employees of that Corporation necessary to perform or support the functions of the Corporation that are transferred to the Commission by this Act; and

(ii) consistent with the number determined under clause (i), jointly identify employees of the Corporation for transfer to the Commission in a manner that the Commission and the Board of Directors of the Corporation, in their sole discretion, deem equitable.

(B) IDENTIFIED EMPLOYEES TRANSFERRED.—All employees of the Corporation identified under subparagraph (A)(ii) shall be transferred to the Commission for employment.

(4) CERTAIN FFIEC EMPLOYEES TRANSFERRED.—All employees of the Federal Financial Institutions Examination Council, other than the employees of the Appraisal Committee (as redesignated by section 205 of this Act), shall be transferred to the Commission for employment.

(b) TIMING OF TRANSFERS AND POSITION ASSIGNMENTS.—Each employee to be transferred under this section shall—

(1) be transferred not later than 90 days after the designated transfer date; and

(2) receive notice of his or her position assignment not later than 120 days after the effective date of his or her transfer.

(c) TRANSFER OF FUNCTION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the transfer of employees shall be deemed a transfer of functions for the purpose of section 3503 of title 5, United States Code.

(2) PRIORITY OF THIS ACT.—If any protection provided under this Act conflicts with any protection provided to transferred employees under section 3503 of title 5, United States Code, the provisions of this Act shall control.

(d) EMPLOYEES' STATUS AND ELIGIBILITY.—

(1) EMPLOYEES OF ABOLISHED AGENCIES.—The transfer of functions and employees under this Act, and the abolition of the Office of the Comptroller of the Currency, the Office of Thrift Supervision, and the Federal Financial Institutions Examination Council, shall not affect the status of the transferred employees as employees of an agency of the United States under any provision of law.

(2) NON-CITIZEN EMPLOYEES.—Non-citizen employees transferred under this section shall, while employed by the Commission, be eligible for competitive appointments if other employees performing the same functions receive competitive appointments.

(e) EQUAL STATUS AND TENURE POSITIONS.—

(1) EMPLOYEES TRANSFERRED FROM OCC, OTS, FDIC, AND FFIEC.—Each employee transferred from the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, or the Federal Financial Institutions Examination Council shall be placed in a position with the same status and tenure as that held on the day before the designated transfer date.

(2) EMPLOYEES TRANSFERRED FROM THE FEDERAL RESERVE SYSTEM.—

(A) COMPARABILITY.—Each employee transferred from the Board of Governors or from a Federal reserve bank shall be placed in a position with the same status and tenure as that of employees transferring to the Commission from the Office of the Comptroller of the Currency who perform similar functions and have similar periods of service.

(B) SERVICE PERIODS CREDITED.—For purposes of this paragraph, periods of service with the Board of Governors or a Federal reserve bank shall be credited as periods of service with a Federal agency.

(f) ADDITIONAL CERTIFICATION REQUIREMENTS LIMITED.—Examiners transferred to the Commission shall not be subject to any additional training or certification requirements before being placed in a comparable examiner's position at the Commission examining the same types of institutions as they examined before they were transferred.

(g) PERSONNEL ACTIONS LIMITED.—

(1) 1-YEAR PROTECTION.—Except as provided in paragraph (2), each transferred employee holding a permanent position shall not, during the 1-year period beginning on the designated transfer date, be involuntarily separated, or involuntarily reassigned outside his or her local commuting area.

(2) EXCEPTIONS.—Paragraph (1) does not limit the Commission's right to—

(A) separate an employee for cause or for unacceptable performance;

(B) terminate an appointment to a position excepted from the competitive service because of its confidential policy-making, policy-determining, or policy-advocating character; or

(C) reassign a supervisory employee outside his or her local commuting area when the Commission determines that the reassignment is necessary for the Commission's efficient operation.

(h) PAY.—

(1) 1-YEAR PROTECTION.—Except as provided in paragraph (2), each transferred employee shall, during the 1-year period beginning on the designated transfer date, receive pay at a rate not less than the basic rate of pay (including any geographic differential) that the employee received during the 1-year period immediately before the transfer.

(2) EXCEPTIONS.—Paragraph (1) does not limit the Commission's right to reduce a transferred employee's rate of basic pay—

(A) for cause;

(B) for unacceptable performance; or

(C) with the employee's consent.

(3) PROTECTION ONLY WHILE EMPLOYED.—Paragraph (1) applies to a transferred employee only while that employee remains employed by the Commission.

(4) PAY INCREASES PERMITTED.—Paragraph (1) does not limit the authority of the Commission to increase a transferred employee's pay.

(i) REORGANIZATION.—

(1) BETWEEN 1ST AND 3RD YEAR.—

(A) IN GENERAL.—If the Commission determines, during the period beginning 1 year after the designated transfer date and ending 3 years after the designated transfer date, that a reorganization of the Commission's staff is required—

(i) that reorganization shall be deemed a "major reorganization" for purposes of affording affected employees retirement under section 8336(d) or 8414(b)(1)(B) of title 5, United States Code;

(ii) before the reorganization occurs, all employees in the same commuting area shall be placed in a uniform position classification system; and

(iii) any resulting reduction in force shall be governed by the provisions of chapter 35 of title 5, United States Code, except that the Commission shall—

(I) establish competitive areas (as that term is defined in regulations issued by the Office of Personnel Management) to include at a minimum all employees in the same commuting area;

(II) establish competitive levels (as that term is defined in regulations issued by the Office of Personnel Management) without regard to whether the particular employees have been appointed to positions in the competitive service or the excepted service; and

(III) afford employees appointed to positions in the excepted service (other than to a position excepted from the competitive service because of its confidential policy-making, policy-determining, or policy-advocating character) the same assignment rights to positions within the Commission as employees appointed to positions in the competitive service.

(B) SERVICE CREDIT FOR REDUCTIONS IN FORCE.—For purposes of this paragraph, periods of service with a Federal home loan bank, a joint office of the Federal home loan banks, the Board of Governors, a Federal reserve bank, the Federal Deposit Insurance Corporation, or the Federal Financial Institutions Examination Council shall be credited as periods of service with a Federal agency.

(2) AFTER 3RD YEAR.—

(A) IN GENERAL.—If the Commission determines, at any time after the 3-year period beginning on the designated transfer date, that a reorganization of the Commission's staff is required, any resulting reduction in force shall be governed by the provisions of chapter 35 of title 5, United States Code, except that the Commission shall—

(i) establish competitive levels (as that term is defined in regulations issued by the Office of Personnel Management) without regard to types of appointment held by particular employees transferred under this section; and

(ii) afford employees transferred under this section who were appointed to positions in the excepted service (other than to a position excepted from the competitive service because of its confidential policy-making, policy-determining, or policy-advocating character) the same assignment rights to positions within the Commission as employees appointed to positions in the competitive service.

(B) SERVICE CREDIT FOR REDUCTIONS IN FORCE.—For purposes of this paragraph, periods of service with a Federal home loan bank, a joint office of the Federal home loan banks, the Board of Governors, a Federal reserve bank, the Federal Deposit Insurance Corporation, or the Federal Financial Institutions Examination Council shall be credited as periods of service with a Federal agency.

(j) BENEFITS.—

(1) RETIREMENT BENEFITS FOR TRANSFERRED EMPLOYEES.—

(A) IN GENERAL.—

(i) CONTINUATION OF EXISTING RETIREMENT PLAN.—Except as provided in subparagraph (B), each transferred employee shall remain enrolled in his or her existing retirement plan as long as he or she remains employed by the Commission.

(ii) EMPLOYER'S CONTRIBUTION.—The Commission shall pay any employer contributions to the existing retirement plan of each transferred employee as required under that plan.

(B) OPTION FOR EMPLOYEES TRANSFERRED FROM FEDERAL RESERVE SYSTEM OR FFIEC TO BE SUBJECT TO FEDERAL EMPLOYEE RETIREMENT PROGRAM.—

(i) ELECTION.—Any transferred employee who was enrolled in a Federal Reserve System retirement plan on the day before his or her transfer to the Commission may, during the period beginning 6 months after the designated transfer date and ending 1 year after the designated transfer date, elect to be subject to the Federal employee retirement program.

(ii) EFFECTIVE DATE OF COVERAGE.—For any employee making an election under clause (i), coverage by the Federal employee retirement program shall begin 1 year after the designated transfer date.

(C) COMMISSION PARTICIPATION IN FEDERAL RESERVE SYSTEM RETIREMENT PLAN.

(i) SEPARATE ACCOUNT IN FEDERAL RESERVE SYSTEM RETIREMENT PLAN ESTABLISHED.—A separate account in the Federal Reserve System retirement plan shall be established for Commission employees who do not make the election under subparagraph (B).

(ii) FUNDS ATTRIBUTABLE TO TRANSFERRED EMPLOYEES REMAINING IN FEDERAL RESERVE SYSTEM RETIREMENT PLAN TRANSFERRED.—The proportionate share of funds in the Federal Reserve System retirement plan, including the proportionate share of any funding surplus in that plan, attributable to a transferred employee who does not make the election under subparagraph (B), shall be transferred to the account established under clause (i).

(iii) EMPLOYER CONTRIBUTIONS DEPOSITED.—The Commission shall deposit into the account established under clause (i) the employer contributions that the Commission makes on behalf of employees who do not make the election under subparagraph (B).

(iv) ACCOUNT ADMINISTRATION.—The Commission shall administer the account established under clause (i) as a participating employer in the Federal Reserve System retirement plan.

(D) DEFINITIONS.—For purposes of this paragraph, the following definitions shall apply:

(i) The term "existing retirement plan" means, with respect to any employee transferred under this section, the particular retirement plan (including the Financial Institutions Retirement Fund) and any associated thrift savings plan of the agency or Federal reserve bank from which the employee was transferred, which the employee was enrolled in on the day before the designated transfer date.

(ii) The term "Federal employee retirement program" means the retirement program for Federal employees established by chapters 83 and 84 of title 5, United States Code.

(2) BENEFITS OTHER THAN RETIREMENT BENEFITS.—

(A) FOR TRANSFERRED EMPLOYEES.—

(i) DURING 1ST YEAR.—

(I) EXISTING PLANS CONTINUE.—Each transferred employee may, for 1 year after the designated transfer date, retain membership in any other employee benefit program of the agency or bank from which the employee transferred, including a health or life insurance program, to which the employee belonged on the day before the designated transfer date.

(II) COMMISSION'S CONTRIBUTION.—The Commission shall reimburse the agency or bank from which an employee was transferred for any cost incurred by that agency or bank in continuing to extend coverage in the benefit program to the employee.

(ii) AFTER 1ST YEAR.—If, after the 1-year period beginning on the designated transfer date, the Commission decides not to continue participation in any health or life insurance program of an agency or bank from which employees transferred, a transferred employee who is a member of such a program may, before the Commission's decision takes effect, elect to enroll in—

(I) the Federal Employees Health Benefits Program established by chapter 89 of title 5, United States Code, without regard to any regularly scheduled open season and notwithstanding health conditions pre-existing at the time; and

(II) the Federal Employees Group Life Insurance Program established by chapter 87 of title 5, United States Code, without regard to any regularly scheduled open season and requirement of insurability.

(B) OCC AND OTS RETIREES AND NEAR-RETIREES.—

(i) SPECIAL PROVISIONS TO ENSURE CONTINUATION OF HEALTH BENEFITS.—

(I) IN GENERAL.—An individual covered by a health benefit plan administered by the Office of the Comptroller of the Currency or the Office of Thrift Supervision on the day before the designated transfer date, who is—

(aa) an annuitant (as defined in section 8901(3) of title 5, United States Code);

(bb) eligible for temporary continuation of coverage under section 8905a of title 5, United States Code; or

(cc) a dependent child of an employee transferred under this section or of an individual described in subclauses (aa) or (bb);

shall be eligible for enrollment in a health benefits plan under chapter 89 of title 5, United States Code, notwithstanding sections 8905(b) and 8905a(b)(2)(B) of title 5, United States Code, or in a health benefits plan established by the Commission, without regard to any regularly scheduled open season and notwithstanding health conditions pre-existing at the time of such enrollment. An individual described in subclause (I)(cc) shall be eligible for health benefits under this subparagraph only during the period for which the individual would have been eligible for coverage under the health benefits plan under which he or she was covered on the day before the designated transfer date.

(II) EMPLOYEE'S CONTRIBUTION.—An individual entitled to enroll in a health benefits plan under this subparagraph shall pay any employee contribution required by the plan.

(III) ADDITIONAL FUNDING.—The Commission shall transfer to the Federal Employees Health Benefits Fund established under section 8909 of title 5, United States Code, an amount determined by the Director of the Office of Personnel Management, after consultation with the Commission and the Office of Management and Budget, to be necessary to reimburse the Fund for the cost to the Fund of providing benefits under this subparagraph not otherwise paid for by the employee under subclause (II).

(IV) CREDIT FOR TIME ENROLLED IN OTHER PLANS.—For employees transferred under this section, enrollment in a health benefits plan administered by the Office of the Comptroller of the Currency, the Officer of Thrift Supervision, the Federal Deposit Insurance Corporation, the Board of Governors, a Federal reserve bank, or the Commission immediately prior to enrollment in a health benefits plan under chapter 89 of title 5, United States Code, shall be considered as enrollment in a health benefits plan under that chapter for purposes of section 8905(b)(1)(A) of title 5, United States Code.

(ii) SPECIAL PROVISIONS TO ENSURE CONTINUATION OF LIFE INSURANCE BENEFITS.—

(I) IN GENERAL.—An annuitant (as defined in section 8901(3) of title 5, United States

Code) who is enrolled in a life insurance plan administered by the Office of the Comptroller of the Currency or the Office of Thrift Supervision on the day before the designated transfer date shall be eligible for coverage by a life insurance plan under section 8706(b), 8714a, 8714b, and 8714c of title 5, United States Code, or in a life insurance plan established by the Commission, without regard to any regularly scheduled open season and requirement of insurability.

(II) EMPLOYEE CONTRIBUTION.—An individual entitled to enroll in a life insurance plan under this clause shall pay an employee contribution required by the plan.

(III) ADDITIONAL FUNDING.—The Commission shall transfer to the Employees' Life Insurance Fund established under section 8714 of title 5, United States Code, an amount determined by the Director of the Office of Personnel Management, after consultation with the Commission and the Office of Management and Budget, to be necessary to reimburse the Fund for the cost to the Fund of providing benefits under this subparagraph not otherwise paid for by the employee under subclause (II).

(IV) CREDIT FOR TIME ENROLLED IN OTHER PLANS.—For employees transferred under this section, enrollment in a life insurance plan administered by the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, the Board of Governors, a Federal reserve bank, or the Commission immediately prior to enrollment in a life insurance plan under chapter 87 of title 5, United States Code, shall be considered as enrollment in a life insurance plan under that chapter for purposes of section 8706(b)(1)(A) of title 5, United States Code.

(k) IMPLEMENTATION OF UNIFORM PAY AND CLASSIFICATION SYSTEM.—Not later than 2 years after the designated transfer date, the Commission shall implement a uniform pay and classification system for all transferred employees.

(l) EQUITABLE TREATMENT.—In administering the provisions of this section, the Commission—

(1) shall take no action that would unfairly disadvantage transferred employees relative to each other based on their prior employment by the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, a Federal home loan bank, a joint office of the Federal home loan banks, the Board of Governors, a Federal reserve bank, or the Federal Financial Institutions Examination Council; and

(2) may take such action as is appropriate in individual cases so that employees transferred under this section receive equitable treatment, with respect to those employees' status, tenure, pay, benefits (other than benefits under programs administered by the Office of Personnel Management), and accrued leave or vacation time, for prior periods of service with any Federal agency, a Federal home loan bank, a joint office of the Federal home loan banks, the Board of Governors, a Federal reserve bank, the Federal Deposit Insurance Corporation, or the Federal Financial Institutions Examination Council.

(m) NO PRIVATE RIGHT OF ACT.—This section does not provide any transferred employee with any right of action to require the Commission or any officer or employee of the Commission to take any action under this section.

SEC. 404. PROPERTY TRANSFERRED.

(a) IN GENERAL.—

(1) OCC AND OTS PROPERTY.—Not later than 90 days after the designated transfer date, all property of the Office of the Comptroller of the Currency and the Office of Thrift Supervision shall be transferred to the Commission.

(2) FEDERAL RESERVE SYSTEM PROPERTY.—

(A) IN GENERAL.—Not later than 90 days after the designated transfer date, all property of the Board of Governors that, on the day before the designated transfer date, is used to perform or support the functions of the Board of Governors transferred to the Commission by this Act, shall be transferred to the Commission.

(B) FEDERAL RESERVE BANK PROPERTY.—Property of any Federal reserve bank that, on the day before the designated transfer date, is used to perform or support the functions of the Board of Governors transferred to the Commission by this Act, shall be treated as property of the Board of Governors for purposes of subparagraph (A).

(3) FDIC PROPERTY.—Not later than 90 days after the designated transfer date, all property of the Corporation that, on the day before the designated transfer date, is used to perform or support the functions of the Corporation transferred to the Commission by this Act, shall be transferred to the Commission.

(b) CONTRACTS RELATED TO PROPERTY TRANSFERRED.—All contracts, agreements, leases, licenses, permits, and similar arrangements relating to property transferred to the Commission by this section shall be transferred to the Commission together with that property.

(c) PRESERVATION OF PROPERTY.—Property identified for transfer under this section shall not be altered, destroyed, or deleted before transfer under this section.

(d) PROPERTY DEFINED.—For purposes of this section, the term "property" includes all real property (including leaseholds) and all personal property (including computers, furniture, fixtures, equipment, books, accounts, records, reports, files, memoranda, paper, reports of examination, work papers and correspondence related to such reports, and any other information or materials).

SEC. 405. FUNDS TRANSFERRED.

Except to the extent needed to dispose of affairs under section 406, all funds that, on the day before the designated transfer date, are available to the Comptroller of the Currency and the Director of the Office of Thrift Supervision to pay the expenses of the Office of the Comptroller of the Currency and the Office of Thrift Supervision shall be transferred to the Commission on the designated transfer date.

SEC. 406. DISPOSITION OF AFFAIRS.

(a) IN GENERAL.—During the 90-day period beginning on the designated transfer date, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Board of Governors, and the Board of Directors of the Federal Deposit Insurance Corporation—

(1) shall, solely for the purpose of winding up the affairs of their respective agencies related to any function transferred to the Commission by this Act—

(A) manage the employees of those agencies and provide for the payment of the compensation and benefits of any such employee that accrue before the designated transfer date; and

(B) manage any property of those agencies until the property is transferred under section 404; and

(2) take any other action necessary to wind up the affairs of their respective agencies relating to the transferred functions.

(b) AUTHORITY AND STATUS OF EXECUTIVES.—

(1) IN GENERAL.—Notwithstanding the transfers of functions under this Act, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Board of Governors, and the Board of Directors of the Federal Deposit Insurance Corporation shall, during the 90-day period beginning on the designated transfer date, retain and may exercise any authority vested in those persons on the day before the designated transfer date that is necessary to carry out the requirements of this Act during that period.

(2) OTHER PROVISIONS.—For purposes of paragraph (1), the Comptroller of the Currency and the Director of the Office of Thrift Supervision shall, during the 90-day period beginning on the designated transfer date, continue to be—

(A) treated as officers of the United States; and

(B) entitled to receive compensation at the same annual rate of basic pay that they were receiving on the day before the designated transfer date.

SEC. 407. CONTINUATION OF SERVICES.

Any agency, department, or other instrumentality of the United States, and any successor to any such agency, department, or instrumentality, that was, before the designated transfer date, providing support services to the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Board of Governors, or the Federal Deposit Insurance Corporation in connection with functions to be transferred to the Commission, shall—

(1) continue to provide those services, subject to reimbursement, until the transfer of those functions is complete; and

(2) consult with any such agency to coordinate and facilitate a prompt and orderly transition.

TITLE V—CONFORMING AMENDMENTS TO FEDERAL DEPOSIT INSURANCE ACT

SEC. 501. AMENDMENTS TO SECTION 2.

Section 2 of the Federal Deposit Insurance Act (12 U.S.C. 1812) is amended—

(a) in subsection (a)(1)—

(1) in subparagraph (A), by striking "Comptroller of the Currency" and inserting "Chairperson of the Federal Banking Commission"; and

(2) in subparagraph (B), by striking "Director of the Office of Thrift Supervision" and inserting "Secretary of the Treasury (or the Secretary's designee)";

(b) by amending subsection (d)(2) to read as follows:

"(2) ACTING OFFICIALS MAY SERVE.—In the event of a vacancy in the office of the Chairperson of the Federal Banking Commission and pending the appointment of a successor, or during the absence or disability of the Chairperson, the acting Chairperson of the Federal Banking Commission shall be a member of the Board of Directors in the place of the Chairperson of the Federal Banking Commission. In the event of a vacancy in the office of the Secretary of the Treasury and pending the appointment of a successor, or during the absence or disability of the Secretary, the Deputy Secretary of the Treasury, or his or her designee, shall be a member of the Board of Directors in the place of the Secretary of the Treasury."; and

(c) in subsection (f)(2), by striking "Office of the Comptroller of the Currency or of the Office of Thrift Supervision" and inserting "Federal Banking Commission or the Department of the Treasury".

SEC. 502. AMENDMENTS TO SECTION 3.

Section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) is amended—

(a) in subsection (b)(1)(C), by striking "Director of the Office of Thrift Supervision" and inserting "Commission";

(b) in subsection (l)(5), in the introductory text, by striking "Comptroller of the Currency, Director of the Office of Thrift Supervision," and inserting "Commission,";

(c) by amending subsection (q) to read as follows:

"(q) COMMISSION.—The term 'Commission' means the Federal Banking Commission.";

(d) in subsection (u)—

(1) in paragraph (2), by striking "appropriate Federal banking agency and inserting "Commission,"; and

(2) in paragraph (3), by striking "appropriate Federal banking agency and inserting "Commission";

(e) in subsection (x)—

(1) in paragraph (1), by striking "appropriate Federal banking agency and inserting "Commission,"; and

(2) in paragraph (2)—

(A) by striking "appropriate Federal banking agency" the first place it appears and inserting "Commission"; and

(B) by striking "(or, if the appropriate Federal banking agency is the Corporation, the Corporation has determined)"; and

(f) by amending subsection (z) to read as follows:

"(z) FEDERAL BANKING AGENCY.—The term 'Federal banking agency' means the Federal Deposit Insurance Corporation, the Federal Banking Commission, or the Board of Governors of the Federal Reserve System.".

SEC. 503. AMENDMENTS TO SECTION 5.

Section 5 of the Federal Deposit Insurance Act (12 U.S.C. 1815) is amended—

(a) in subsection (a)—

(1) in paragraph (2)—

(A) by striking "appropriate Federal banking agency" and inserting "Commission"; and

(B) by striking "agency" and inserting "Commission"; and

(2) in paragraph (5), by striking "appropriate Federal banking agency" and inserting "Commission";

(b) in subsection (d)(3)—

(1) in subparagraph (A)—

(A) by striking "(i)"; and

(B) by striking clause (ii);

(2) in subparagraph (E)—

(A) by amending clause (i) to read as follows:

"(i) FACTORS TO BE CONSIDERED; APPROVAL PROCESS.—In reviewing any application for a proposed transaction under subparagraph (A), the Commission shall follow the procedures and consider the factors set forth in section 18(c) of this Act.";

(B) in clause (ii), by striking "responsible agency or Board" and inserting "Commission";

(C) in clause (iv)—

(i) by striking "responsible agency and the appropriate Federal banking agency for any depository institution holding company," and inserting "Commission"; and

(ii) by striking "each such agency" and inserting "the Commission";

(3) in subparagraph (F), by deleting "Board" each place it appears and inserting "Commission; and"; and

(4) by striking subparagraphs (G) and (K) and redesignating subparagraphs (H), (I), and (J), as subparagraphs (g), (H), and (I), respectively; and

(c) in subsection (e)(2)(B), by striking "appropriate Federal banking agency" and inserting "Commission".

SEC. 504. AMENDMENTS TO SECTION 7.

Section 7 of the Federal Deposit Insurance Act (12 U.S.C. 1817) is amended—

(a) in subsection (a)—

(1) in paragraph (1)—

(A) by striking "Corporation" each place it appears and inserting "Commission";

(B) by striking "Board of Directors" each place it appears and inserting "Commission"; and

(C) in the third sentence, by striking "Board" and inserting "Commission";

(2) in paragraph (2)—

(A) in subparagraph (A)—

(i) in the first sentence, by striking "Comptroller of the Currency, the Director of the Office of Thrift Supervision" and inserting "Commission"; and

(ii) in the second sentence—

(I) by striking "Comptroller of the Currency, the Director of the Office of Thrift Supervision" and inserting "Commission"; and

(II) by striking ", and reports of condition made to,"; and

(B) in subparagraph (B), by striking "Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Director of the Office of Thrift Supervision, as appropriate," and inserting "Commission,";

(3) in the first sentence of paragraph (3)—

(A) by striking "appropriate Federal banking agency" and inserting "Commission"; and

(B) by striking "Chairman of the Board of Directors, the Comptroller of the Currency, the Chairman of the Board of Governors of the Federal Reserve System, and the Chairman of the Director of the Office of Thrift Supervision" and inserting "Chairperson of the Board of Directors and the Chairperson of the Commission";

(4) in paragraph (7), by striking "Comptroller of the Currency, the Director of the Office of Thrift Supervision, and the Board of Governors of the Federal Reserve System," and inserting "Commission"; and

(5) in paragraph (8), by striking "the Comptroller of the Currency, as the case may be," and inserting "Commission";

(b) in subsection (j)—

(1) in paragraph (1)—

(A) in the first sentence, by striking "appropriate Federal banking agency" and inserting "Commission";

(B) by striking "agency" each place it appears and inserting "Commission"; and

(C) in subparagraph (B), by striking "agency's" and inserting "Commission's";

(2) in paragraph (2)—

(A) in subparagraph (A)—

(i) by striking "appropriate Federal banking agency" each place it appears and inserting "Commission"; and

(ii) by striking "such Federal banking agency" each place it appears and inserting "the Commission";

(B) in subparagraph (B), by striking "appropriate Federal banking agency" and inserting "Commission";

(C) in subparagraph (C)—

(i) by striking "appropriate Federal banking agency" and inserting "Commission"; and

(ii) by striking "agency" and inserting "Commission"; and

(D) in subparagraph (D)—

(i) by striking "appropriate Federal banking agency" and inserting "Commission";

(ii) by striking "such agency" and inserting "the Commission"; and

(iii) by striking "agency" and inserting "Commission";

(3) in paragraph (3) by striking "appropriate Federal banking agency" and inserting "Commission";

(4) in paragraph (4), by striking "appropriate Federal banking agency" each place it appears and inserting "the Commission";

(5) in paragraph (5), by striking "appropriate Federal banking agency" each place it appears and inserting "Commission";

(6) in paragraph (6)—

(A) in the introductory text, by striking "appropriate Federal banking agency" and inserting "the Commission"; and

(B) in subparagraph (H), by striking "appropriate Federal banking agency" and inserting "Commission";

(7) in paragraph (7)—

(A) in the introductory text, by striking "appropriate Federal banking agency" and inserting "Commission";

(B) in subparagraph (E), by striking "appropriate Federal banking agency" each place it appears and inserting "Commission"; and

(C) in subparagraph (F), by striking "appropriate Federal banking agency" and inserting "Commission";

(8) in paragraph (9)—

(A) in subparagraph (A), by striking "appropriate Federal banking agency for such insured depository institution" and inserting "Commission";

(B) in subparagraph (D)—

(i) by striking clause (iii);

(ii) in clause (iv)—

(I) by striking "Each appropriate Federal banking agency" and inserting "The Commission"; and

(II) by striking "agency's" and inserting "Commission's"; and

(iii) by redesignating clause (iv) as clause (iii); and

(C) in subparagraph (E), by striking "appropriate Federal banking agency for the insured depository institution" each place it appears and inserting "Commission";

(9) in paragraph (10), by striking "appropriate Federal banking agency" and inserting "the Commission";

(10) by amending paragraph (11) to read as follows:

"(11) The Commission shall immediately furnish to the Corporation a copy of any notice or report filed pursuant to paragraph (1).";

(11) in paragraph (12), by striking "appropriate Federal banking agency" and inserting "Commission";

(12) in paragraph (13), by striking "appropriate Federal banking agencies are" and inserting "Commission is";

(13) in paragraph (14)—

(A) by striking "each appropriate Federal banking agency's" and inserting "the Commission's"; and

(B) by striking "appropriate Federal banking agency" each place it appears and inserting "Commission";

(14) in paragraph (15)—

(A) in subparagraph (A), by striking "appropriate Federal banking agency" each place it appears and inserting "Commission";

(B) in subparagraph (B)—

(i) by striking "appropriate Federal banking agency" and inserting "Commission"; and

(ii) by striking "agency" and inserting "Commission"; and

(C) in subparagraph (C), by striking "appropriate Federal banking agency" and inserting "Commission";

(15) in paragraph (16)—

(A) in subparagraph (A), by striking "appropriate Federal banking agency" and inserting "Commission"; and

(B) in subparagraph (E), by striking "appropriate Federal banking agency" and inserting "Commission";

(16) by redesignating paragraphs (12) through (18) as paragraphs (11) through (17).

(d) in subsection (k)—

(1) in the heading, by striking "FEDERAL BANKING AGENCY" and inserting "COMMISSION"; and

(2) in the introductory text, by striking "appropriate Federal banking agencies are" and inserting "Commission is"; and

(e) by striking subsection (n).

SEC. 505. AMENDMENTS TO SECTION 8.

Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended—

(a) in subsection (a)—

(1) in paragraph (2)(A)—

(A) in the heading, by striking "PRIMARY REGULATOR" and inserting "COMMISSION";

(B) in the first sentence—

(i) by striking "appropriate Federal banking agency with respect to such institution (if other than the Corporation) or" and inserting "Commission or, in the case of a state depository institution,"; and

(ii) by striking "(if the Corporation is the appropriate Federal banking agency)"; and

(C) in the second sentence—

(i) by striking "appropriate Federal banking agency" each place it appears and inserting "Commission"; and

(ii) by striking "such agency" and inserting "the Commission";

(2) in paragraph (8)—

(A) in subparagraph (A), by striking "appropriate Federal banking agency," each place it appears and inserting "Commission"; and

(B) in subparagraph (B)(ii)—

(i) in subclause (IV), by striking "a Federal banking agency" and inserting "the Commission"; and

(ii) in the last sentence—

(I) by striking "Director of the Office of Thrift Supervision" each place it appears and inserting "Commission"; and

(II) by inserting "the Office of Thrift Supervision, as successor to" after "as a successor to" and before "the Federal Savings and Loan Insurance Corporation";

(b) in subsection (b)—

(1) in paragraph (1)—

(A) by striking the first sentence and inserting the following: "If, in the opinion of the Commission, any insured depository institution, depository institution which has insured deposits, or any institution-affiliated party is engaging or has engaged, or the Commission has reasonable cause to believe that the depository institution or any institution-affiliated party is about to engage, in an unsafe or unsound practice in conducting the business of such depository institution, or is violating or has violated, or the Commission has reasonable cause to believe that the depository institution or any institution-affiliated party is about to violate, a law, rule, or regulation, or any condition imposed in writing by any Federal banking agency in connection with the granting of any application or other request by the depository institution or any written agreement entered into with any Federal banking agency, the Commission may issue and serve upon the depository institution or such party a notice of charges in respect thereof.";

(B) in the third sentence, by striking "agency" and inserting "Commission"; and

(C) in the fifth sentence, by striking "agency" each place it appears and inserting "Commission";

(2) in paragraph (2), by striking "agency" and inserting "Commission";

(3) in paragraph (3), by striking the second sentence;

(4) by amending paragraph (5) to read as follows:

"(5) This section shall apply to any national banking association chartered by the Commission, including an uninsured association."

(5) in paragraph (6)—

(A) in subparagraph (A)(ii), by striking "the appropriate Federal banking agency" and inserting "any Federal banking agency";

(B) in subparagraph (E), by striking "appropriate Federal banking agency" and inserting "Commission"; and

(C) in subparagraph (F), by striking "banking agency" and inserting "Commission";

(6) in paragraph (8), by striking "appropriate Federal banking agency" and inserting "Commission";

(c) in subsection (c)—

(1) in paragraph (1)—

(A) by striking "appropriate Federal banking agency" and inserting "Commission"; and

(B) by striking "agency" each place it appears and inserting "Commission";

(2) in paragraph (3)—

(A) in subparagraph (A)—

(i) by striking "appropriate Federal banking agency" and inserting "Commission"; and

(ii) by striking "agency" and inserting "Commission"; and

(B) in subparagraph (B)(ii)(II), by striking "appropriate Federal banking agency" and inserting "Commission";

(d) in subsection (d), by striking "appropriate Federal banking agency" and inserting "Commission";

(e) in subsection (e)—

(1) in paragraph (1)—

(A) by striking "Whenever the appropriate Federal banking agency" and inserting "Whenever the Commission";

(B) in subparagraph (A)(i)—

(i) in subclause (III), by striking "the appropriate Federal banking agency" and inserting "any Federal banking agency"; and

(ii) in subclause (IV) by striking "such agency" and inserting "any Federal banking agency"; and

(C) at the end—

(i) by striking "agency" and inserting "Commission"; and

(ii) by striking "agency's" and inserting "Commission's";

(2) in paragraph (2)—

(A) in subparagraph (A)—

(i) by striking "appropriate Federal banking agency" and inserting "Commission";

(ii) by striking "agency" and inserting "Commission"; and

(iii) by striking "agency's" and inserting "Commission's"; and

(B) in subparagraph (B), by striking "agency" and inserting "Commission";

(3) in paragraph (3)—

(A) in subparagraph (A)—

(i) by striking "appropriate Federal banking agency" each place it appears and inserting "Commission";

(ii) by striking "such agency's" and inserting "the Commission's"; and

(iii) by striking "agency" and inserting "Commission";

(B) in subparagraph (B), by striking "appropriate Federal banking agency" and inserting "Commission"; and

(C) in subparagraph (C)—

(i) by striking "an appropriate Federal banking agency" and inserting "the Commission"; and

(ii) by striking "agency" and inserting "Commission";

(4) in paragraph (4)—

(A) by striking "agency" each place it appears and inserting "Commission"; and

(B) by striking the fifth sentence;

(5) in paragraph (6), by striking "the appropriate Federal banking agency" and inserting "any Federal banking agency";

(6) in paragraph (7)—

(A) in subparagraph (D)(i), by striking "appropriate Federal banking agency" and inserting "Commission"; and

(B) in Subparagraph (F), by striking "appropriate Federal banking agency" and inserting "Commission";

(f) in subsection (g)—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking "appropriate Federal banking agency" and inserting "Commission";

(B) in subparagraphs (B), by striking "Agency" and inserting "Commission"; and

(C) in subparagraph (C)—

(i) in clause (i)—

(I) by striking "appropriate Federal banking agency" and inserting "Commission"; and

(II) by striking "appropriate agency" and inserting "Commission"; and

(ii) in clause (ii)—

(I) by striking "appropriate Federal banking agency" and inserting "Commission";

(II) by striking "appropriate agency" and inserting "Commission";

(2) in paragraph (2), in the second sentence, by striking "Comptroller of the Currency" and inserting "Commission"; and

(3) in paragraph (3)—

(A) by striking "agency" each place it appears and inserting "Commission";

(B) in the second sentence, by striking "appropriate Federal banking agency" and inserting "Commission";

(C) in the fourth sentence, by striking "agencys" and inserting "Commission's"; and

(D) in the fifth sentence, by striking "Federal banking agencies are" and inserting "Commission is";

(g) in subsection (h)—

(1) in paragraph (1)—

(A) by striking "appropriate Federal banking agency or Board of Governors of the Federal Reserve System" and inserting "the Commission"; and

(B) by striking "issuing agency" and inserting "Commission";

(2) in paragraph (2), by striking "agency" each place it appears and inserting "Commission"; and

(3) in paragraph (3), by striking "agency" and inserting "Commission";

(h) in subsection (i)—

(1) in paragraph (1), by striking "appropriate Federal banking agency" and inserting "Commission";

(2) in paragraph (2)—

(A) in subparagraph (A)—

(i) in clause (iii), by striking "the appropriate Federal banking agency" and inserting "any Federal banking agency"; and —

(ii) in clause (iv), by striking "such agency" and inserting "any Federal banking agency";

(B) in subparagraph (E)(i), by striking "appropriate Federal banking agency" and inserting "Commission";

(C) in subparagraph (F), by striking "Any appropriate Federal banking agency" and inserting "The Commission";

(D) in subparagraph (G), by striking "appropriate agency" and inserting "Commission";

(E) in subparagraph (I)(i), by striking "agency that imposed the penalty" and inserting "Commission"; and

(F) in subparagraph (K), by striking "Each appropriate Federal banking agency" and inserting "The Commission";

(3) in paragraph (3), by striking "appropriate Federal banking agency" and inserting "Commission"; and

(4) in paragraph (4)(A)—

(A) by striking "an appropriate Federal banking agency (excluding the Corporation when acting in a manner described in section 11(d)(18))" and inserting "the Commission";

(B) by striking "such agency" each place it appears and inserting "the Commission"; and

(C) by striking "agency" and inserting "Commission";

(i) in subsection (j), by striking "appropriate Federal financial institutions regulatory agency" and inserting "Commission";

(j) in subsection (l)—

(1) by striking "appropriate Federal banking agency" and inserting "Commission"; and

(2) by striking "agency" each place it appears and inserting "Commission";

(k) in subsection (m)—

(1) in the first sentence—

(A) by striking "appropriate Federal banking agency" and inserting "Commission"; and

(B) by striking "agency's" and inserting "Commission's";

(2) by striking "agency" each place it appears and inserting "Commission"; and

(3) in the second sentence, by striking "Federal banking agency" and inserting "Commission";

(l) in subsection (n), in the sixth sentence, by striking "appropriate";

(m) in subsection (o)—

(1) by striking "Comptroller of the Currency" and inserting "Commission"; and

(2) by striking "Director of the Office of Thrift Supervision" and inserting "Commission";

(n) in subsection(s)—

(1) in paragraph (1), by striking "Each appropriate Federal banking agency" and inserting "The Commission";

(2) in paragraph (2)(A), by striking "appropriate Federal banking agency" and inserting "Commission"; and

(3) in paragraph (3)—

(A) by striking "appropriate Federal banking agency" and inserting "Commission";

(B) by striking "such agency" and inserting "the Commission"; and

(C) by striking "agency" and inserting "Commission";

(o) in subsection (t)—

(1) in paragraph (1)—

(A) by amending the heading to read as follows: "RECOMMENDING ACTION BY COMMISSION."; and

(B) by striking "appropriate Federal banking agency" each place it appears and inserting "Commission"; and

(C) by striking "agency" and inserting "Commission";

(2) in paragraph (2)—

(A) in the heading, by striking "APPROPRIATE FEDERAL BANKING AGENCY" and inserting "COMMISSION";

(B) in the introductory text—

(I) by striking "appropriate Federal banking agency" and inserting "Commission"; and

(II) by striking "agency" and inserting "Commission";

(C) in subparagraph (B), by striking "; or" and inserting ";";

(D) in subparagraph (C), by striking the period at the end and inserting "; or"; and

(E) by adding at the end a new subparagraph to read as follows:

"(D) the insured depository institution is violating or has violated, or the Corporation has reasonable cause to believe that the depository institution or any institution-affiliated party is about to violate, a law, rule, or regulation relating to the Corporation's deposit insurance, conservatorship or receivership functions or any condition imposed in writing by the Corporation in connection with the granting of any application or other request by the depository institution or any written agreement entered into with the Corporation.";

(3) in paragraph (3)—

(A) in subparagraph (A), by striking "appropriate Federal banking agency," and inserting "Commission,"; and

(B) in subparagraph (B), by striking "appropriate Federal banking agency," and inserting "Commission,";

(4) in paragraph (4)—

(A) in subparagraph (A), by striking "appropriate Federal banking agency" and inserting "Commission"; and

(B) in subparagraph (B), by striking "appropriate Federal banking agency" and inserting "Commission"; and

(5) in paragraph (5)—

(A) in subparagraph (A)—

(i) by striking "an appropriate Federal banking agency (including a Federal Reserve Bank)" and inserting "the Commission (or a Federal Reserve Bank)"; and

(ii) by striking "chief officer of the appropriate Federal banking agency" and inserting "Chairperson of the Commission"; and

(B) in subparagraph (B)—

(i) by striking "Each appropriate Federal banking agency" and inserting "The Commission"; and

(ii) by striking "agency" and inserting "Commission";

(p) in subsection (u)—

(1) in paragraph (1)—

(A) in the introductory text, by striking "appropriate Federal banking agency" and inserting "Commission";

(B) in subparagraph (A), by striking "appropriate Federal banking agency" each place it appears and inserting "Commission"; and

(C) in subparagraph (B), by striking "such agency" and inserting "Commission";

(2) in paragraph (2), by striking "a Federal banking agency" and inserting "Commission";

(3) in paragraph (5)—

(A) by striking "appropriate Federal banking agency" and inserting "Commission"; and

(B) by striking "agency" and inserting "Commission";

(4) in paragraph (6)—

(A) by striking "appropriate Federal banking agency" and inserting "Commission"; and

(B) by striking "agency" and inserting "Commission"; and

(5) in paragraph (7)—

(A) by striking "Each Federal banking agency" and inserting "The Commission"; and

(B) by striking "such agency" and inserting "the Commission";

(q) in subsection (v)—

(1) in paragraph (1), by striking "appropriate Federal banking agency" and inserting "Commission";

(2) in paragraph (2)—

(A) in subparagraph (A), by striking "Any appropriate Federal banking agency" and inserting "The Commission";

(B) in subparagraph (B)—

(i) by striking "Any appropriate Federal banking agency" and inserting "The Commission"; and

(ii) by striking "such agency's" and inserting "The Commission's";

(C) in subparagraph (C)—

(i) in the introductory text, by striking "appropriate Federal banking agency" and inserting "Commission"; and

(ii) in clause (i), by striking "any appropriate Federal banking agency" and inserting "the Commission"; and

(D) in subparagraph (D)—

(i) by striking "appropriate Federal banking agency" and inserting "Federal banking agency"; and

(ii) by striking "any appropriate Federal banking agency" and inserting "the Commission"; and

(g) in subsection (w)(3)(A), by striking "Office of Thrift Supervision" and inserting "Commission".

SEC. 506. AMENDMENTS TO SECTION 10.

Section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820) is amended—

(a) in subsection (b)—

(1) by striking paragraph (2)(A) and redesignating paragraphs (2)(B) and (2)(C) as paragraphs (2)(A) and (2)(B), respectively;

(2) by striking paragraph (5) and redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively; and

(3) in paragraph (5)(A) (as redesignated by paragraph (2) of this subsection)—

(A) by inserting "or" after "(3),"; and

(B) by striking "; or (5)";

(b) in subsection (c), by striking "the appropriate Federal banking agency" and inserting "each Federal banking agency"; and

(c) in subsection (e)(1), by striking "(b)(2), (b)(3), or (d)" and inserting "(b)(2) or (b)(3)".

SEC. 507. AMENDMENTS TO SECTION 11.

Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended—

(a) in subsection (c)—

(1) in paragraph (2)—

(A) in subparagraph (A)(ii), by striking "appropriate Federal banking agency" and inserting "Commission"; and

(B) in subparagraph (D), by striking "appropriate Federal banking agency" and inserting "Commission";

(2) in paragraph (5)(E), by striking "appropriate Federal banking agency" and inserting "Commission, the Corporation, or the Board of Governors";

(3) in paragraph (6)—

(A) in the heading, by striking "DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION" and inserting "COMMISSION";

(B) in subparagraph (A), by striking "Director of the Office of Thrift Supervision" and inserting "Commission"; and

(C) in subparagraph (B), by striking "Director of the Office of Thrift Supervision" and inserting "Commission";

(4) in paragraph (9)—

(A) in the heading, by striking "APPROPRIATE FEDERAL BANKING AGENCY" and inserting "COMMISSION";

(B) in subparagraph (A), by striking "appropriate Federal banking agency" each place it appears and inserting "Commission"; and

(C) in subparagraph (B), by striking "appropriate Federal banking agency" and inserting "Commission";

(5) in paragraph (10), by striking "appropriate Federal banking agency" and inserting "Commission"; and

(6) in paragraph (11)—

(A) in the heading, by striking "APPROPRIATE FEDERAL BANKING AGENCY" and inserting "COMMISSION";

(B) by striking "appropriate Federal banking agency" and inserting "Commission";

(C) by striking "agency" each place it appears and inserting "Commission"; and

(D) by striking "agency's" and inserting "Commission's";

(b) in subsection (d)—

(1) in paragraph (2)—

(A) in subparagraph (F)(i), by striking "Director of the Office of Thrift Supervision" and inserting "Commission"; and

(B) in subparagraph (G)(ii)—

(i) in the heading, by striking "APPROPRIATE FEDERAL BANKING AGENCY" and inserting "COMMISSION"; and

(ii) by striking "appropriate Federal banking agency for such institution." and inserting "Commission.";

(2) in paragraph (17)(A)—

(A) by striking "Comptroller of the Currency or the Director of the Office of Thrift Supervision" and inserting "Commission"; and

(B) by striking "appropriate"; and

(3) in paragraph (18)(B), by striking "Comptroller of the Currency or the Director of the Office of Thrift Supervision" and inserting "Commission";

(c) in subsection (m)—

(1) in paragraph (9), by striking "Comptroller of the Currency" and inserting "Commission";

(2) in paragraph (16), by striking "Comptroller of the Currency" each place it appears and inserting "Commission"; and

(3) in paragraph (18), by striking "Comptroller of the Currency" each place it appears and inserting "Commission";

(d) in subsection (n)—

(1) in paragraph (1)(A), by striking "Office of the Comptroller of the Currency" and inserting "Commission";

(2) in paragraph (2)(A), by striking "Comptroller of the Currency" and inserting "Commission";

(3) in paragraph (4)—

(A) in subparagraph (D), by striking "Comptroller of the Currency" and inserting "Commission"; and

(B) in subparagraph (G), by striking "Comptroller of the Currency" and inserting "Commission"; and

(4) in paragraph (12)(B), by striking "Comptroller of the Currency" each place it appears and inserting "Commission";

(e) in subsection (o), by striking "appropriate Federal banking agency" and inserting "Federal banking agencies";

(f) in subsection (p)(1)(C), by striking "an appropriate" and inserting "any"; and

(g) in subsection (t)(2)(A)(i), by striking "appropriate Federal banking agency" and inserting "Federal banking agency".

SEC. 508. AMENDMENT TO SECTION 12.

Section 12(f)(4)(E)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1822(f)(4)(E)(ii)) is amended by striking "appropriate".

SEC. 509. AMENDMENTS TO SECTION 13.

Section 13 of the Federal Deposit Insurance Act (12 U.S.C. 1823) is amended—

(a) in subsection (c)(8)(A)(ii)(I)—

(1) by striking "appropriate Federal banking agency" and inserting "Commission"; and

(2) by striking "agency" and inserting "Commission";

(b) in subsection (j)—

(1) in paragraph (1)—

(A) in the introductory text, by striking "appropriate Federal banking agency" and inserting "Commission"; and

(B) in subparagraph (B), by striking "appropriate Federal banking agency" and inserting "Commission";

(2) in paragraph (2)—

(A) in subparagraph (A), by striking "appropriate Federal banking agency" and inserting "Commission"; and

(B) in subparagraph (B), by striking "appropriate Federal banking agency" and inserting "Commission";

(3) in paragraph (3), by striking "appropriate Federal banking agency" and inserting "Commission";

(4) in paragraph (4)—

(A) in subparagraph (A)(iv)(II), by striking "appropriate Federal banking agency" and inserting "Commission"; and

(B) in subparagraph (B), by striking "appropriate Federal banking agency" and inserting "Commission"; and

(c) in subsection (k)—

(1) in paragraph (1)(A)(iii)—

(A) in the heading, by striking "APPROPRIATE AGENCY" and inserting "COMMISSION"; and

(B) by striking "appropriate Federal banking agency of every party thereto" and inserting "Commission";

(2) in paragraph (1)(A)(iv), by striking "Director of The Office of Thrift Supervision" and inserting "Commission"; and

(3) in paragraph (5)(A)(ii)(IV), by striking "appropriate Federal banking agency" and inserting "Commission".

SEC. 510. AMENDMENT TO SECTION 14.

Section 14(d)(5)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1824(d)(5)(A)) is amended by striking "appropriate Federal banking agency" and inserting "Corporation or the Commission".

SEC. 511. AMENDMENTS TO SECTION 18.

Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended—

(a) in subsection (c)—

(1) in paragraph (2), by striking "responsible agency" and all that follows through the period and inserting "responsible agency, which shall in every case referred to in this paragraph be the Commission.";

(2) in paragraph (4), by striking "the other two banking agencies referred to in this subsection" and inserting "the Corporation";

(3) in paragraph (6), by striking "the other two banking agencies" and inserting "the Corporation or the Commission, as the case may be,"; and

(4) in paragraph (7)(D)—

(A) by striking "Federal supervisory agency" and inserting "the Corporation"; and

(B) by striking "such agency" and inserting "the Commission"; and

(5) in paragraph (9), by striking "each of the responsible agencies" and inserting "the responsible agency";

(b) in subsection (d)—

(1) in paragraph (1), by striking "Corporation" each place it appears and inserting "Commission"; and

(2) in paragraph (2), by striking "Corporation" each place it appears and inserting "Commission";

(c) in subsection (g)—

(1) in paragraph (1)—

(A) by striking "Board of Directors" each place it appears and inserting "Commission";

(B) in the first sentence, by striking ", or by regulation of the Board of Governors of the Federal Reserve System";

(C) in the second sentence, by striking ", after consulting with the Board of Governors of the Federal Reserve System and the Director of the Office of Thrift Supervision,"; and

(D) in the sixth sentence, by striking "Corporation" and inserting "Commission"; and

(2) in paragraph (2), by striking "Board of Directors" and inserting "Commission";

(d) in subsection (i)—

(1) in paragraph (1), by striking "Corporation" and inserting "Commission"; and

(2) in paragraph (2), by striking "prior written consent" and all that follows through the period and inserting "prior written consent of the Commission.";

(e) subsection (k)—

(1) in paragraph (4)(A)(ii)—

(A) in subclause (III), by striking "institution's appropriate Federal banking agency" and inserting "Commission"; and

(B) in subclause (IV), by striking "appropriate Federal banking agency" and inserting "Commission"; and

(2) in paragraph (5)(A), by striking "appropriate Federal banking agency" and inserting "any Federal banking agency";

(f) in subsection (l)—

(1) by striking "Corporation" each place it appears and inserting "Commission"; and

(2) by striking "Board of Directors" and inserting "Commission";

(g) in subsection (m)—

(1) in paragraph (1)—

(A) in subparagraph (A) by striking "Director of the Office of Thrift Supervision" and inserting "Commission"; and

(B) in subparagraph (B), by striking "Director of the Office of Thrift Supervision" and inserting "Commission";

(2) in subparagraph (2)—

(A) in subparagraph (A), by striking "Director of the Office of Thrift Supervision" and inserting "Commission"; and

(B) in subparagraph (B)—

(i) by striking "Director of the Office of Thrift Supervision" and inserting "Commission"; and

(ii) by striking "Director" and inserting "Commission"; and

(3) in paragraph (3)—

(A) in subparagraph (A), by striking "Director of the Office of Thrift Supervision" and inserting "Commission"; and

(B) in subparagraph (B), by striking "Office of Thrift Supervision" and inserting "Commission";

(h) in subsection (n), by striking "No appropriate Federal banking agency shall" and inserting "The Commission shall not";

(i) in subsection (o)—

(1) in paragraph (1), by striking "each appropriate Federal banking agency" and inserting "the Commission";

(2) in paragraph (2)(B), by striking "appropriate Federal banking agencies" and inserting "Commission";

(3) in paragraph (3), by striking "No appropriate Federal banking agency" and inserting "Neither the Corporation nor the Commission"; and

(4) in the second sentence of paragraph (4), by striking "appropriate Federal banking agencies, acting in concert" and inserting "the Commission"; and

(j) in subsection (p)—

(1) by striking "Each appropriate Federal banking agency" and inserting "The Commission"; and

(2) by striking "other Federal banking agencies" and inserting "Corporation."

SEC. 512. AMENDMENTS TO SECTION 20.

Section 20(e) of the Federal Deposit Insurance Act (12 U.S.C. 1829a(e)) is amended by striking "Board of Directors" and inserting "Commission".

SEC. 513. AMENDMENTS TO SECTION 28.

Section 28 of the Federal Deposit Insurance Act (12 U.S.C. 1831e) is amended—

(a) in subsection (e)—

(1) in paragraph (2)—

(A) in subparagraph (A)(ii), by striking "Director of the Office of Thrift Supervision" and inserting "Commission";

(B) in subparagraph (C), by striking "Director of the Office of Thrift Supervision" and inserting "Commission"; and

(C) in subparagraph (F), by striking "Director of the Office of Thrift Supervision" and inserting "Commission"; and

(2) in paragraph (3)—

(A) in subparagraph (A), by striking "Director of the Office of Thrift Supervision" and inserting "Commission"; and

(B) in subparagraph (B), by striking "Director of the Office of Thrift Supervision" and inserting "Commission"; and

(b) in subsection (h)(2), by striking "Director of the Office of Thrift Supervision" and inserting "Commission".

SEC. 514. AMENDMENTS TO SECTION 30.

Section 30(c) of the Federal Deposit Insurance Act (12 U.S.C. 1831g(c)) is amended, by striking "any appropriate Federal banking agency" and inserting "the Corporation or the Commission".

SEC. 515. AMENDMENTS TO SECTION 32.

Section 32 of the Federal Deposit Insurance Act (12 U.S.C. 1831i) is amended—

(a) in subsection (a), by striking "appropriate Federal banking agency" and inserting "Commission";

(b) in subsection (b)—

(1) in the heading, by striking "AGENCY" and inserting "COMMISSION";

(2) by striking "appropriate Federal banking agency" and inserting "Commission"; and

(3) by striking "agency" and inserting "Commission";

(c) in subsection (c)—

(1) in paragraph (1), by striking "Each appropriate Federal banking agency" and inserting "The Commission"; and

(2) in paragraph (2)—

(A) in the heading, by striking "AGENCY" and inserting "COMMISSION"; and

(B) by striking "each agency" and inserting "the Commission";

(d) in subsection (d)—

(1) by striking "an appropriate Federal banking agency" and inserting "the Commission"; and

(2) in paragraph (2), by striking "agency" and inserting "Commission";

(e) in subsection (e), by striking "appropriate Federal banking agency" and inserting "Commission"; and

(f) in subsection (f), by striking "Each appropriate Federal banking agency" and inserting "The Commission".

SEC. 516. AMENDMENT TO SECTION 33.

Section 33 of the Federal Deposit Insurance Act (12 U.S.C. 1831j) is amended—

(a) in the last sentence of subsection (b), by striking "appropriate Federal banking agency" and inserting "Commission"; and

(b) in subsection (e), by striking "the Comptroller of the Currency" and all that follows through the period and inserting "and the Federal Banking Commission."

SEC. 517. AMENDMENTS TO SECTION 34.

Section 34 of the Federal Deposit Insurance Act (12 U.S.C. 1831k) is amended—

(a) in subsection (a), by striking "An appropriate Federal banking agency" and inserting "The Corporation or the Commission";

(b) in subsection (b), by striking "An appropriate Federal banking agency" and inserting "Neither the Corporation nor the Commission"; and

(c) in subsection (c), by striking "An appropriate Federal banking agency" and inserting "Neither the Corporation nor the Commission".

SEC. 518. AMENDMENTS TO SECTION 35.

Section 35 of the Federal Deposit Insurance Act (12 U.S.C. 1831l) is amended—

(a) in the heading, by striking "SEC AND FEDERAL BANKING AGENCIES" and inserting "SEC, FEDERAL BANKING COMMISSION, AND CORPORATION";

(b) by striking "Any appropriate Federal banking agency" and inserting "The Federal Banking Commission and the Corporation"; and

(c) by striking "for which the Commission" and inserting "for which the Securities and Exchange Commission".

SEC. 519. AMENDMENT TO SECTION 36.

Section 36 of the Federal Deposit Insurance act (12 U.S.C. 1831m) is amended—

(a) in subsection (a)—

(1) in paragraph (1), by striking "appropriate Federal banking agency" and inserting "Commission"; and

(2) in paragraph (2)(B), by striking "appropriate Federal banking agency" and inserting "Commission";

(b) in subsection (b)—

(1) in paragraph (1), by striking "appropriate Federal banking agency" and inserting "Commission"; and

(2) in paragraph (2)—

(A) in subparagraph (A)(iii), by striking "appropriate Federal banking agency" and inserting "Commission"; and

(B) in subparagraph (B)(ii), by striking "appropriate Federal banking agency" and inserting "Commission";

(c) in subsection (d)—

(1) in paragraph (1), by striking "appropriate Federal banking agencies" and inserting "Commission"; and

(2) in paragraph (2)(B), by striking "appropriate Federal banking agency" and inserting "Commission";

(d) in subsection (e)(1), by striking "appropriate Federal banking agencies" and inserting "Commission";

(e) in subsection (f)(2), by striking "other appropriate Federal banking agencies" and inserting "Commission";

(f) in subsection (g)—

(1) in paragraph (2)—

(A) in subparagraph (B), by striking "any appropriate Federal banking agency," and inserting "the Commission,"; and

(B) in subparagraph (C), by striking "any appropriate Federal banking agency" and inserting "the Commission";

(2) in paragraph (3)(A)(i), by striking "any appropriate Federal banking agency" and inserting "the Commission";

(3) in paragraph (4)—

(A) in subparagraph (A), by striking "an appropriate Federal banking agency" and inserting "the Commission"; and

(B) in subparagraph (B), by striking "appropriate Federal banking agencies" and inserting "Corporation and the Commission"; and

(4) in paragraph 5, by striking "each appropriate Federal banking agency" each place it appears and inserting "the Commission";

(g) in subsection (h)—

(1) in paragraph (1)(B)—

(A) in clause (i) by striking "any appropriate Federal banking agency" and inserting "the Corporation, the Commission,"; and

(B) in clause (ii)(I), by striking "appropriate Federal banking agency" and inserting "Commission"; and

(2) in paragraph (2)—

(A) in subparagraph (A), by striking "any appropriate Federal banking agency" and inserting "the Commission"; and

(B) in subparagraph (B), by striking "appropriate Federal banking agency" and inserting "Commission"; and

(h) in subsection (i)(2)(B)(ii), by striking "appropriate Federal banking agency" and inserting "Commission".

SEC. 520. AMENDMENTS TO SECTION 37.

Section 37 of the Federal Deposit Insurance Act (12 U.S.C. 1831n) is amended—

(a) in subsection (a)—

(1) in paragraph (2)(B)—

(A) by striking "appropriate Federal banking agency" and inserting "Commission"; and

(B) by striking "the agency or" and inserting "the Commission or"; and

(2) in paragraph (3)—

(A) in the introductory text, by striking "appropriate"; and

(B) in subparagraph (D), by striking "appropriate";

(b) in section (b), by striking "appropriate" each place it appears; and

(c) in subsection (c)—

(1) in paragraph (1)—

(A) by striking "appropriate"; and

(B) by striking "or capital" each place it appears;

(2) in paragraph (2), by striking "or capital" each place it appears.

SEC. 521. AMENDMENTS TO SECTION 38.

Section 38 of the Federal Deposit Insurance Act (12 U.S.C. 1831o) is amended—

(a) in subsection (a)(2), by striking "Each appropriate Federal banking agency" and inserting "The Commission";

(b) in subsection (b)(2)—

(1) in subparagraph (A)(ii), by striking "appropriate Federal banking agency" and inserting "Commission";

(2) in subparagraph (B)—

(A) in clause (i)(II), by striking "appropriate Federal agency" and inserting "Commission"; and

(B) in clause (iii), by striking "appropriate Federal banking agency" and inserting "Commission"; and

(3) in subparagraph (G), by striking "appropriate Federal banking agency" and inserting "Commission";

(c) in subsection (c)—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking "each appropriate Federal banking agency" and inserting "the Commission"; and

(B) in subparagraph (B)—

(i) by striking "An appropriate Federal banking agency" and inserting "The Federal Banking Commission"; and

(ii) in clause (ii), by striking "(with the concurrence of the other Federal banking agencies)";

(2) in paragraph (2), by striking "Each appropriate Federal banking agency" and inserting "The Commission"; and

(3) in paragraph (3)—

(A) in subparagraph (A)—

(i) in the heading, by striking "AGENCY" and inserting "COMMISSION";

(ii) in clause (i) by striking "Each appropriate Federal banking agency" and inserting "The Commission"; and

(iii) in clause (ii), by striking "agency" and inserting "Commission"; and

(B) by striking subparagraph (C);

(d) in subsection (d)(1(B), by striking "appropriate Federal Banking agency" and inserting "Commission";

(e) in subsection (e)—

(1) in paragraph (1), by striking "Each appropriate Federal banking agency" and inserting "The Commission";

(2) in paragraph (2)—

(A) in subparagraph (A), by striking "appropriate Federal banking agency" and inserting "Commission";

(B) in subparagraph (B)(ii), by striking "appropriate Federal banking agency" and inserting "Commission";

(C) in the introductory text of subparagraph (C)—

(i) by striking "appropriate Federal banking agency" and inserting "Commission"; and

(ii) by striking "the agency" and inserting "Commission";

(D) in the introductory text of subparagraph (D)—

(i) by striking "appropriate Federal banking agency" and inserting "Commission";

(ii) in clause (ii), by striking "agency" and inserting "Commission"; and

(iii) in clause (iii), by striking "agency" each place it appears and inserting "Commission";

(3) in paragraph (3)(A), by striking "appropriate Federal banking agency" and inserting "Commission";

(4) in paragraph (4)(A), by striking "appropriate Federal banking agency" and inserting "Commission"; and

(5) in paragraph (5)—

(A) by striking "appropriate Federal banking agency" and inserting "Commission"; and

(B) by striking "agency" and inserting "Commission";

(f) in subsection (f)—

(1) in paragraph (1)(B)—

(A) in clause (i), by striking "appropriate Federal banking agency" and inserting "Commission"; and

(B) in clause (ii), by striking "agency" and inserting "Commission";

(2) in paragraph (2)—

(A) in the introductory text, by striking "appropriate Federal banking agency" and inserting "Commission";

(B) in subparagraph (C)—

(i) in clause (i), by striking "agency" and inserting "Commission"; and

(ii) in clause (ii), by striking "agency" each place it appears and inserting "Commission";

(C) in subparagraph (E), by striking "agency" and inserting "Commission";

(D) in subparagraph (F)(iii), by striking "agency" each place it appears and inserting "Commission";

(E) in subparagraph (H), by striking "Board of Governors of the Federal Reserve System" and inserting "Commission";

(F) in subparagraph (I)—

(i) in clause (i), by striking "agency" and inserting "Commission";

(ii) in clause (ii), by striking "appropriate Federal banking agency for that company" and inserting "Corporation or Commission"; and

(iii) in clause (iii), by striking "appropriate Federal banking agency for that company" and inserting "Corporation or Commission"; and

(G) in subparagraph (J), by striking "agency" and inserting "Commission";

(3) in the introductory text of paragraph (3), by striking "agency" each place it appears and inserting "Commission";

(4) in paragraph (4)—

(A) in subparagraph (A), by striking "appropriate Federal banking agency" and inserting "Commission"; and

(B) in subparagraph (B), by striking "appropriate Federal banking agency" and inserting "Commission";

(5) in paragraph (5), by striking "agency" each place it appears and inserting "Commission"; and

(6) in paragraph (6) by striking "agency" each place it appears and inserting "Federal Banking Commission";

(g) in the introductory text of subsection (g)(1)—

(1) by striking "appropriate Federal banking agency" and inserting "Commission"; and

(2) by striking "agency" and inserting "Commission";

(h) in subsection (h)—

(1) in paragraph (2)(B)(i), by striking "appropriate Federal banking agency" and inserting "Commission";

(2) in paragraph (3)—

(A) in subparagraph (A), by striking "appropriate Federal banking agency" and inserting "Commission";

(B) in subparagraph (B)—

(i) by striking "an appropriate Federal banking agency" and inserting "the Commission"; and

(ii) by striking "agency" and inserting "Commission";

(C) in subparagraph (C)—

(i) in clause (i), by striking "appropriate Federal banking agency" and inserting "Commission"; and

(ii) in clause (ii)—

(I) by striking "appropriate Federal banking agency" and inserting "Commission";

(II) in subclause (I), by striking "agency" and inserting "Commission"; and

(III) in subclause (II), by striking "the head of the appropriate Federal banking agency" and inserting "the Chairperson of the Commission";

(i) in subsection (i)(2)(A), by striking "appropriate Federal banking agency" and inserting "Commission";

(j) in subsection (k)—

(1) in paragraph (1), by striking "appropriate Federal banking agency" and inserting "Commission";

(A) in subparagraph (A)—

(i) by striking "that agency" and inserting "the Commission"; and

(ii) by striking "the agency's " each place it appears and inserting "the Commission's"; and

(B) in subparagraph (B)(ii), by striking "(if the agency is not the Corporation)";

(2) in paragraph (3), by striking "appropriate Federal banking agency" and inserting "Commission"; and

(3) in paragraph (4)(A), by striking "appropriate Federal banking agency" and inserting "Commission";

(k) in subsection (l)—

(1) in paragraph (1)—

(A) by striking "Each appropriate Federal banking agency" and inserting "The Commission"; and

(B) by striking "(in consultation with the other Federal banking agencies)" and inserting "(in consultation with the Corporation)"; and

(2) in paragraph (2), by striking "an appropriate Federal banking agency" and inserting "the Commission";

(l) in subsection (m), by striking "an appropriate Federal banking agency" and inserting "the Commission";

(m) in subsection (n)—

(1) in paragraph (1), by striking "appropriate Federal banking agency" and inserting "Commission"; and

(2) in paragraph (2)—

(A) in subparagraph (A), by striking "agency" each place it appears and inserting "Commission";

(B) in subparagraph (B), by striking "agency"; and inserting "Commission"; and

(C) in subparagraph (C), by striking "agency" and inserting "Commission"; and

(n) in subsection (o)—

(1) in paragraph (1)—

(A) in the heading, by striking "OTS" and inserting "COMMISSION"; and

(B) in subparagraph (A), by striking "appropriate Federal banking agency" and inserting "Commission"; and

(2) in paragraph (2)(C), by striking "appropriate Federal banking agency" and inserting "Commission".

SEC. 522. AMENDMENTS TO SECTION 39.

Section 39 of the Federal Deposit Insurance Act (12 U.S.C. 1831p-1) is amended—

(a) in subsection (a)—

(1) in paragraph (1), by striking "Each appropriate Federal banking agency" and inserting "The Commission"; and

(2) in paragraph (2), by striking "agency" and inserting "Commission";

(b) in subsection (b)—

(1) in paragraph (1), by striking "Each appropriate Federal banking agency" and inserting "The Commission"; and

(2) in paragraph (2), by striking "agency" and inserting "Commission";

(c) in subsection (c)—

(1) in the introductory text, by striking "Each appropriate Federal banking agency" and inserting "The Commission";

(2) in paragraph (2), by striking "agency" and inserting "Commission"; and

(3) in paragraph (2), by striking "agency" and inserting "Commission";

(d) in subsection (d)—

(1) in paragraph (2), by striking "any appropriate Federal banking agency" and inserting "the Commission";

(2) in paragraph (3), by striking "any appropriate Federal banking agency" and inserting "the Commission"; and

(3) in paragraph (4)—

(A) in the introductory text, by striking "any appropriate Federal banking agency" and inserting "the Commission"; and

(B) in subparagraph (B)—

(i) by striking "agency" each place it appears and inserting "Commission"; and

(ii) by striking "agency's" and inserting "Commission's";

(e) in subsection (e)—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) by striking "appropriate Federal banking agency" and inserting "Commission"; and

(ii) by striking "agency" each place it appears and inserting "Commission"; and

(B) in subparagraph (C)—

(i) by striking "appropriate Federal banking agency" and inserting "Commission"; and

(ii) by striking "agency" each place it appears and inserting "Commission";

(2) in paragraph (2)—

(A) by striking "appropriate Federal banking agency" and inserting "Commission"; and

(B) by striking "agency" each place it appears and inserting "Commission"; and

(3) paragraph (3)—

(A) by striking "appropriate Federal banking agency" and inserting "Commission"; and

(B) by striking "agency" each place it appears and inserting "Commission"; and

(f) in subsection (g), by striking "Federal banking agencies" and inserting "Commission".

SEC. 523. AMENDMENT TO SECTION 41.

Section 41(a) of the Federal Deposit Insurance Act (12 U.S.C. 1831r) is amended by inserting "Commission," "after the Corporation,".

SEC. 524. AMENDMENT TO SECTION 42.

Section 42(a) of the Federal Deposit Insurance Act (12 U.S.C. 1831p) is amended—

(a) in the heading, by striking "APPROPRIATE FEDERAL BANKING AGENCY" and inserting "COMMISSION"; and

(b) in paragraph (1), by striking "appropriate Federal banking agency" and inserting "Commission".

TITLE VI—CONFORMING AMENDMENTS TO OTHER BANKING STATUTES

SEC. 601. AMENDMENTS TO THE ACT OF JUNE 30, 1876.

(a) AMENDMENTS TO SECTION 1.—Section 1 of the Act of June 30, 1876 (12 U.S.C. 191), is amended—

(1) by striking "Comptroller of the Currency" and inserting "Federal Banking Commission";

(2) by striking "Comptroller" and inserting "Commission"; and

(3) by striking "Comptroller's" and inserting "Commission's".

(b) AMENDMENTS TO SECTION 3.—Section 3 of the Act of June 30, 1876 (12 U.S.C. 197), is amended—

(1) in subsection (a)—

(A) by striking "Comptroller of the Currency" and inserting "Federal Banking Commission"; and

(B) by striking "Comptroller" each place it appears and inserting "Commission"; and

(2) in subsection (b), by striking "Comptroller of the Currency" each place it appears and inserting "Federal Banking Commission".

(c) AMENDMENT TO SECTION 6.—Section 6 of the Act of June 30, 1876 (omitted from the United States Code), is amended by striking "Comptroller of the Currency" and inserting "Federal Banking Commission".

SEC. 602. AMENDMENT TO THE ACT OF MARCH 29, 1886.

(a) AMENDMENT TO FIRST UNDESIGNATED PARAGRAPH.—The first undesignated paragraph of the Act of March 29, 1886 (12 U.S.C. 198), is amended by striking "Comptroller of the Currency" each place it appears and inserting "Federal Banking Commission".

(b) AMENDMENT TO SECTION 2.—Section 2 of the Act of March 29, 1886 (12 U.S.C. 199) is amended by striking "Comptroller of the Currency, shall be, together with the certificate of facts in the case, and his recommendation as to the amount of money which, in his judgment, should be so used and employed, submitted to the Secretary of the Treasury, and if the same shall likewise be approved by him, the request shall be by the Comptroller of the Currency" and inserting "Federal Banking Commission, shall be".

(c) AMENDMENTS TO SECTION 3.—Section 3 of the Act of March 29, 1886 (12 U.S.C. 200) is amended—

(1) by striking "Comptroller of the Currency" each place it appears and inserting "Federal Banking Commission";

(2) by striking ", with the approval of the Secretary of the Treasury,"; and

(3) by striking "he" and inserting "the Commission".

SEC. 603. AMENDMENTS TO THE ACT OF MAY 1, 1886.

Section 2 of the Act of May 1, 1886 (12 U.S.C. 30) is amended—

(a) in subsection (a), by striking "Comptroller of the Currency" and inserting "Federal Banking Commission"; and

(b) in subsection (b), by striking "Comptroller of the Currency" each place it appears and inserting "Federal Banking Commission".

SEC. 604. AMENDMENTS TO THE ACT OF NOVEMBER 7, 1918.

(a) AMENDMENTS TO THE FIRST SECTION.—The first section of the Act of November 7, 1918 (12 U.S.C. 215) is amended—

(1) in subsection (a), by striking "Comptroller" each place it appears and inserting "Commission";

(2) in subsection (b), by striking "Comptroller" each place it appears and inserting "Commission";

(3) in the third sentence of subsection (c), by striking "Comptroller" and inserting "Commission"; and

(4) in subsection (d), by striking "Comptroller" each place it appears and inserting "Commission".

(b) AMENDMENTS TO SECTION 2.—Section 2 of the Act of November 1918 (12 U.S.C. 215a) is amended—

(1) in subsection (a), by striking "Comptroller" each place it appears and inserting "Commission";

(2) in subsection (b), by striking "Comptroller" each place it appears and inserting "Commission";

(3) in the third sentence of subsection (c), by striking "Comptroller" and inserting "Commission"; and

(4) in subsection (d), by striking "Comptroller" each place it appears and inserting "Commission".

(c) AMENDMENT TO SECTION 3.—Section 3(3) of the Act of November 7, 1918 (12 U.S.C. 215b(3)) is amended to read as follows:

"(3) 'Commission' means the Federal Banking Commission; and".

SEC. 605. AMENDMENT TO THE ACT OF FEBRUARY 25, 1930.

The Act of February 25, 1930 (12 U.S.C. 67) is amended by striking "Comptroller of the Currency" and inserting "Federal Banking Commission".

SEC. 606. AMENDMENTS TO THE ACT OF MARCH 9, 1933.

(a) AMENDMENTS TO SECTION 4.—Section 4(b)(1) of the Act of March 9, 1933 (12 U.S.C. 95(b)(1)) is amended by striking "Comptroller of the Currency" each place it appears and inserting "Federal Banking Commission".

(b) AMENDMENT TO SECTION 301.—Section 301 of the Act of March 9, 1933 (12 U.S.C. 51a) is amended—

(1) in the first sentence—

(A) by striking "Comptroller of the Currency" and inserting "Federal Banking Commission"; and

(B) by striking "said Comptroller" and inserting "the Commission"; and

(2) in the second sentence—

(A) by striking "Comptroller of the Currency" and inserting "Federal Banking Commission"; and

(B) by striking "his" each place it appears and inserting "the Commission's".

(c) AMENDMENT TO SECTION 302.—Section 302(a) of the Act of March 9, 1933 (12 U.S.C. 51b(a)) is amended in the first sentence by striking "Comptroller of the Currency" and inserting "Federal Banking Commission".

SEC. 607. AMENDMENTS TO THE ACT OF AUGUST 17, 1950.

Section 2 of the Act of August 17, 1950 (12 U.S.C. 214a) is amended—

(1) in the first sentence of subsection (a), by striking "Comptroller of the Currency" and inserting "Federal Banking Commission"; and

(2) in subsection (b)—

(A) in the third sentence, by striking "Comptroller of the Currency" and inserting "Federal Banking Commission"; and

(B) by striking "Comptroller" each place it appears and inserting "Commission".

SEC. 608 AMENDMENTS TO THE ACT OF SEPTEMBER 8, 1959.

Section 13 of the Act of September 8, 1959 (12 U.S.C. 21a) is amended in the last sentence—

(1) by striking "Comptroller of the Currency" and inserting "Federal Banking Commission"; and

(2) by striking "his" and inserting "the Commission's".

SEC. 609. AMENDMENTS TO THE ACT OF SEPTEMBER 28, 1962.

(a) AMENDMENTS TO THE FIRST SECTION.—The first undesignated section of the Act of September 28, 1962 (12 U.S.C. 92a) is amended—

(1) in subsection (a)—

(A) in the heading, by striking "COMPTROLLER OF THE CURRENCY" and inserting "FEDERAL BANKING COMMISSION"; and

(B) by striking "Comptroller of the Currency" and inserting "Federal Banking Commission";

(2) in the second sentence of subsection (c), by striking "Comptroller of the Currency" and inserting "Federal Banking Commission";

(3) in subsection (d), by striking "Comptroller of the Currency" and inserting "Federal Banking Commission";

(4) in subsection (i), by striking "Comptroller of the Currency" and inserting "Federal Banking Commission";

(5) in subsection (j)—

(A) by striking "Comptroller of the Currency" each place it appears and inserting "Federal Banking Commission";

(B) in the second sentence—

(i) by striking "himself" and inserting "itself";

(ii) by striking "his" and inserting "the Commission's"; and

(C) in the last sentence, by striking "he" and inserting "the Commission"; and

(6) in subsection (k)—

(A) in the first sentence of paragraph (1), by striking "Comptroller of the Currency" and inserting "Federal Banking Commission"; and

(B) by striking "Comptroller" each place it appears and inserting "Federal Banking Commission".

(b) AMENDMENTS TO SECTION 2.—Section 2 of the Act of September 28, 1962 (12 U.S.C. 92a note) is amended in the second sentence by striking "Comptroller of the Currency" and inserting "Federal Banking Commission".

SEC. 610. AMENDMENTS TO THE ALTERNATIVE MORTGAGE TRANSACTION PARITY ACT OF 1982.

(a) AMENDMENTS TO SECTION 802.—Section 802(a)(3) of the Alternative Mortgage Transaction Parity Act of 1982 (12 U.S.C. 3801) is amended—

(1) by striking "Comptroller of the Currency," and inserting "Federal Banking Commission and"; and

(2) by striking ", and the Director of the Office of Thrift Supervision".

(b) AMENDMENTS TO SECTION 804.—Section 804(a) of the Alternative Mortgage Transaction Parity Act of 1982 (12 U.S.C. 3803) is amended—

(1) by amending paragraph (3) to read as follows:

"(2) with respect to all other housing creditors, including without limitation, banks, savings associations, mutual savings banks,

and savings banks, only to transactions made in accordance with regulations governing alternative mortgage transactions as issued by the Federal Banking Commission for national banks or federally chartered savings associations, to the extent that such regulations are authorized by rulemaking authority granted to the Federal Banking Commission with regard to national banks or federally chartered savings associations under laws other than this section."; and

(2) by striking paragraph (1);

(3) by redesignating paragraph (2) as paragraph (1); and

(c) AMENDMENT TO SECTION 1204.—Section 1204(b) of the Alternative Mortgage Transaction Parity Act of 1982 (12 U.S.C. 3806(b)) is amended by striking "Board of Governors of the Federal Reserve System" and inserting "Federal Banking Commission".

SEC. 611. AMENDMENTS TO THE BANK CONSERVATION ACT.

(a) AMENDMENT TO SECTION 201.—Section 201 of the Bank Conservation Act (12 U.S.C. 201) is amended to read as follows:

"SEC. 201. SHORT TITLE.

"This title may be cited as the 'Bank Conservation Act'.".

(b) AMENDMENT TO SECTION 202.—Section 202 of the Bank Conservation Act (12 U.S.C. 202) is amended to read as follows:

"SEC. 202. DEFINITIONS.

"(a) BANK DEFINED.—As used in this title, the term 'bank' means—

"(1) any national banking association;

"(2) any other financial institution chartered or licensed under Federal law; and

"(3) any bank or trust company located in the District of Columbia, that was or would have been supervised by the Comptroller of the Currency prior to the effective date of the Regulatory Consolidation Act of 1994.

"(b) VOLUNTARY DISSOLUTION AND LIQUIDATION DEFINED.—As used in this title, the term 'voluntary dissolution and liquidation' means a transaction pursuant to section 5220 of the Revised Statutes (12 U.S.C. 181) that involves the assumption of the bank's insured deposit liabilities and the sale of the bank, or of control of the bank, as a going concern; and

"(c) STATE DEFINED.—As used in this title, the term 'State' means any State, Territory, or possession of the United States."

(c) AMENDMENTS TO SECTION 203.—Section 203 of the Bank Conservation Act (12 U.S.C. 203) is amended—

(1) in subsection (a), by striking "Comptroller of the Currency" each place it appears and inserting "Federal Banking Commission"; and

(2) in subsection (b)—

(A) by striking "Comptroller" each place it appears and inserting "Commission";

(B) by striking "Comptroller's" and inserting "Commission's";

(3) in subsection (c), by striking "Comptroller" each place it appears and inserting "Commission";

(4) in subsection (d), by striking "Comptroller" each place it appears and inserting "Commission";

(5) in subsection (e)—

(A) by striking "Comptroller" and inserting "Commission"; and

(B) by striking "Comptroller's" and inserting "Commission's".

(d) AMENDMENTS TO SECTION 204.—Section 204 of the Bank Conservation Act (12 U.S.C. 204) is amended—

(1) in the first sentence, by striking "Comptroller of the Currency" and inserting "Federal Banking Commission"; and

(2) in the second sentence, by striking "Comptroller" and inserting "Commission".

(e) AMENDMENT TO SECTION 205.—Section 205 of the Bank Conservation Act (12 U.S.C. 205) is amended—

(1) in subsection (a), by striking "Comptroller" each place it appears and inserting "Commission";

(2) in subsection (b), by striking "Comptroller" and inserting "Commission"; and

(3) in subsection (c), by striking "Comptroller" and inserting "Commission".

(f) AMENDMENTS TO SECTION 206.—Section 206 of the Bank Conservation Act (12 U.S.C. 206) is amended—

(1) in subsection (a), by striking "Comptroller" and inserting "Commission";

(2) in subsection (b)—

(A) in the heading, by striking "COMPTROLLER" and inserting "COMMISSION";

(B) by striking "Comptroller" and inserting "Commission";

(3) in subsection (c), by striking "Comptroller" each place it appears and inserting "Commission";

(4) in subsection (d)—

(A) by striking "Comptroller of the Currency" and inserting "Federal Banking Commission";

(B) by striking "Comptroller" each place it appears and inserting "Commission".

(g) AMENDMENT TO SECTION 209.—Section 209(c) of the Bank Conservation Act (12 U.S.C. 209(c)) is amended by striking "Comptroller" each place it appears and inserting "Commission".

(h) AMENDMENT TO SECTION 210.—Section 210 of the Bank Conservation Act (12 U.S.C. 210) is amended to read as follows:

"SEC. 210. NO IMPAIRMENT OF OTHER POWERS.

"Nothing in this title shall be construed to impair in any manner any powers of the President, the Secretary of the Treasury, the Federal Banking Commission, or the Board of Governors of the Federal Reserve System.".

(i) AMENDMENTS TO SECTION 211.—Section 211 of the Bank Conservation Act (12 U.S.C. 211) is amended—

(1) in subsection (a)—

(A) by striking "Comptroller of the Currency" and inserting "Federal Banking Commission";

(B) by striking "Comptroller" and inserting "Commission";

(2) in subsection (b), by striking "Comptroller" and inserting "Commission".

SEC. 612. AMENDMENTS TO THE BANK ENTERPRISE ACT OF 1991.

(a) AMENDMENTS TO SECTION 232.—Subsection 232(a) of the Bank Enterprise Act of 1991 (12 U.S.C. 1834(a)) is amended—

(1) in the heading, by striking "FEDERAL RESERVE BOARD" and inserting "THE COMMISSION";

(2) in paragraph (1), by striking "Board of Governors of the Federal Reserve System," and inserting "Commission";

(3) in paragraph (2), by striking "Board" each place it appears and inserting "Commission";

(4) in paragraph (3)—

(A) by amending subparagraph (A) to read as follows:

"(A) COMMISSION.—The term 'Commission' means the Federal Banking Commission.";

(B) in subparagraph (C), by striking "Board" and inserting "Commission".

(b) AMENDMENTS TO SECTION 233.—Section 233 of the Bank Enterprise Act of 1991 (12 U.S.C. 1834a) is amended—

(1) in subsection (b)(2)—

(A) in subparagraph (A)(i)—

(i) in the heading, by striking "AGENCY" and inserting "COMMISSION";

(ii) by striking "appropriate Federal banking agency" and inserting "Commission";

(B) in subparagraph (B)—

(i) in the heading, by striking "AGENCY";

(ii) in clause (i), by striking "appropriate Federal banking agency" and inserting "Commission";

(iii) in clause (ii)—

(I) by striking "appropriate Federal banking agency" and inserting "Commission";

(II) by striking "agency" and inserting "Commission"; and

(3) by amending subsection (g)(1) to read as follows:

"(1) COMMISSION.—The term 'Commission' means the Federal Banking Commission.";

(c) AMENDMENT TO SECTION 234.—Subsection 234 of the Bank Enterprise Act of 1991 (12 U.S.C. 1834b) is amended—

(1) in subsection (c), by striking "appropriate Federal banking agency" and inserting "Commission";

(2) in subsection (d), by striking "appropriate Federal banking agency" and inserting "Commission";

(3) in subsection (e)—

(A) in paragraph (4), by striking "appropriate Federal banking agency" and inserting "Commission";

(B) by inserting a new paragraph (6) to read as follows:

"(6) COMMISSION.—The term 'Commission' means the Federal Banking Commission.".

SEC. 613. AMENDMENTS TO THE BANK HOLDING COMPANY ACT OF 1956.

(a) AMENDMENTS TO SECTION 2.—Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) is amended—

(1) in subsection (a)—

(A) in paragraph (2)(C), by striking "Board" and inserting "Commission";

(B) in paragraph (5)(D)—

(i) by striking "Board" each place it appears and inserting "Commission";

(ii) by striking "Board's" and inserting "Commission's";

(2) in subsection (d) by striking "Board" and inserting "Commission";

(3) in subsection (e), by striking "Board" and inserting "Commission";

(4) by amending subsection (f) to read as follows:

"(f) 'Commission' means the Federal Banking Commission.";

(5) in subsection (g)(3), by striking "Board" and inserting "Commission";

(6) in subsection (h)(3), by striking "Board" and inserting "Commission"; and

(7) in subsection (j)(3), by striking "Director of the Office of Thrift Supervision" and inserting "Commission".

(b) AMENDMENTS TO SECTION 3.—Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842) is amended—

(1) in subsection (a)—

(A) by striking "Board" each place it appears and inserting "Commission";

(B) in the third sentence, by striking "in the Board's judgment" and inserting "in the Commission's judgment";

(2) in subsection (b)—

(A) in paragraph (1)—

(i) by striking "Board" each place it appears and inserting "Commission";

(ii) in the first sentence—

(I) by striking "to the Comptroller of the Currency, if the applicant company or any bank the voting shares or assets of which are sought to be required is a national banking association or a District bank, or";

(II) by striking "the Comptroller of the Currency or the State supervisory authority, as the case may be." and inserting "the State supervisory authority.";

(ii) in the second sentence, by striking "the Comptroller of the Currency or";

(iii) in the third sentence, by striking "the Comptroller of the Currency or";

(iv) in the ninth sentence, by striking "the Comptroller of the Currency or the State supervisory authority, as the case may be," and inserting "the State supervisory authority"; and

(B) in paragraph (2)—

(i) by striking "Board" each place it appears and inserting "Commission";

(ii) by striking "the appropriate Federal or State chartering authority" and inserting "a State chartering authority";

(3) in subsection (c)—

(A) in the heading, by striking "BOARD" and inserting "COMMISSION";

(B) in the introductory text of paragraph (1), by striking "Board" and inserting "Commission".

(C) in paragraph (2), by striking "Board" and inserting "Commission";

(D) in paragraph (3), by striking "Board" each place it appears and inserting "Commission"; and

(E) in paragraph (4), by striking "Board" each place it appears and inserting "Commission".

(c) AMENDMENTS TO SECTION 4.—Section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843) is amended—

(1) in subsection (a)(2)—

(A) by striking "Board" each place it appears and inserting "Commission";

(B) by striking "Board of Governors" and inserting "Commission";

(2) in subsection (c)—

(A) in paragraph (2), by striking "Board" and inserting "Commission";

(B) in paragraph (8)—

(i) by striking "Board" each place it appears and inserting "Commission";

(ii) by striking "Board of Governors of the Federal Reserve System" and inserting "Commission";

(iii) by striking ", and the primary Federal regulator of such institution concurs in such finding.";

(C) in paragraph (9), by striking "Board" and inserting "Commission";

(D) in paragraph (12)(B), by striking "Board" and inserting "Commission";

(E) in paragraph (13), by striking "Board" and inserting "Commission";

(F) in paragraph (14)—

(i) by striking "Board" each place it appears and inserting "Commission";

(ii) in subparagraph (A)(ii), by striking "in the Board's judgment" and inserting "in the Commission's judgment";

(3) in subsection (d), by striking "Board" and inserting "Commission";

(4) in subsection (e), by striking "Board" and inserting "Commission"; and

(5) in subsection (f)—

(A) in paragraph (2)(A)(ii)(VII), by striking "Board" each place it appears and inserting "Commission";

(B) in paragraph (3)(B), by striking "Board" and inserting "Commission";

(C) in paragraph (5)(B), by striking "Board" and inserting "Commission";

(D) in paragraph (6), by striking "Board" and inserting "Commission";

(E) in paragraph (7), by striking "Board" and inserting "Commission";

(F) in paragraph (8)—

(i) in subparagraph (A), by striking "Board" each place it appears and inserting "Commission".

(ii) in subparagraph (C), by striking "the Comptroller of the Currency or";

(G) in paragraph (12)—

(i) in subparagraph (A), by striking "Office of Thrift Supervision" and inserting "Commission";

(ii) in subparagraph (B), by striking "appropriate Federal or State authority" and inserting "Commission or the appropriate State authority";

(6) in subsection (i)—

(A) in paragraph (1), by striking "Board" and inserting "Commission"; and

(B) in paragraph (2), by striking "Board" and inserting "Commission".

(d) AMENDMENTS TO SECTION 5.—Section 5 of the Bank Holding Company Act of 1956 (12 U.S.C. 1844) is amended—

(1) in subsection (a), by striking "Board" each place it appears and inserting "Commission";

(2) in subsection (b), by striking "Board" and inserting "Commission";

(3) in subsection (c)—

(A) by striking "Board" each place it appears and inserting "Commission";

(B) by striking "the Comptroller of the Currency, the Federal Deposit Insurance Corporation, or";

(4) in subsection (d)—

(A) by striking "Board's" and inserting "Commission's";

(B) by striking "Board" each place it appears and inserting "Commission";

(5) in subsection (e)—

(A) in paragraph (1)—

(i) by striking "Board" each place it appears and inserting "Commission";

(ii) by striking "the bank's primary supervisor, which shall be the Comptroller of the Currency in the case of a national bank or the Federal Deposit Insurance Corporation and";

(B) in paragraph (2), by striking "Board" and inserting "Commission";

(6) in subsection (f), by striking "Board" each place it appears and inserting "Commission";

(e) AMENDMENTS TO SECTION 8.—Section 8 of the Bank Holding Company Act of 1956 (12 U.S.C. 1847) is amended—

(1) in subsection (a)(1), by striking "Board" and inserting "Commission";

(2) in subsection (b)—

(A) in paragraph (2), by striking "Board" and inserting "Commission";

(C) in paragraph (6), by striking "Board" and inserting "Commission";

(3) in subsection (c), by striking "Board" and inserting "Commission";

(4) in subsection (d)—

(A) in paragraph (1)(A)(i), by striking "Board" each place it appears and inserting "Commission";

(B) in paragraph (2)(A), by striking "Board" each place it appears and inserting "Commission";

(C) in paragraph (3), by striking "Board" and inserting "Commission"; and

(D) in paragraph (4), by striking "Board" and inserting "Commission".

(f) AMENDMENTS TO SECTION 9.—Section 9 of the Bank Holding Company Act of 1956 (12 U.S.C. 1848) is amended—

(1) by striking "Board" each place it appears and inserting "Commission";

(2) in the first sentence, by striking "Board's order" and inserting "Commission order".

(g) AMENDMENTS TO SECTION 11.—Section 11 of the Bank Holding Company Act of 1956 (12 U.S.C. 1849) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) by striking "Board" each place it appears and inserting "Commission";

(ii) in the third sentence, by striking "the Comptroller of the Currency or the State supervisory authority, as the case may be," and inserting "a State supervisory authority";

(iii) in the sixth sentence, by striking "Board's approval" and inserting "Commission's approval";

(B) in paragraph (2)—

(i) in subparagraph (A), by striking "Board" each place it appears and inserting "Commission";

(ii) in subparagraph (B), by striking "Board" each place it appears and inserting "Commission";

(iii) in subparagraph (C), by striking "Board" and inserting "Commission";

(iv) in subparagraph (D), by striking "Board" and inserting "Commission"; and

(2) in subsection (c), by striking "Board" each place it appears and inserting "Commission".

SEC. 614. AMENDMENTS TO THE BANK HOLDING COMPANY ACT AMENDMENTS OF 1970.

Section 106 of the Bank Holding Company Act Amendments of 1970 is amended—

(1) in subsection (a) (12 U.S.C. 1971), by striking "Board" and inserting "Commission";

(2) in subsection (b) (12 U.S.C. 1972)—

(A) in the last sentence of paragraph (1), by striking "Board" and inserting "Commission";

(B) in paragraph (2)—

(i) in subparagraph (E), by striking "Board" and inserting "Commission";

(ii) in subparagraph (F)—

(I) by amending clause (v) to read as follows:

"(v) ASSESSMENT, ETC.—Any penalty imposed under clause (i), (ii), or (iii) may be assessed and collected by the Commission in the manner provided in subparagraphs (E), (F), (G), and (I) of section 8(i)(2) of the Federal Deposit Insurance Act for penalties imposed (under such section) and any such assessment shall be subject to the provisions of such section."; and

(II) in clause (ix), by striking "Comptroller of the Currency, the Board, and the Federal Deposit Insurance Corporation" and inserting "Commission";

(iii) in subparagraph (G)(ii), by striking "appropriate Federal banking agencies are" and inserting "Commission is"; and

(iv) in subparagraph (I), by striking "appropriate Federal banking agency" and inserting "Commission"; and

(3) in subsection (h) (12 U.S.C. 1978), by striking "Board" and inserting "Commission".

SEC. 615. AMENDMENTS TO THE BANK PROTECTION ACT OF 1968.

(a) AMENDMENT TO TITLE.—The title of the Bank Protection Act of 1968 is amended to read as follows: "An Act to provide security measures for banks and other financial institutions.".

(b) AMENDMENT TO SECTION 2.—Section 2 of the Bank Protection Act of 1968 (12 U.S.C. 1881) is amended to read as follows:

"SEC. 2. As used in this Act, the term 'Federal supervisory agency' means—

"(1) The Federal Banking Commission with respect to national banks and district banks, State banks which are members of the Federal Reserve System, State banks which are not members of the Federal Reserve System but the deposits of which are insured by the Federal Deposit Insurance Corporation, and Federal and State savings associations; and

"(2) The Board of Governors of the Federal Reserve System with respect to Federal Reserve banks."

SEC. 616. AMENDMENTS TO THE BANK SERVICE CORPORATION ACT.

(a) AMENDMENTS TO SECTION 1.—Section 1(b) of the Bank Service Corporation Act (12 U.S.C. 1861(b)) is amended—

(1) by striking paragraph (1) and (7);

(2) by redesignating paragraphs (2) through (6) as paragraph (3) through (5), respectively;

(3) by amending paragraph (2), as redesignated, to read as follows:

"(2) the term 'Commission' means the Federal Banking Commission;"

(4) in paragraph (3), as redesignated—

(A) by inverting "a savings association" after "an insured bank,";

(B) by striking "the Federal Home Loan Bank Board or"; and

(C) by striking ", the Federal Savings and Loan Insurance Corporation,";

(5) by inserting a new paragraph (6) as follows:

"(6) the term 'savings association' shall have the meaning provided in section 3(b) of the Federal Deposit Insurance Act.".

(b) AMENDMENTS TO SECTION 4.—Section 4 of the Bank Service Corporation Act (12 U.S.C. 1864) is amended—

(1) in subsection (b), striking "Board" and inserting "Commission"; and

(2) in subsection (f), by striking "Board" and inserting "Commission".

(c) AMENDMENTS TO SECTION 5.—Section 5 of the Bank Service Corporation Act (12 U.S.C. 1865) is amended—

(1) by striking subsection (a);

(2) in subsection (b)—

(A) in the heading, by striking "BOARD" and inserting "THE COMMISSION";

(B) by striking "section 4(f) of" each place it appears; and

(C) by striking "Board" and inserting "Commission";

(3) in subsection (c), by striking "Board or the appropriate Federal banking agency, as the case may be," and inserting "Commission";

(4) in subsection (d)—

(A) by striking "Board or the appropriate Federal banking agency, as the case may be," and inserting "Commission"; and

(B) by striking "the agency" and inserting "the Commission"; and

(5) by redesignating subsections (b) through (d) as subsections (a) through (c), respectively.

(d) AMENDMENTS TO SECTION 7.—Section 7 of the Bank Service Corporation Act (12 U.S.C. 1867) is amended—

(1) by amending subsection (a) to read as follows:

"(a) A bank service corporation shall be subject to examination and regulation by the Commission.";

(2) in subsection (b), striking the second sentence;

(3) in subsection (c)—

(A) in the introductory text—

(i) by striking "Notwithstanding subsection (a) of this section whenever a bank that is regularly examined by an appropriate Federal banking agency," and inserting "Whenever a bank that is regularly examined by the Commission"; and

(ii) by striking "that agency" and inserting "Commission";

(B) in paragraph (1), by striking "such agency" and inserting "the Commission"; and

(C) in paragraph (2), by striking "such agency" and inserting "the Commission"; and

(4) by amending subsection (d) to read as follows:

"(d) The Commission is authorized to issue such regulations and orders as may be necessary to enable it to administer and to carry out the purposes of this Act and to prevent evasions thereof.".

SEC. 617. AMENDMENTS TO THE BANKING ACT OF 1933.

(a) AMENDMENTS TO SECTION 20.—Section 20 of the Banking Act of 1933 (12 U.S.C. 377) is amended—

(1) in the second undesignated paragraph—

(A) by striking "Federal Reserve Board" and inserting "Federal Banking Commission";

(B) by striking "Federal reserve bank" and inserting "Commission";

(2) in the third undesignated paragraph, by striking "Federal Reserve Board" and inserting "Federal Banking Commission".

(b) AMENDMENT TO SECTION 22.—Section 22 of the Banking Act of 1933 (12 U.S.C. 64a) is amended by striking "Comptroller of the Currency" each place it appears and inserting "Federal Banking Commission".

(c) AMENDMENTS TO SECTION 29.—Section 29 of the Banking Act of 1933 (12 U.S.C. 197a) is amended—

(1) in the first sentence—

(A) by striking "Comptroller of the Currency" and inserting "Federal Banking Commission";

(B) by striking "Comptroller" and inserting "Commission";

(C) by striking "his" and inserting "its"; and

(2) in the second sentence, by striking "Comptroller" each place it appears and inserting "Commission".

(d) AMENDMENTS TO SECTION 31.—Section 31 of the Banking Act of 1933 (12 U.S.C. 71a) is amended—

(1) in the second sentence, by striking "Comptroller of the Currency, the said Comptroller" and inserting "Federal Banking Commission, the Commission"; and

(2) in the third sentence, by striking "Board of Governors of the Federal Reserve System" and inserting "Federal Banking Commission".

(e) AMENDMENTS TO SECTION 32.—Section 32 of the Banking Act of 1933 (12 U.S.C. 78) is amended—

(1) by striking "Board of Governors of the Federal Reserve System" and inserting "Federal Banking Commission"; and

(2) by striking "said Board" and inserting "Commission".

SEC. 618. AMENDMENTS TO THE BANKING ACT OF 1935.

Section 345 of the Banking Act of 1935 (12 U.S.C. 51b–1) is amended by striking "Comptroller of the Currency" each place it appears and inserting "Federal Banking Commission".

SEC. 619. AMENDMENTS TO THE COMMUNITY REINVESTMENT ACT OF 1977.

(a) AMENDMENT TO SECTION 802.—Subsection 802(b) of the Community Reinvestment Act of 1977 (12 U.S.C. 2901(b)) is amended by striking "each appropriate Federal financial supervisory agency" and inserting "the Federal Banking Commission".

(b) AMENDMENTS TO SECTION 803.—Section 803 of the Community Reinvestment Act of 1977 (12 U.S.C. 2902) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) COMMISSION.—The term 'Commission' means the Federal Banking Commission.";

(2) by striking "(2) section 8 of the Federal Deposit Insurance Act, by the Director of the Office of Thrift Supervision, in the case of a savings association (the deposits of which are insured by the Federal Deposit Insurance Corporation) and a savings and loan holding company;"; and

(3) in the introductory text of paragraph (3), by striking "appropriate Federal financial supervisory agency" and inserting "Commission".

(c) AMENDMENT TO SECTION 804.—Section 804 of the Community Reinvestment Act of 1977 (12 U.S.C. 2903) is amended in the introductory text by striking "appropriate Federal financial supervisory agency" and inserting "Commission".

(d) AMENDMENT TO SECTION 805.—Section 805 of the Community Reinvestment Act of 1977 (12 U.S.C. 2904) is amended by striking "Each appropriate Federal financial supervisory agency" and inserting "The Commission".

(e) AMENDMENT TO SECTION 806.—Section 806 of the Community Reinvestment Act of 1977 (12 U.S.C. 2905) is amended by striking "each appropriate Federal financial supervisory agency," and inserting "the Commission,".

(f) AMENDMENTS TO SECTION 807.—Section 807 of the Community Reinvestment Act of 1977 (12 U.S.C. 2906) is amended—

(1) in subsection (a)(1), by striking "appropriate Federal financial supervisory agency" and inserting "Commission";

(2) in subsection (b)(1)(A)—

(A) by striking "appropriate Federal financial supervisory agency's" and inserting "Commission's";

(B) by striking "Federal financial supervisory agencies" and inserting "Commission";

(3) in subsection (c)—

(A) in paragraph (2)—

(i) by striking "appropriate Federal financial supervisory agency" and inserting "Commission";

(ii) by striking "judgment of the agency" and inserting "judgment of the Commission";

(B) in paragraph (3), by striking "appropriate Federal financial supervisory agency" and inserting "Commission".

(g) AMENDMENT TO SECTION 808.—Section 808 of the Community Reinvestment Act of 1977 (12 U.S.C. 2907) is amended by striking "appropriate Federal financial supervisory agency" and inserting "Commission".

SEC. 620. AMENDMENT TO THE COMPETITIVE EQUALITY BANKING ACT OF 1987.

Subsection 1204(b) of the Competitive Equality Banking Act of 1987 (12 U.S.C. 3806(b)) is amended by striking "Board of Governors of the Federal Reserve System" and inserting "Federal Banking Commission".

SEC. 621. AMENDMENTS TO THE DEPOSITORY INSTITUTIONS DEREGULATION AND MONETARY CONTROL ACT OF 1980.

(a) AMENDMENT TO SECTION 208.—Section 208(a) of the Depository Institutions Deregulation and Monetary Control Act of 1980 (12 U.S.C. 3507(a)) is amended to read as follows:

"(a) ENFORCEMENT.—Compliance with the regulations issued by the Deregulation Committee under this title shall be enforced under section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), by the Federal Banking Commission with respect to national banks; member banks of the Federal Reserve System (other than national banks); offices, branches, and agencies of foreign banks located in the United States; banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System); and savings associations the deposits of which are insured by the Federal Deposit Insurance Corporation.".

(b) AMENDMENT TO SECTION 501.—Section 501(a) of the Depository Institutions Deregulation and Monetary Control Act of 1980 (12 U.S.C. 1735f–7a) is amended—

(1) in the first sentence of subsection (c), by striking "Federal Home Loan Bank Board" and inserting "Federal Banking Commission":

(2) in subsection (f), by striking "Federal Home Loan Bank Board" and inserting "Federal Banking Commission".

(c) AMENDMENTS TO SECTION 731.—Section 731 of the Depository Institutions Deregulation and Monetary Control Act of 1980 (12 U.S.C. 216) is amended—

(1) in the introductory text, by striking "Comptroller of the Currency" and inserting "Federal Banking Commission";

(2) by striking "Comptroller" each place it appears and inserting "Commission".

(d) AMENDMENT TO SECTION 732.—Section 732 of the Depository Institutions Deregulation and Monetary Control Act of 1980 (12 U.S.C. 216a(1)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) the term 'Commission' means the Federal Banking Commission;"; and

(2) in paragraph (2), by striking "Comptroller" and inserting "Commission".

(e) AMENDMENTS TO SECTION 733.—Section 733 of the Depository Institutions Deregulation and Monetary Control Act of 1980 (12 U.S.C. 216b) is amended—

(1) in subsection (a), by striking "Comptroller" each place it appears and inserting "Commission";

(2) in subsection (b), by striking "Comptroller" each place it appears and inserting "Commission";

(3) in subsection (c)—

(A) by striking "Comptroller" each place it appears and inserting "Commission";

(B) in paragraph (2), by striking "his" and inserting "its";

(4) in subsection (d), by striking "Comptroller" and inserting "Commission";

(5) in subsection (e), by striking "Comptroller" each place it appears and inserting "Commission"; and

(6) in subsection (f), by striking "Comptroller" each place it appears and inserting "Commission".

(f) AMENDMENT TO SECTION 734.—Section 734 of the Depository Institutions Deregulation and Monetary Control Act of 1980 (12 U.S.C. 216c) is amended by striking "Comptroller" and inserting "Commission".

SEC. 622. AMENDMENTS TO THE DEPOSITORY INSTITUTIONS DISASTER RELIEF ACT OF 1992.

(a) AMENDMENTS TO SECTION 3.—Section 3 of the Depository Institutions Disaster Relief Act of 1992 (12 U.S.C. 4008 note) is amended—

(1) in subsection (a)—

(A) by striking "Board of Governors of the Federal Reserve System" and inserting "Federal Banking Commission";

(B) by striking "Board" and inserting "Commission";

(2) in subsection (b)—

(A) by striking "Board of Governors of the Federal Reserve System" and inserting "Federal Banking Commission";

(B) by striking "Board" and inserting "Commission"; and

(3) in subsection (d), by striking "Board of Governors of the Federal Reserve System" and inserting "Federal Banking Commission".

(b) AMENDMENTS TO SECTION 4.—Section 4 of the Depository Institutions Disaster Relief Act of 1992 (12 U.S.C. 1831o note) is amended—

(1) in subsection (a)—

(A) by striking "appropriate Federal banking agency" and inserting "Federal Banking Commission";

(B) by striking "if the agency determines" and inserting "if the Commission determines";

(2) in subsection (b)—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) through (4) as paragraphs (1) through (3), respectively.

(b) AMENDMENTS TO SECTION 5.—Subsection 5(c) of the Depository Institutions Disaster Relief Act of 1992 (12 U.S.C. 1828 note) is amended—

(1) in paragraph (1), by striking "Board of Governors of the Federal Reserve System;" and inserting "the Federal Banking Commission;";

(2) by striking paragraphs (2), (3), (4), and (5);

(3) by redesignating paragraphs (6) and (7) as paragraphs (2) and (3), respectively.

(c) AMENDMENTS TO SECTION 7.—Section 7 of the Depository Institutions Disaster Relief Act of 1992 (omitted from United States Code) is amended by striking "the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Federal Deposit Insurance Corporation" and inserting "the Federal Banking Commission".

SEC. 623. AMENDMENTS TO THE DEPOSITORY INSTITUTIONS DISASTER RELIEF ACT OF 1993.

(a) AMENDMENTS TO SECTION 2.—Section 2 of the Depository Institutions Disaster Relief Act of 1993 (12 U.S.C. 4008 note) is amended—

(1) in subsection (a)—

(A) by striking "Board of Governors of the Federal Reserve System" and inserting "Federal Banking Commission";

(B) by striking "Board" and inserting "Commission";

(2) in subsection (b)—

(A) by striking "Board of Governors of the Federal Reserve System" and inserting "Federal Banking Commission";

(B) by striking "Board" and inserting "Commission";

(3) in subsection (d), by striking "Board of Governors of the Federal Reserve System" and inserting "Federal Banking Commission".

(b) AMENDMENTS TO SECTION 3.—Section 3 of the Depository Institutions Disaster Relief Act of 1993 (12 U.S.C. 1831o note) is amended by—

(1) in subsection (a), by striking "appropriate Federal banking agency" and inserting "Federal Banking Commission"; and

(2) in subsection (c)—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively.

(c) AMENDMENTS TO SECTION 4.—Subsection 4(c) of the Depository Institutions Disaster Relief Act of 1993 (12 U.S.C. 1828 note) is amended—

(1) in paragraph (1), by striking "Board of Governors of the Federal Reserve System;" and inserting "the Federal Banking Commission;";

(2) by striking paragraphs (2), (3), (4), and (5);

(3) by redesignating paragraphs (6) and (7) as paragraphs (2) and (3), respectively.

(d) AMENDMENT TO SECTION 5.—Subsection 5(a) of the Depository Institutions Disaster Relief Act of 1993 (12 U.S.C. 1811 note) is amended by striking "appropriate Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act)" and inserting "Federal Banking Commission"; and

(e) AMENDMENT TO SECTION 6.—Section 6 of the Depository Institutions Disaster Relief Act of 1993 (omitted from the United States Code) is amended by striking "the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Federal Deposit Insurance Corporation," and inserting "the Federal Banking Commission".

SEC. 624. AMENDMENTS TO THE DEPOSITORY INSTITUTION MANAGEMENT INTERLOCKS ACT.

(a) AMENDMENTS TO SECTION 202.—Subsection 202 of the Depository Institution Management Interlocks Act (12 U.S.C. 3201) is amended—

(1) in paragraph (2), by striking "section 408(a)(1)(D) of the National Housing Act" and inserting "section 10(a)(1)(D) of the Home Owner's Loan Act";

(2) in paragraph (3)(A), by striking "section 408(a)(1)(H) of the National Housing Act" and inserting "section 10(a)(1)(G) of the Home Owners' Loan Act".

(b) AMENDMENTS TO SECTION 205.—Section 205 of the Depository Institution Management Interlocks Act (12 U.S.C. 3204) is amended—

(1) in paragraph (8)(A), by striking "section 408(a)(1)(F) of the National Housing Act" and inserting "section 10(a)(1)(F) of the Home Owners' Loan Act"; and

(2) in paragraph 9, by striking "Director of the Office of Thrift Supervision" and inserting "Federal Banking Commission".

(c) AMENDMENT TO SECTION 207.—Section 207 of the Depository Institution Management Interlocks Act (12 U.S.C. 3206) is amended to read as follows:

"SEC. 207. This title shall be administered and enforced by—

"(1) the Federal Banking Commission with respect to national banks, banks located in the District of Columbia, State banks which are members of the Federal Reserve System, bank holding companies, State banks which are not members of the Federal Reserve System but the deposits of which are insured by the Federal Deposit Insurance Corporation, savings associations, and savings and loan holding companies;

"(2) the National Credit Union Administration with respect to credit unions the accounts of which are insured by the National Credit Union Administration; and

"(3) upon referral by the agencies named in the foregoing paragraphs, the Attorney General shall have the authority to enforce compliance by any person with this title.".

(e) AMENDMENT TO SECTION 209.—Section 209 of the Depository Institution Management Interlocks Act (12 U.S.C. 3207) is amended to read as follows:

"SEC. 209. Rules and regulation to carry out this title, including rules or regulations which permit service by a management official which would otherwise be prohibited by section 203 or section 204, may be prescribed by—

"(1) the Federal Banking Commission with respect to national banks, banks located in the District of Columbia, State banks which are members of the Federal Reserve System, bank holding companies, State banks which are not members of the Federal Reserve System but the deposits of which are insured by the Federal Deposit Insurance Corporation, savings associations, and savings and loan holding companies; and

"(2) the National Credit Union Administration with respect to credit unions the accounts of which are insured by the National Credit Union Administration.".

(f) AMENDMENT TO SECTION 210.—Subsection 210(a) of the Depository Institution Management Interlocks Act (12 U.S.C. 3208(a)) is

amended by striking "his" and inserting "his or her".

SEC. 625. AMENDMENTS TO THE ELECTRONIC FUND TRANSFER ACT.

(a) AMENDMENTS TO SECTION 903.—Section 903 of the Electronic Fund Transfer Act (15 U.S.C. 1693a) is amended—

(1) in paragraph (2), by striking "Board" and inserting "Commission"; and

(2) by amending (3) to read as follows:

"(3) the term 'Commission' means the Federal Banking Commission.";

(3) in paragraph (6), by striking "Board" and inserting "Commission".

(b) AMENDMENT TO SECTION 904.—Section 904 of the Electronic Fund Transfer Act (15 U.S.C. 1693b) is amended—

(1) in subsection (a), by striking "Board" each place it appears and inserting "Commission";

(2) in subsection (b), by striking "Board" each place it appears and inserting "Commission";

(3) in subsection (c), by striking "Board" each place it appears and inserting "Commission";

(4) in subsection (d), by striking "Board" and inserting "Commission".

(c) AMENDMENT TO SECTION 905.—Section 905 of the Electronic Fund Transfer Act (15 U.S.C. 1693c) is amended—

(1) in subsection (a)—

(A) in the first sentence of the introductory text, by striking "Board" and inserting "Commission";

(B) in the paragraph (3), by striking "Board" and inserting "Commission";

(C) in the paragraph (7), by striking "Board" and inserting "Commission"; and

(2) in the third sentence of subsection (b), by striking "Board" and inserting "Commission".

(d) AMENDMENT TO SECTION 906.—Subsection 906(b) of the Electronic Fund Transfer Act (15 U.S.C. 1693d(b)) is amended in the first sentence by striking "Board" and inserting "Commission".

(e) AMENDMENT TO SECTION 907.—Subsection 907(b) of the Electronic Fund Transfer Act (15 U.S.C. 1693e(b)) is amended by striking "Board" and inserting "Commission".

(f) AMENDMENT TO SECTION 908.—Subsection 908(f)(7) of the Electronic Fund Transfer Act (15 U.S.C. 1693f(f)(7)) is amended by striking "Board" and inserting "Commission".

(g) AMENDMENT TO SECTION 910.—Subsection 910(a)(1)(E) of the Electronic Fund Transfer Act (15 U.S.C. 1693h(a)(1)(E)) is amended by striking "Board" and inserting "Commission".

(h) AMENDMENT TO SECTION 911.—Subsection 911(b)(3) of the Electronic Fund Transfer Act (15 U.S.C. 1693i(b)(3)) is amended by striking "Board" and inserting "Commission".

(i) AMENDMENTS TO SECTION 915.—Subsection 915(d) of the Electronic Fund Transfer Act (15 U.S.C. 1693m(d)) is amended—

(1) in paragraph (1)—

(A) by striking "Board" each place it appears and inserting "Commission";

(B) by striking "Federal Reserve System" and inserting "Commission"; and

(2) in paragraph (2), by striking "Board" and inserting "Commission";

(j) AMENDMENTS TO SECTION 917.—Section 917 of the Electronic Fund Transfer Act (15 U.S.C. 1693o) is amended—

(1) in subsection (a)—

(A) by amending paragraph (1) to read as follows:

"(1) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), by the Federal Banking Commission with respect to national banks, member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks located in the United States, commercial lending companies owned or controlled by foreign banks and organizations operating under section 25 of 25A of the Federal Reserve Act, banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), and savings associations the deposits of which are insured by the Federal Deposit Insurance Corporation;";

(B) by striking paragraph (2);

(C) by redesignating paragraphs (3) through (5) as paragraphs (2) through (4);

(2) in subsection (c), by amending the last sentence to read as follows:

"All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission under the Federal Trade Commission Act are available to the Federal Trade Commission to enforce compliance by any person subject to the jurisdiction of the Federal Trade Commission with the requirements imposed under this title, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests in the Federal Trade Commission Act."

(k) AMENDMENT TO SECTION 918.—Section 918 of the Electronic Fund Transfer Act (15 U.S.C. 1693p) is amended—

(1) in subsection (a), by striking "Board" each place it appears and inserting "Commission"; and

(2) in subsection (b), by striking "Board" each place it appears and inserting "Commission".

(l) AMENDMENT TO SECTION 919.—Section 919 of the Electronic Fund Transfer Act (15 U.S.C. 1693q) is amended by striking "Board" each place it appears and inserting "Commission".

(m) AMENDMENT TO SECTION 920.—Section 920 of the Electronic Fund Transfer Act (15 U.S.C. 1693r) is amending by striking "Board" each place it appears and inserting "Commission".

SEC. 626. AMENDMENTS TO THE EMERGENCY HOMEOWNER'S RELIEF ACT.

Section 110 of the Emergency Homeowner's Relief Act (12 U.S.C. 2709) is amended in the last sentence by striking "Board of Governors of the Federal Reserve System, the Board of Directors of the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Federal Home Loan Bank Board, the Federal Savings and Loan Insurance Corporation," and inserting "Federal Banking Commission".

SEC. 627. AMENDMENTS TO THE EQUAL CREDIT OPPORTUNITY ACT.

(a) AMENDMENT TO SECTION 701.—Section 701 of the Equal Credit Opportunity Act (15 U.S.C. 1691) is amended—

(1) in subsection (b)—

(A) in paragraph (2), by striking "Board" and inserting "Commission";

(B) in paragraph (3), by striking "Board" and inserting "Commission";

(2) in subsection (c)(3), by striking "Board" and inserting "Commission";

(3) in subsection (d)—

(A) in paragraph (1), by striking "Board" and inserting "Commission"; and

(B) in paragraph (5), by striking "Board" and inserting "Commission".

(b) AMENDMENTS TO SECTION 702.—Section 702 of the Equal Credit Opportunity Act (15 U.S.C. 1691a) is amended—

(1) by amending subsection (c) to read as follows:

"(c) The term 'Commission' means the Federal Banking Commission."; and

(2) in subsection (g), by striking "Board" and inserting "Commission".

(c) AMENDMENT TO SECTION 703.—Section 703 of the Equal Credit Opportunity Act (15 U.S.C. 1691b) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "Board" each place it appears and inserting "Commission";

(B) in paragraph (3), by striking "Board" and inserting "Commission";

(C) in paragraph (4), by striking "Board" each place it appears and inserting "Commission";

(D) in paragraph (5), by striking "Board" and inserting "Commission";

(2) in subsection (b), by striking "Board" each place it appears and inserting "Commission";

(d) AMENDMENTS TO SECTION 704.—Section 704 of the Equal Credit Opportunity Act (15 U.S.C. 1691c) is amended—

(1) in subsection (a)—

(A) by amending paragraph (1) to read as follows:

"(1) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) by the Federal Banking Commission in the case of national banks, member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks, commercial lending companies owned or controlled by foreign banks and organizations operating under section 25 or 25A of the Federal Reserve Act, banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), and savings associations the deposits of which are insured by the Federal Deposit Insurance Corporation;";

(B) by striking paragraph (2);

(C) by redesignating paragraphs (3) through (9) as paragraphs (2) through (8);

(2) in the third sentence of subsection (c)—

(A) by striking "available to the Commission" and inserting "available to the Federal Trade Commission";

(B) by striking "Federal Reserve Board" and inserting "Federal Banking Commission"; and

(3) in subsection (d), by striking "Board" and inserting "Commission".

(e) AMENDMENT TO SECTION 705.—Section 705 of the Equal Credit Opportunity Act (15 U.S.C. 1691d) is amended—

(1) in subsection (f), by striking "Board" each place it appears and inserting "Commission"; and

(2) in subsection (g), by striking "Board" and inserting "Commission".

(f) AMENDMENTS TO SECTION 706.—Section 706 of the Equal Credit Opportunity Act (15 U.S.C. 1691e) is amended—

(1) in subsection (e)—

(A) by striking "Board" each place it appears and inserting "Commission";

(B) by striking "Federal Reserve System" and inserting "Commission";

(2) in subsection (g), by striking "paragraphs (1), (2) and (3)" and inserting "paragraphs (1) and (2)"; and

(3) in subsection (k), by striking "paragraphs (1), (2) and (3)" and inserting "paragraphs (1) and (2)".

(g) AMENDMENT TO SECTION 707.—Section 707 of the Equal Credit Opportunity Act (15 U.S.C. 1691f) is amended by striking "Board" each place it appears and inserting "Commission".

SEC. 628. AMENDMENTS TO THE EXPEDITED FUNDS AVAILABILITY ACT.

(a) AMENDMENTS TO SECTION 602.—Section 602 of the Expedited Funds Availability Act (12 U.S.C. 4001) is amended—

(1) by amending paragraph (2) to read as follows:

"(2) COMMISSION.—The term 'Commission' means the Federal Banking Commission.";

(2) in paragraph (9), by striking "Board" and inserting "Commission";

(3) in paragraph (11), by striking "Board" and inserting "Commission";

(4) in paragraph (14)(C), by striking "Board" and inserting "Commission";

(5) in paragraph (16)(A)(ii), by striking "Board" and inserting "Commission"; and

(6) in paragraph (25), by striking "Board" and inserting "Commission".

(b) AMENDMENT TO SECTION 603.—Section 603 of the Expedited Funds Availability Act (12 U.S.C. 4002) is amended—

(1) in subsection (b)(4), by striking "Board" and inserting "Commission";

(2) in subsection (d)(1), by striking "Board" and inserting "Commission"; and

(3) in subsection (e)(3), by striking "Board" and inserting "Commission".

(c) AMENDMENT TO SECTION 604.—Section 604 of the Expedited Funds Availability Act (12 U.S.C. 4003) is amended—

(1) in the introductory text of subsection (a), by striking "Board" and inserting "Commission";

(2) in the introductory text of subsection (b), by striking "Board" and inserting "Commission";

(3) in the first sentence of subsection (c)(1), by striking "Board" and inserting "Commission";

(4) in the introductory text of subsection (d), by striking "Board" and inserting "Commission";

(5) in subsection (e)—

(A) in paragraph (1), by striking "Board" each place it appears and inserting "Commission";

(B) in paragraph (3)—

(i) in subparagraph (A), by striking "Board" and inserting "Commission";

(ii) in subparagraph (B)(ii), by striking "Board" and inserting "Commission";

(6) in subsection (f)—

(A) in paragraph (1)(B), by striking "Board" and inserting "Commission";

(B) in paragraph (2)—

(i) in subparagraph (C), by striking "Board" and inserting "Commission";

(ii) in subparagraph (D), by striking "Board" and inserting "Commission";

(iii) in subparagraph (E).

(d) AMENDMENT TO SECTION 605.—Section 605 of the Expedited Funds Availability Act (12 U.S.C. 4004) is amended by striking "Board" each place it appears and inserting "Commission".

(e) AMENDMENT TO SECTION 608.—Subsection 608(a) of the Expedited Funds Availability Act (12 U.S.C. 4007(a)) is amended—

(1) in the introductory text, by striking "Board" and inserting "Commission"; and

(2) in paragraph (1), by striking "Board" and inserting "Commission".

(f) AMENDMENTS TO SECTION 609.—Section 609 of the Expedited Funds Availability Act (12 U.S.C. 4008) is amended—

(1) in the introductory text of subsection (a), by striking "Board" and inserting "Commission";

(2) in subsection (b)—

(A) in the introductory text, by striking "Board" and inserting "Commission";

(B) in paragraph (5)(B), by striking "Board" and inserting "Commission";

(C) in paragraph (6), by striking "Board" and inserting "Commission";

(D) in paragraph (8), by striking "Board" and inserting "Commission";

(3) in subsection (c)—

(A) in the heading, by striking "BOARD" and inserting "COMMISSION";

(B) in paragraph (1), by striking "Board of Governors of the Federal Reserve System" and inserting "Commission"; and

(C) in paragraph (2), by striking "Board" and inserting "Commission";

(4) in subsection (d)—

(A) in paragraph (1)(A), by striking "Board" and inserting "Commission";

(B) in paragraph (2)—

(i) in subparagraph (A), by striking "Board" and inserting "Commission";

(ii) in subparagraph (B), by striking "Board" and inserting "Commission";

(5) in subsection (e)—

(A) by striking "Board" and inserting "Commission";

(B) by striking "the Comptroller of the Currency, the Board of Directors of the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board,";

(6) in subsection (f)—

(A) in paragraph (1), by striking "Board" and inserting "Commission";

(B) in paragraph (2), by striking "Board" and inserting "Commission";

(C) in paragraph (3), by striking "Board" and inserting "Commission";

(g) AMENDMENTS TO SECTION 610.—Section 610 of the Expedited Funds Availability Act (12 U.S.C. 4009) is amended—

(1) in subsection (a)

(A) in the introductory text, by striking "Board of Governors of the Federal Reserve System" and inserting "Commission";

(B) by amending paragraph (1) to read as follows:

"(1) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), by the Commission with respect to national banks; member banks of the Federal Reserve System (other than national banks); offices, branches, and agencies of foreign banks located in the United States; banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System); and savings associations the deposits of which are insured by the Federal Deposit Insurance Corporation;";

(C) by striking paragraph (2);

(D) by redesignating paragraph (3) as paragraph (2);

(2) in subsection (c)—

(A) in the heading, by striking "BOARD" and inserting "COMMISSION";

(B) in paragraph (1), by striking "Board of Governors of the Federal Reserve System" and inserting "Commission";

(C) in paragraph (2), by striking "Board" each place it appears and inserting "Commission"; and

(3) in subsection (d), by striking "Board" and inserting "Commission".

(h) AMENDMENTS TO SECTION 611.—Section 611 of the Expedited Funds Availability Act (12 U.S.C. 4010) is amended—

(1) in subsection (e)—

(A) in the heading, by striking "BOARD" and inserting "COMMISSION";

(B) by striking "Board of Governors of the Federal Reserve System" and inserting "Commission";

(2) in subsection (f), by striking "Board" and inserting "Commission".

SEC. 629. AMENDMENTS TO FAIR CREDIT REPORTING ACT.

(a) AMENDMENT TO SECTION 601.—Section 601 of the Fair Credit Reporting Act of 1987 (15 U.S.C. 1601 note) is amended by striking "Fair Credit Reporting Act" and inserting "'Fair Credit Reporting Act'".

(b) AMENDMENTS TO SECTION 621.—Subsection 621(b) of the Fair Credit Reporting Act of 1987 (15 U.S.C. 1681s(b)) is amended—

(1) by amending paragraph (1) to read as follows:

(1) section 8 of the Federal Deposit Insurance Act, by the Federal Banking Commission with respect to national banks, member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks, commercial lending companies owned or controlled by foreign banks, organizations operating under section 25 or 25A of the Federal Reserve Act, banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), and savings associations insured by the Federal Deposit Insurance Corporation;";

(2) by striking paragraph (2); and

(3) by redesignating paragraphs (3) through (6) as paragraphs (2) through (5), respectively.

SEC. 630. AMENDMENTS TO THE FAIR DEBT COLLECTION PRACTICES ACT.

(a) AMENDMENTS TO SECTION 814.—Subsection 814(b) of the Fair Debt Collection Practices Act (15 U.S.C. 1692l(b)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) section 8 of the Federal Deposit Insurance Act, in the case of national banks, member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks, commercial lending companies owned or controlled by foreign banks, organizations operating under section 25 or 25A of the Federal Reserve Act, banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), and savings associations the deposits of which are insured by the Federal Deposit Insurance Corporation;";

(2) by striking paragraph (2); and

(3) by redesignating paragraphs (3) through (6) as paragraphs (2) through (5), respectively.

SEC. 631. AMENDMENTS TO THE FEDERAL CREDIT UNION ACT.

(a) AMENDMENTS TO SECTION 206.—Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended—

(1) in subsection (g)(7)—

(A) in subparagraph (A)—

(i) in clause (v), by striking "depository institution" and inserting "financial institutions";

(ii) in clause (vi), by striking "and";

(iii) in clause (vii), by striking the period and inserting a semicolon; and

(iv) by inserting the following clauses after the end of clause (vii):

"(viii) the Federal Deposit Insurance Corporation;" and

"(ix) the Board of Governors of the Federal Reserve System."; and

(B) by striking subparagraph (D)(i), and inserting the following:

"(i) the Federal Banking Commission, in the case of an insured depository institution or depository institution holding company (as those terms are defined in section 3 of the Federal Deposit Insurance Act);"; and

(b) in subsection (u), by striking "appropriate Federal banking agency" each place it appears and inserting "Federal banking agency (as defined in section 3(z) of the Federal Deposit Insurance Act)".

SEC. 632. AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991.

(a) AMENDMENTS TO SECTION 111.—Subsection 111(d) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 3305 note) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) IN GENERAL.—The Federal Banking Commission shall establish an examination improvement program that meets the requirements of paragraph (2).".

(2) in paragraph (2), by striking "agency" each place it appears and inserting "Federal Banking Commission".

(b) AMENDMENTS TO SECTION 122.—Section 122 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 1817 note) is amended—

(1) in subsection (a), by striking "appropriate Federal banking agency" and inserting "Federal Banking Commission"; and

(2) in subsection (b), by striking "agency" and inserting "Federal Banking Commission".

(c) AMENDMENTS TO SECTION 305.—Subsection 305(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 1828 note) is amended—

(1) in paragraph (1), by striking "Each appropriate Federal banking agency" and inserting "The Federal Banking Commission";

(2) in paragraph (2), by striking "Federal banking agencies" and inserting "Federal Banking Commission";

(3) in paragraph (3), by striking "Each appropriate Federal banking agency" and inserting "The Federal Banking Commission"; and

(4) by amending paragraph (4) to read as follows:

"(4) DEFINITIONS.—For purposes of this subsection, the term 'insured depository institution' has the same meaning as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).".

(d) AMENDMENTS TO SECTION 311.—Subsection 311(d) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 1821 note) is amended—

(1) in paragraph (1), by striking "any appropriate Federal banking agency" and inserting "the Federal Banking Commission";

(2) in paragraph (4)—

(A) in the heading, by striking "FEDERAL RESERVE BOARD" and inserting "FEDERAL BANKING COMMISSION"; and

(B) by striking "Board of Governors of the Federal Reserve System" and inserting "Federal Banking Commission".

(e) AMENDMENTS TO SECTION 475.—Section 475 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 1828 note) is amended—

(1) in subsection (a), by striking "each appropriate Federal banking agency" and inserting "the Federal Banking Commission";

(2) by amending subsection (b) to read as follows:

"(b) DEFINITIONS.—For purposes of this subsection, the term 'insured depository institution' has the same meaning as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).".

(f) AMENDMENT TO SECTION 477.—Section 477 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 251) is amended by striking "Federal Reserve Board" each place it appears and inserting "Federal Banking Commission".

SEC. 633. AMENDMENTS TO THE FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL ACT OF 1978.

(a) REPEAL OF PROVISIONS RELATING TO FFIEC.—The following sections of the Federal Financial Institutions Examination Council Act of 1978 are repealed:

(1) Section 1002 (12 U.S.C. 3301).

(2) Section 1004 (12 U.S.C. 3303).

(3) Section 1005 (12 U.S.C. 3304).

(4) Section 1007 (12 U.S.C. 3306).

(5) Section 1008 (12 U.S.C. 3307).

(6) Section 1009 (12 U.S.C. 3308).

(7) Section 1009A (12 U.S.C. 3309).

(b) AMENDMENTS TO SECTION 1003.—Section 1003 of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3302) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) the term 'Federal financial institutions regulatory agencies' means the Federal Banking Commission and the National Credit Union Administration; and";

(2) by striking paragraph (2); and

(3) by redesignating paragraph (3) as paragraph (2).

(c) AMENDMENTS TO SECTION 1006.—Section 1006 of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3305) is amended—

(1) in the heading, by striking "**FUNCTIONS OF COUNCIL**" and inserting "**SCHOOLS FOR EXAMINERS**";

(2) by striking subsections (a), (b), (c), (e), and (f);

(3) in subsection (d)—

(A) by striking "(d) CONDUCTING SCHOOLS FOR EXAMINERS AND ASSISTANT EXAMINERS"; and

(B) by striking "Council" each place it appears and inserting "Federal Banking Commission".

SEC. 634. AMENDMENTS TO THE FEDERAL HOME LOAN BANK ACT.

(a) AMENDMENTS TO SECTION 2.—Section 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422) is amended by adding the following:

"(13) COMMISSION.—The term 'Commission' means the Federal Banking Commission."

(b) AMENDMENTS TO SECTION 18.—Subsection 18(c) of the Federal Home Loan Bank Act (12 U.S.C. 1438(c)) is amended—

(1) by striking "Director of the Office of Thrift Supervision" each place it appears and inserting "Commission";

(2) in paragraph (1)(B), by striking "and the agencies under its administration or supervision";

(3) in paragraph (5), by striking "and such agencies".

(c) AMENDMENTS TO SECTION 21A.—Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended—

(1) in subsection (a)(3)(A)(iii), by striking "Director of the Office of Thrift Supervision" and inserting "Chairperson of the Commission";

(2) in subsection (b)(10(A)(iv), by striking "Director of the Office of Thrift Supervision" and inserting "Commission";

(3) in subsection (c)(9), by striking "the" before "Housing and Urban Development";

(4) by amending subsection (e)(2)(B) to read as follows:

"(B) be subject to the supervision of the Commission.";

(5) in subsection (f)(1)(C), by striking "an appropriate"; and inserting "any";

(6) in subsection (k)(9)—

(A) by striking "Director of the Office of Thrift Supervision" and inserting "Commission";

(B) by striking "Director" and inserting "Commission";

(7) in subsection (q)—

(A) in paragraph (1), by striking "appropriate Federal banking agency (as defined in section 3(q)" and inserting "Federal banking agency (as defined in section 3(z)"; and

(B) in paragraph (4)(B), by striking "appropriate".

(d) AMENDMENTS TO SECTION 22.—Subsection 22(a) of the Federal Home Loan Bank Act (12 U.S.C. 1442a) is amended—

(1) by striking "Comptroller of the Currency" each place it appears and inserting "Commission"; and

(2) by striking "Director of the Office of Thrift Supervision" each place it appears.

SEC. 635. AMENDMENTS TO THE FEDERAL RESERVE ACT.

(a) AMENDMENTS TO SECTION 2.—The sixth undesignated paragraph of section 2 of the Federal Reserve Act (12 U.S.C. 501a) is amended by deleting "under direction of the Board of Governors of the Federal Reserve System by the Comptroller of the Currency in his own name" and inserting "Federal Banking Commission in its own name".

(b) AMENDMENTS TO SECTION 4.—Section 4 of the Federal Reserve Act is amended—

(1) in the first undesignated paragraph (omitted from the United States Code), by striking "Comptroller of the Currency" each place it appears and inserting "Federal Banking Commission";

(2) in the third undesignated paragraph (omitted from the United States Code)—

(A) by striking "Comptroller of the Currency, who" and inserting "Federal Banking Commission, which"; and

(B) by striking "his office" and inserting "its office";

(3) in the first sentence of the fourth undesignated paragraph (12 U.S.C. 341), by striking "Comptroller of the Currency" and inserting "Federal Banking Commission"; and

(4) in the fifth undesignated paragraph (12 U.S.C. 341), by striking "Comptroller of the Currency" and inserting "Federal Banking Commission".

(c) AMENDMENT TO SECTION 6.—The first sentence of the second undesignated paragraph of section 6 of the Federal Reserve Act (12 U.S.C. 288) is amended by striking "Comptroller of the Currency may, if he deems it advisable," and inserting "Federal Banking Commission may, if it deems it advisable,".

(d) AMENDMENTS TO SECTION 9.—Section 9 of the Federal Reserve Act is amended—

(1) in the third undesignated paragraph (12 U.S.C. 321)—

(A) in the second sentence, by striking "Board of Governors of the Federal Reserve System, instead of the Comptroller of the Currency," and inserting "Federal Banking Commission"; and

(B) in the third sentence, by striking "Board" and inserting "Federal Banking Commission";

(2) in the sixth undesignated paragraph (12 U.S.C. 324)—

(A) in the first sentence—

(i) by striking the semicolon following "dividends"; and

(ii) by striking "except that any reference in any such provision to the Comptroller of the Currency shall be deemed for the purposes of this sentence to be a reference to the Board of Governors of the Federal Reserve System";

(B) in the second sentence, by striking "Federal Reserve bank of which they become a member" and inserting "Federal Banking Commission";

(C) in the third sentence, by striking "Federal reserve bank" and inserting "Federal Banking Commission";

(D) by striking "Board of Governors of the Federal Reserve System" each place it appears and inserting "Federal Banking Commission"; and

(E) by striking "Board" each place it appears and inserting "Federal Banking Commission";

(3) the seventh undesignated paragraph (12 U.S.C. 325) is amended to read as follows:

79-059 O—97 Vol. 140 (Pt. 3) 38

"As a condition to membership such banks shall likewise be subject to examinations made by the direction of the Federal Banking Commission by examiners selected or approved by the Federal Banking Commission.";

(4) in the eighth undesignated paragraph (12 U.S.C. 326)—

(A) by striking "Board of Governors of the Federal Reserve System" each place it appears and inserting "Federal Banking Commission"; and

(B) in the first sentence—

(i) by striking "Whenever the directors of the Federal reserve bank" and inserting "Subject to section 10(d) of the Federal Deposit Insurance Act, whenever the Federal Banking Commission"; and

(ii) by striking "the board may order" and inserting "the Commission may order";

(5) in the ninth undesignated paragraph (12 U.S.C. 327) in the first sentence, by inserting "or regulations of the Federal Banking Commission" after "regulations of the Board of Governors of the Federal Reserve System";

(6) in the tenth undesignated paragraph (12 U.S.C. 328)—

(A) in the first sentence—

(i) by inserting "and the Federal Banking Commission" after "with the Board of Governors of the Federal Reserve System"; and

(ii) by inserting "and after notice to the Federal Banking Commission," after "That the Board of Governors of the Federal Reserve System, in its discretion and subject to such conditions as it may prescribe,";

(B) in the third sentence, by inserting "after notice to the Federal Banking Commission," after "Board of Governors of the Federal Reserve System,";

(7) in the eleventh undesignated paragraph (12 U.S.C. 329), in the second sentence, by inserting "after consultation with the Federal Banking Commission" after "Board";

(8) in the twelfth undesignated paragraph (omitted from the United States Code)—

(A) by striking "subsection (y) of section 12B of this Act" and inserting "the Federal Deposit Insurance Act";

(B) by striking "such section 12B" and inserting "the Federal Deposit Insurance Act";

(C) by inserting ", after consultation with the Federal Banking Commission," after "the Board of Governors of the Federal Reserve System" the first place it appears; and

(D) by inserting ", after consultation with the Federal Banking Commission," after "the said Board";

(9) in the thirteenth undesignated paragraph (12 U.S.C. 330)—

(A) in the first sentence—

(i) by striking the comma after "member banks" and inserting a period; and

(ii) by striking "but shall not be subject to examination" and all that follows through "section twenty-one of this Act.";

(B) in the second sentence—

(i) by inserting "and the Federal Banking Commission" after "the regulations of the board"; and

(ii) by striking "Board of Governors of the Federal Reserve System" and inserting "Federal Banking Commission";

(10) in the last sentence of the sixteenth undesignated paragraph (12 U.S.C. 333), by inserting "and regulations of the Federal Banking Commission" after "regulations of the Board of Governors of the Federal Reserve System";

(11) in the seventeenth undesignated paragraph (12 U.S.C. 334)—

(A) in the first sentence, by striking "Federal reserve bank of its district and to the Board of Governors of the Federal Reserve System" and inserting "Federal Banking Commission";

(B) in the second, third, and fourth sentences, by striking "Board of Governors of the Federal Reserve System" each place it appears and inserting "Federal Banking Commission"; and

(C) in the fourth sentence, by striking "Board" and inserting "Commission";

(12) in the eighteenth undesignated paragraph (12 U.S.C. 334)—

(A) in the first sentence, by striking "its Federal reserve bank or the Board of Governors of the Federal Reserve System" and inserting "the Federal Banking Commission"; and

(B) in the second sentence—

(i) by striking "Federal reserve bank and the Board of Governors of the Federal Reserve System" and inserting "Federal Banking Commission"; and

(ii) by striking "Board of Governors of the Federal Reserve System" the second place it appears and inserting "Federal Banking Commission";

(13) in the nineteenth undesignated paragraph (12 U.S.C. 334)—

(A) by striking ", by direction of the Board of Governors of the Federal Reserve System,"; and

(B) by striking "Federal reserve bank of the district in which such member bank is located" and inserting "Federal Banking Commission";

(14) in the twenty-second undesignated paragraph (12 U.S.C. 338), in the first and second sentences, by striking "Board of Governors of the Federal Reserve System" each place it appears and inserting "Federal Banking Commission"; and

(15) in the last paragraph of section 9 (12 U.S.C. 338a)—

(A) by striking "Board of Governors of the Federal Reserve System" and inserting "Federal Banking Commission"; and

(B) by striking "Board" each place it appears and inserting "Federal Banking Commission".

(e) AMENDMENTS TO SECTION 9A.—Subsection 9A(e) of the Federal Reserve Act (12 U.S.C. 339) is amended by striking "Board of Governors of the Federal Reserve System" and inserting "Federal Banking Commission".

(f) AMENDMENTS TO SECTION 10.—The sixth undesignated paragraph of section 10 of the Federal Reserve Act (12 U.S.C. 246) is amended—

(1) by inserting "or vested by law in the Federal Banking Commission" after "under such department";

(2) by inserting "or Federal Banking Commission" after "Secretary of the Treasury" the second place that it appears; and

(3) by inserting "or Federal Banking Commission, as the case may be" after "supervision and control of the Secretary".

(g) AMENDMENTS TO SECTION 10B.—Subsection 10B(b) of the Federal Reserve Act (12 U.S.C. 347b(b)) is amended—

(1) in paragraph 2—

(A) in subparagraph (A)(i) by striking "head of the appropriate Federal banking agency" and inserting "Chairperson of the Federal Banking Commission"; and

(B) in subparagraph (C), by striking "head of any agency" and inserting "Chairperson of the Federal Banking Commission"; and

(2) in paragraph (5)—

(A) by striking subparagraph (A);

(B) in subparagraph (E), by striking "appropriate Federal banking agency" and inserting "Federal Banking Commission"; and

(C) by redesignating subparagraphs (B) through (E) as subparagraphs (A) through (D), respectively.

(h) AMENDMENTS TO SECTION 11.—Section 11 of the Federal Reserve Act (12 U.S.C. 248) is amended—

(1) in subsection (a)—

(A) in the first sentence of paragraph (1), by striking "and of each member bank"; and

(B) in subparagraph (B) of the second sentence of paragraph (2)—

(i) by amending clause (i) to read as follows:

"(i) the Federal Banking Commission in the case of nonmember banks, any savings association which is an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act) or which is a member as defined in section 2 of the Federal Home Loan Bank Act, insured State nonmember banks, savings banks, and mutual savings banks,";

(ii) by inserting "and" at the end of clause (ii);

(iii) by striking clause (iii);

(2) by inserting "(a)" after "SEC. 11";

(3) by redesignating subsections (a)(1) and (2) as paragraphs (1)(A) and (B), respectively;

(4) in paragraph (1)(B), as so redesignated—

(A) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively; and

(B) in clause (ii), as so redesignated, by redesignating clauses (i), (ii), and (iv) as subclauses (I), (II), and (III), respectively;

(5) by repealing subsection 11(m) (12 U.S.C. 248(m));

(6) by redesignating subsections 11(b) through 11(n) as paragraphs (a)(2) through (a)(13), respectively; and

(7) in subsection 11(p) (12 U.S.C. 248)—

(A) by striking "AUTHORITY TO APPOINT CONSERVATOR OR RECEIVER.—The Board" and inserting "The Federal Banking Commission"; and

(B) by redesignating subsection 11(p) as subsection 11(b).

(i) AMENDMENT TO SECTION 13.—The eleventh undesignated paragraph of section 13 of the Federal Reserve Act (12 U.S.C. 92) is amended by striking "Comptroller of the Currency" and inserting "Federal Banking Commission".

(j) AMENDMENTS TO SECTION 19.—Section 19 of the Federal Reserve Act is amended—

(1) in subsection (b) (12 U.S.C. 461(b))—

(A) in paragraph (1)(F), by striking "Board of Directors of the Federal Deposit Insurance Corporation, the Director of the Office of Thrift Supervision" and inserting "Federal Banking Commission";

(B) in paragraph (4)(B), by striking "Board of Directors of the Federal Deposit Insurance Corporation, the Director of the Office of Thrift Supervision" and inserting "Federal Banking Commission"; and

(C) in paragraph (6), by striking "Board" each place it appears and inserting "Federal Banking Commission"; and

(2) in subsection (j) (12 U.S.C. 371b), by striking "Board of Directors of the Federal Deposit Insurance Corporation, the Director of the Office of Thrift Supervision" and inserting "Federal Banking Commission".

(k) AMENDMENTS TO SECTION 22.—Section 22 of the Federal Reserve Act is amended—

(1) in subsection (d) (12 U.S.C. 375), by striking "Board of Governors of the Federal Reserve System" each place it appears and inserting "Federal Banking Commission";

(2) in subsection (g) (12 U.S.C. 375a)—

(A) in paragraph (4), by striking "member bank's appropriate Federal banking agency"; and inserting "Federal Banking Commission"; and

(B) in paragraph (10), by striking "Board of Governors of the Federal Reserve System" and inserting "Federal Banking Commission"; and

(3) in subsection (h) (12 U.S.C. 375b)—

(A) in paragraph (3), by striking "appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act)" and inserting "Federal Banking Commission";

(B) in paragraph (5)—

(i) in subparagraph (B), by striking "Board" and inserting "Federal Banking Commission"; and

(ii) in subparagraph (C), by striking "Board" each place it appears and inserting "Federal Banking Commission";

(C) in paragraph (9)(D)(ii), by striking "Board" each place it appears and inserting "Federal Banking Commission"; and

(D) in paragraph (10)—

(i) in the heading, by striking "BOARD'S" and inserting "COMMISSION'S"; and

(ii) by striking "Board of Governors of the Federal Reserve System" and inserting "Federal Banking Commission".

(l) AMENDMENTS TO SECTION 23.—Section 23 of the Federal Reserve Act (12 U.S.C. 371b–2) is amended—

(1) in subsection (a), by striking "Board" and inserting "Federal Banking Commission";

(2) in subsection (c)—

(A) in paragraph (1)(D), by striking "Board" and inserting "Federal Banking Commission"; and

(B) in paragraph (2), by striking "Board" and inserting "Federal Banking Commission"; and

(3) in subsection (e), by striking "appropriate Federal banking agency" and inserting "Federal Banking Commission".

(m) AMENDMENT TO SECTION 23A.—Section 23A of the Federal Reserve Act (12 U.S.C. 371c) is amended—

(1) in subsection (b)—

(A) in paragraph (1)(E), by striking "Board" and inserting "Federal Banking Commission";

(B) in paragraph (2)(E), by striking "Board" and inserting "Federal Banking Commission";

(C) in paragraph (3)(A)(iii), by striking "Board" and inserting "Federal Banking Commission"; and

(D) in paragraph (7)(C), by striking "Board" and inserting "Federal Banking Commission";

(2) in subsection (d)(2), by striking "Board" and inserting "Federal Banking Commission"; and

(3) in subsection (e)—

(A) in paragraph (1), by striking "Board" and inserting "Federal Banking Commission"; and

(B) in paragraph (2), by striking "Board" and inserting "Federal Banking Commission".

(n) AMENDMENT TO SECTION 23B.—Subsection 23B(e) of the Federal Reserve Act (12 U.S.C. 371c–1(e)) is amended by striking "Board" each place it appears and inserting "Federal Banking Commission".

(o) AMENDMENT TO SECTION 24.—Subsection 24(a) of the Federal Reserve Act (12 U.S.C. 371(a)) is amended by striking "Comptroller of the Currency" and inserting "Federal Banking Commission".

(p) AMENDMENTS TO SECTION 24A.—Section 24A of the Federal Reserve Act (12 U.S.C. 371d) is amended—

(1) by striking "without the approval of the Comptroller of the Currency," and "national bank"; and

(2) by striking "Board of Governors of the Federal Reserve System" and inserting "Federal Banking Commission".

(q) AMENDMENTS TO SECTION 25.—Section 25 of the Federal Reserve Act (12 U.S.C. 601–604a) is amended—

(1) in the first undesignated paragraph—

(A) in the introductory text, by striking "Board of Governors of the Federal Reserve System" and inserting "Federal Banking Commission"; and

(B) in the paragraph entitled "Third.", by striking "Board of Governors of the Federal Reserve System" each place it appears and inserting "Federal Banking Commission";

(2) in the second undesignated paragraph, by striking "Board of Governors of the Federal Reserve System" and inserting "Federal Banking Commission";

(3) in the third undesignated paragraph, by striking "Board of Governors of the Federal Reserve System" and inserting "Federal Banking Commission";

(4) in the fourth undesignated paragraph—

(A) by striking "Comptroller of the Currency" and inserting "Federal Banking Commission"; and

(B) by striking "Board of Governors of the Federal Reserve System" each place it appears and inserting "Federal Banking Commission";

(5) in the fifth undesignated paragraph—

(A) by striking "Board of Governors of the Federal Reserve System" each place it appears and inserting "Federal Banking Commission"; and

(B) by striking "said Board" and inserting "the Federal Banking Commission"; and

(6) in the seventh undesignated paragraph—

(A) by striking "Board of Governors of the Federal Reserve System" and inserting "Federal Banking Commission"; and

(B) by striking "the Board" and inserting "the Federal Banking Commission".

(r) AMENDMENTS TO SECTION 25A.—Section 25A of the Federal Reserve Act (12 U.S.C. 611–631) is amended—

(1) in the second undesignated paragraph, by striking "Board of Governors of the Federal Reserve System" and inserting "Federal Banking Commission";

(2) in the fourth undesignated paragraph—

(A) in the introductory text, by striking "Board of Governors of the Federal Reserve System" and inserting "Federal Banking Commission"; and

(B) in the paragraph entitled "First.", by striking "Board of Governors of the Federal Reserve System" and inserting "Federal Banking Commission";

(3) in the fifth undesignated paragraph, by striking "Board of Governors of the Federal Reserve System" each place it appears and inserting "Federal Banking Commission";

(4) in the sixth undesignated paragraph—

(A) in the introductory text, by striking "Board of Governors of the Federal Reserve System" and inserting "Federal Banking Commission";

(B) in subparagraph (a), by striking "Board of Governors of the Federal Reserve System" each place it appears, except in the last sentence, and inserting "Federal Banking Commission";

(C) in subparagraph (b), by striking "Board of Governors of the Federal Reserve System" and inserting "Federal Banking Commission"; and

(D) in subparagraph (c), by striking "Board of Governors of the Federal Reserve System" each place it appears and inserting "Federal Banking Commission";

(5) in the seventh undesignated paragraph, by striking "Board of Governors of the Federal Reserve System" and inserting "Federal Banking Commission";

(6) in the eighth undesignated paragraph, by striking "Board of Governors of the Federal Reserve System" each place it appears and inserting "Federal Banking Commission";

(7) in the tenth undesignated paragraph, by striking "Board of Governors of the Federal Reserve System" each place it appears and inserting "Federal Banking Commission";

(8) in the eleventh undesignated paragraph, by striking "Board of Governors of the Federal Reserve System" each place it appears and inserting "Federal Banking Commission";

(9) in the fourteenth undesignated paragraph, by striking "Board of Governors of the Federal Reserve System" and inserting "Federal Banking Commission";

(10) in the sixteenth undesignated paragraph—

(A) by striking "Board of Governors of the Federal Reserve System" and inserting "Federal Banking Commission"; and

(B) by striking "Comptroller of the Currency" and inserting "Federal Banking Commission";

(11) in the seventeenth undesignated paragraph, by striking "Board of Governors of the Federal Reserve System" each place it appears and inserting "Federal Banking Commission";

(12) in the twentieth undesignated paragraph, by striking "Board of Governors of the Federal Reserve System" each place it appears and inserting "Federal Banking Commission";

(13) in the twentieth-first undesignated paragraph, by striking "Board of Governors of the Federal Reserve System" each place it appears and inserting "Federal Banking Commission"; and

(14) in the twentieth-second undesignated paragraph, by striking "Board of Governors of the Federal Reserve System" each place it appears and inserting "Federal Banking Commission".

(s) AMENDMENTS TO SECTION 29.—Section 29 of the Federal Reserve Act (12 U.S.C. 504) is amended—

(1) in subsection (e), by striking "(1) in the case of a national bank, by the Comptroller of the Currency; and (2) in the case of a State member bank, by the Board," and inserting ", in the case of a national bank or State member bank, the Federal Banking Commission";

(2) in subsection (i), by striking "Comptroller of the Currency and the Board" and inserting "Federal Banking Commission"; and

(3) in subsection (m), by striking "appropriate Federal banking agency" and inserting "Federal Banking Commission".

SEC. 636. AMENDMENTS TO THE FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989.

(a) AMENDMENTS TO SECTION 302.—Section 302 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1467a note) is amended—

(1) in paragraph (1), by striking "Director of the Office of Thrift Supervision" and inserting "Federal Banking Commission"; and

(2) in paragraph (2), by striking "Federal Deposit Insurance Corporation" and inserting "Federal Banking Commission".

(b) AMENDMENT TO SECTION 305.—Section 305 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1464 note) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) by striking "Director of the Office of Thrift Supervision" and inserting "Federal Banking Commission"; and

(ii) by striking "Director" and inserting "Federal Banking Commission"; and

(B) in paragraph (2), by striking "Director" and inserting "Federal Banking Commission";

(2) in subsection (c)—

(A) in paragraph (1), by striking "appropriate Federal banking agency" and inserting "Federal Banking Commission"; and

(B) in paragraph (2), by striking "appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Corporation Act)" and inserting "Federal Banking Commission".

(c) AMENDMENT TO SECTION 308.—Subsection 308(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1463 note) is amended by striking "Director of the Office of Supervision and the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation" and inserting "Chairperson of the Federal Banking Commission".

(d) AMENDMENTS TO SECTION 402.—Section 402 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1437 note) is amended—

(1) in subsection (a), by striking "Director of the Office of Thrift Supervision" and inserting "Federal Banking Commission";

(2) in subsection (b), by striking "Director of the Office of Thrift Supervision" and inserting "Chairperson of the Federal Banking Commission"; and

(3) in subsection (e)—

(A) in paragraph (1), by striking "the Office of Thrift Supervision" and inserting "Federal Banking Commission";

(B) in paragraph (2), by striking "Director of the Office of Thrift Supervision" each place it appears and inserting "Federal Banking Commission";

(C) in paragraph (3), by striking "Director of the Office of Thrift Supervision" and inserting "Federal Banking Commission"; and

(D) in paragraph (4), by striking "Director of the Office of Thrift Supervision" and inserting "Federal Banking Commission".

(e) AMENDMENT TO SECTION 918.—Subsection 918(b) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833 note) is amended to read as follows:

"(b) AGENCIES REQUIRED TO SUBMIT REPORTS.—The agencies referred to in subsection (a) are as follows:

(1) The Federal Banking Commission.

(2) The Federal Housing Finance Board.

(3) The National Credit Union Administration.

(4) The Attorney General of the United States.".

(f) AMENDMENTS TO SECTION 1002.—Section 1002 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1811 note) is amended—

(1) in subsection (a), by striking "Board of Governors of the Federal Reserve System" and inserting "Federal Banking Commission"; and

(2) in subsection (b)—

(A) in paragraph (1), by striking "Board of Governors of the Federal Reserve System" and inserting "Federal Banking Commission"; and

(B) in paragraph (3), by striking "Board of Governors of the Federal Reserve System" and inserting "Federal Banking Commission".

(g) AMENDMENT TO SECTION 1103.—Section 1103 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3332) is amended—

(1) in the heading, by striking "**APPRAISAL SUBCOMMITTEE**" and inserting "**APPRAISAL COMMITTEE**";

(2) by striking "Appraisal Subcommittee" each place it appears and inserting "Appraisal Committee"; and

(3) in the introductory text of subsection (a)(2), by striking "Federal financial institutions regulatory agencies" and inserting "Federal Banking Commission, the National Credit Union Administration, the Federal Deposit Insurance Corporation,".

(h) AMENDMENT TO SECTION 1105.—Section 1105 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3334) is amended—

(1) by striking "Appraisal Subcommittee" and inserting "Appraisal Committee"; and

(2) by striking "Council" and inserting "Federal Banking Commission."

(i) AMENDMENT TO SECTION 1106.—Section 1106 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3335) is amended—

(1) in the heading, by striking "**APPRAISAL SUBCOMMITTEE**" and inserting "**APPRAISAL COMMITTEE**"; and

(2) by striking "Appraisal Subcommittee" each place it appears and inserting "Appraisal Committee".

(j) AMENDMENT TO SECTION 1108.—Section 1108 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3337) is amended—

(1) by striking "Appraisal Subcommittee" each place it appears and inserting "Appraisal Committee"; and

(2) in subsection (a), by striking "subcommittee" and inserting "committee".

(k) AMENDMENT TO SECTION 1109.—Section 1109 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3338) is amended—

(1) by striking "Appraisal Subcommittee" each place it appears and inserting "Appraisal Committee"; and

(2) in subsection (a), by striking "Council" and inserting "Federal Banking Commission."

(l) AMENDMENT TO SECTION 1110.—Section 1110 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3339) is amended—

(1) in the heading, by striking "THE FEDERAL FINANCIAL INSTITUTIONS REGULATORY AGENCIES" and inserting "FBC, NCUA, FDIC, and RTC"; and

(2) by striking "Each Federal financial institutions regulatory agency" and inserting "The Federal Banking Commission, the National Credit Union Administration, the Federal Deposit Insurance Corporation,".

(m) AMENDMENT TO SECTION 1112.—Section 1112 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3341) is amended—

(1) in the heading, by striking "THE FEDERAL FINANCIAL INSTITUTIONS REGULATORY AGENCIES" and inserting "FBC, NCUA, FDIC; AND RTC"; and

(2) by striking "Each Federal financial institutions regulatory agency" and inserting "The Federal Banking Commission, the National Credit Union Administration, the Federal Deposit Insurance Corporation,".

(n) AMENDMENT TO SECTION 1116.—Section 1118 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3345) is amended—

(1) in the first subsection (e)—

(A) in the heading, by striking "APPRAISAL SUBCOMMITTEE" and inserting "APPRAISAL COMMITTEE";

(B) by striking "Appraisal Subcommittee" and inserting "Appraisal Committee"; and

(C) by striking "Subcommittee" and inserting "Committee"; and

(2) by striking the second subsection (e).

(o) AMENDMENT TO SECTION 1118.—Section 1118 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3347) is amended—

(1) by striking "Appraisal Subcommittee" each place it appears and inserting "Appraisal Committee";

(2) in subsection (b), by striking "The Federal financial institutions regulatory agencies" and inserting "The Federal Banking Commission, the National Credit Union Administration, the Federal Deposit Insurance Corporation,"; and

(3) in subsection (c)(3), by striking "subcommittee" and inserting "committee".

(p) AMENDMENT TO SECTION 1119.—Section 1119 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3348) is amended—

(1) by striking "Council" and inserting "Federal Banking Commission";

(2) by striking "Appraisal Subcommittee" each place it appears and inserting "Appraisal Committee"; and

(3) in subsection (c), by striking "subcommittee" and inserting "committee".

(q) AMENDMENT TO SECTION 1120.—Subsection 1120(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3349(a)) is amended by striking "Appraisal Subcommittee" and inserting "Appraisal Committee".

(r) AMENDMENT TO SECTION 1121.—Subsection 1121 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3350) is amended—

(1) by amending paragraph (2) to read as follows:

"(2) APPRAISAL COMMITTEE; COMMITTEE.—The terms 'Appraisal Committee' and 'committee' mean the Appraisal Committee established by Section 1011 of the Federal Financial Institutions Examination Council Act of 1978.";

(2) by striking paragraph (3);

(3) in paragraph (4)(A), by striking "a Federal financial institutions regulatory agency" and inserting "the Federal Banking Commission, the National Credit Union Administration, the Federal Deposit Insurance Corporation,";

(4) by amending paragraph (6) to read as follows:

"(6) FEDERAL FINANCIAL INSTITUTIONS REGULATORY AGENCIES.—The term 'Federal financial institutions regulatory agencies' means the Federal Banking Commission and the National Credit Union Administration.";

(5) by amending paragraph (8) to read as follows:

"(8) CHAIRPERSON.—The term 'Chairperson' means the Chairperson of the Appraisal Committee selected by the members of the committee."; and

(6) by redesignating paragraphs (4) through (10) as paragraphs (3) through (9), respectively.

(s) AMENDMENT TO SECTION 1122.—Subsection 1122 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3351) is amended—

(1) by striking subsection (b);

(2) in subsection (c), by striking "the Federal financial institutions regulatory agencies" and inserting "the Federal Banking Commission, the National Credit Union Administration, the Federal Deposit Insurance Corporation,";

(3) in subsection (e), by striking "Appraisal Subcommittee" each place it appears and inserting "Appraisal Committee"; and

(4) by redesignating subsections (c) through (e) as subsections (b) through (d), respectively.

(t) AMENDMENTS TO SECTION 1204.—Section 1204 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1811 note) is amended by—

(1) in subsection (a), by striking "appropriate Federal banking agencies" and inserting "Federal Banking Commission";

(2) in subsection (c)—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2), (3), (4), and (5) as paragraphs (1), (2), (3), and (4), respectively;

(u) AMENDMENTS TO SECTION 1205.—Subsection 1205(b) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1818 note) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by striking "Director of the Office of Thrift Supervision" and inserting "Chairperson of the Federal Banking Commission, or the Chairperson's designee";

(B) by striking subparagraph (D); and

(C) by redesignating subparagraphs (E) and (F) as paragraphs (D) and (E), respectively;

(2) in paragraph (2), by striking "paragraph (1)(F)" and inserting "paragraph (1)(E)"; and

(3) in paragraph (5), by striking "through (E)" and inserting "through (D)".

(v) AMENDMENTS TO SECTION 1206.—Section 1206 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b) is amended—

(1) by striking "the Comptroller of the Currency" and inserting "Federal Banking Commission";

(2) by inserting "and" after "Resolution Trust Corporation," and before "the Farm Credit Administration"; and

(3) by striking ", and the Office of Thrift Supervision".

(w) AMENDMENTS TO SECTION 1216.—Section 1216 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833e) is amended—

(1) in subsection (a)—

(A) in paragraph (1), striking "Comptroller of the Currency" and inserting "Federal Banking Commission";

(B) by striking paragraph (2); and

(C) by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (2), (3), (4), and (5), respectively;

(2) in subsection (c), by striking "Comptroller of the Currency, the Director of the Office of Thrift Supervision" and inserting "Federal Banking Commission"; and

(3) in subsection (d)—

(A) in paragraph (2), by striking "Comptroller of the Currency" and inserting "Federal Banking Commission";

(B) by striking paragraph (3); and

(C) by redesignating paragraphs (4), (5), (6), (7), and (8) as paragraphs (3), (4), (5), (6), and (7), respectively.

SEC. 637. AMENDMENTS TO THE HOME MORTGAGE DISCLOSURE ACT OF 1975.

(a) AMENDMENTS TO SECTION 303.—Section 303 of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2802) is amended—

(1) in subsection (2)(A), by striking "Board" and inserting "Commission"; and

(2) by amending subsection (5) to read as follows:

"(5) the term 'Commission' means the Federal Banking Commission; and".

(b) AMENDMENTS TO SECTION 304.—Section 304 of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803) is amended—

(1) in subsection (a)(1), by striking "Board" and inserting "Commission";

(2) in subsection (e), by striking "Board" and inserting "Commission";

(3) in subsection (f), by striking "Federal Financial Institutions Examination Council" and inserting "Commission"; and

(4) in subsection (h), by striking the second sentence and inserting the following: "Notwithstanding the requirement of subsection (a)(2)(A) of this section for disclosure by census tract, the Commission, in cooperation with other appropriate regulators, including—

"(1) the National Credit Union Administration Board for credit unions; and

"(2) the Secretary of Housing and Urban Development for other lending institutions not regulated by the Commission or the National Credit Union Administration Board,

shall develop regulations prescribing the format for such disclosures, the method for submission of the data to the appropriate regulatory agency, and the procedures for disclosing the information to the public.";

(5) in subsection (j), by striking "Board" each place it appears and inserting "Commission";

(6) in subsection (k), by striking "Board" each place it appears and inserting "Commission";

(7) in subsection (l)(2)(A), by striking "Board" and inserting "Commission";

(c) AMENDMENTS TO SECTION 305.—Section 305 of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2804) is amended—

(1) in subsection (a), by striking "Board" each place it appears and inserting "Commission"; and

(2) in subsection (b)—

(A) by amending paragraph (1) to read as follows:

"(1) section 8 of the Federal Deposit Insurance Act by the Commission with respect to national banks, member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks, commercial lending companies owned or controlled by foreign banks, organizations operating under section 25 or 25A of the Federal Reserve Act, banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), mutual savings banks as defined in section 3(f) of the Federal Deposit Insurance Act, savings associations with deposits insured by the Federal Deposit Insurance Corporation, and any other depository institution not referred to in paragraph (2) of this subsection;";

(B) by striking paragraphs (2); and

(C) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3) respectively.

(d) AMENDMENTS TO SECTION 306.—Section 306 of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2805) is amended—

(1) in subsection (a), by striking "Board" each place it appears and inserting "Commission"; and

(2) in subsection (b)—

(A) in the first sentence, by striking "Board" and inserting "Commission"; and

(B) by amending the second sentence to read as follows: "Notwithstanding any other provision of this subsection, compliance with the requirements imposed under this subsection shall be enforced by the Commission under section 8 of the Federal Deposit Insurance Act in the case of all national banks and those savings associations with deposits insured by the Federal Deposit Insurance Corporation.".

(f) AMENDMENTS TO SECTION 307.—Section 307 of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2806) is amended—

(1) in subsection (a)—

(A) by amending paragraph (1) to read as follows:

"(1) The Commission, with the assistance of the Secretary, the Director of the Bureau of the Census, and such other persons as the Commission deems appropriate, shall develop, or assist in the improvement of, methods of matching addresses and census tracts to facilitate compliance by depository institutions in as economical a manner as possible with the requirements of this title."; and

(B) in paragraph (3), by striking "Director of the Office of Thrift Supervision" and inserting "Commission"; and

(2) in subsection (b), by striking "Director of the Office of Thrift Supervision" each place it appears and inserting "Commission".

(g) AMENDMENT TO SECTION 308.—Section 308 of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2807) is amended by striking "Board" and inserting "Commission".

(h) AMENDMENT TO SECTION 309.—Section 309 of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2808) is amended in the second sentence by striking "Board" and inserting "Commission".

(i) AMENDMENT TO SECTION 310.—Subsection 310 of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2809) is amended—

(1) in subsection (a)—

(A) in the first sentence, by striking "Federal Financial Institutions Examination Council" and inserting "Commission"; and

(B) in the second sentence, by striking "Council" and inserting "Commission";

(2) by striking subsection (b); and

(3) by redesignating subsection (c) as subsection (b).

SEC. 638. AMENDMENTS TO THE HOME OWNERS' LOAN ACT.

(a) AMENDMENT TO SECTION 1.—Section 1 of the Home Owners' Loan Act (12 U.S.C. 1461) is amended by striking "Director of the Office of Thrift Supervision" in the Table of Contents and inserting "Federal Banking Commission.".

(b) AMENDMENTS TO SECTION 2.—Section 2 of the Home Owners' Loan Act (12 U.S.C. 1462) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) CHAIRPERSON.—The term 'Chairperson' means the Chairperson of the Federal Banking Commission.";

(2) by amending paragraph (3) to read as follows:

"(3) COMMISSION.—The term 'Commission' means the Federal Banking Commission.";

(3) by striking paragraph (7); and

(4) by redesignating paragraphs (8) and (9) as paragraphs (7) and (8), respectively.

(c) AMENDMENTS TO SECTION 3.—Section 3 of the Home Owners' Loan Act (12 U.S.C. 1462a) is amended—

(1) in the heading, by striking "DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION" and inserting FEDERAL BANKING COMMISSION";

(2) in subsection (e)—

(A) in the heading, by striking "DIRECTOR" and inserting "COMMISSION";

(B) in the introductory text, by striking "Director" and inserting "Commission";

(C) in paragraph (1), by inserting after "Act of 1989" the following: "or were vested in the Office of Thrift Supervision or the Director of the Office of Thrift Supervision on the day before the 'designated transfer date' as defined in section 2(4) of the Regulatory Consolidation Act of 1994;"; and

(D) in paragraph (2)—

(i) in subparagraph (A), by striking "such Act; or" and inserting "the Financial Insti-

tutions Reform, Recovery, and Enforcement Act of 1989; or"; and

(ii) in subparagraph (B), by striking "such Act." and inserting "the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 or the Regulatory Consolidation Act of 1993.";

(3) in subsection (f)—

(A) by striking "Director" each place it appears and inserting "Commission"; and

(B) by striking "Office" each place it appears and inserting "Commission";

(4) in subsection (g)—

(A) by striking "Director" each place it appears and inserting "Commission";

(B) by striking "Office" each place it appears and inserting "Commission";

(C) in paragraph (1)—

(i) by striking "Office of Thrift Supervision" and inserting "Commission"; and

(ii) by striking "notwithstanding section 301(f) of title 31, United States Code";

(D) in paragraph (3)—

(i) by striking "provided by any Federal banking agency" and inserting "provided by the Corporation or the Board of Governors of the Federal Reserve System"; and

(ii) by striking "the Federal banking agencies" and inserting "the Corporation and the Board of Governors of the Federal Reserve System"; and

(E) by amending paragraph (4) to read as follows:

"(4) DELEGATION OF AUTHORITY.—

"(A) IN GENERAL.—The Commission may delegate to any employee, representative, or agent any power of the Commission."

"(B) LIMITATIONS.—

"(i) SUPERVISION OF SAVINGS ASSOCIATIONS NOT DELEGABLE.—Notwithstanding subparagraph (A), the Commission shall not, directly or indirectly, after October 10, 1989, delegate to any Federal home loan bank or to any officer, director, or employee of a Federal home loan bank, any power involving examining, supervising, taking enforcement action with respect to, or otherwise regulating any savings association, savings and loan holding company, or other person subject to regulation by the Commission.

"(ii) MEMBERSHIP ON FDIC'S BOARD OF DIRECTORS NOT DELEGABLE.—The Chairperson shall not delegate the Chairperson's authority to serve as a member of the Corporation's Board of Directors.".

(5) in subsection (h)—

(A) by striking "Director" and inserting "commissioners"; and

(B) by striking "Office" and inserting "Commission";

(6) in subsection (i)—

(A) by striking "Director" and inserting "Commission"; and

(B) by striking "Office of Thrift Supervision" and inserting "Commission";

(7) by striking subsections (a), (b), (c), and (d); and

(8) by redesignating subsections (e) through (i) as subsections (a) through (e) respectively.

(d) AMENDMENTS TO SECTION 4.—Section 4 of the Home Owners' Loan Act (12 U.S.C. 1463) is amended—

(1) in subsection (a)—

(A) by striking "Director" each place it appears and inserting "Commission"; and

(B) in paragraph (2), by striking "or the Office";

(2) in subsection (b)—

(A) by striking "Director" each place it appears and inserting "Commission"; and

(B) in paragraph (2)(A), by striking "Federal banking agencies" and inserting "Corporation and the Board of Governors of the Federal Reserve System";

(3) by striking subsection (c);

(4) in subsection (e)(5), by striking "Director" and inserting "Commission";

(5) in subsection (f), by striking "Director" each place it appears and inserting "Commission";

(6) in subsection (h), by striking "Director" each place it appears and inserting "Commission"; and

(7) by redesignating subsections (d) through (h) as subsections (c) through (g), respectively.

(e) AMENDMENTS TO SECTION 5.—Section 5 of the Home Owners' Loan Act (12 U.S.C. 1464) is amended—

(1) in subsection (a), by striking "Director" each place it appears and inserting "Commission";

(2) in subsection (b), by striking "Director" each place it appears and inserting "Commission";

(3) in subsection (c), by striking "Director" each place it appears and inserting "Commission";

(4) in subsection (d)—

(A) by striking "Director" each place it appears and inserting "Commission"; and

(B) in paragraph (2)(A), by striking "Director of the Office of Thrift Supervision" and inserting "Commission";

(5) in subsection (e), by striking "Director" each place it appears and inserting "Commission";

(6) in subsection (f), by striking "Director" and inserting "Commission";

(7) in subsection (i), by striking "Director" each place it appears and inserting "Commission";

(8) in subsection (m), by striking "Director" each place it appears and inserting "Commission";

(9) in subsection (n), by striking "Director" each place it appears and inserting "Commission";

(10) in subsection (o), by striking "Director" each place it appears and inserting "Commission";

(11) in subsection (p), by striking "Director" each place it appears and inserting "Commission";

(12) in subsection (q), by striking "Director" and inserting "Commission";

(13) in subsection (r), by striking "Director" and inserting "Commission";

(14) in subsection (s), by striking "Director" each place it appears and inserting "Commission"; and

(15) in subsection (t)—

(A) by striking "Director" each place it appears and inserting "Commission";

(B) by striking paragraph (1)(D); and

(C) in paragraph (4)(C)(ii), by striking "Corporation" and inserting "Commission".

(f) AMENDMENTS TO SECTION 8.—Section 8 of the Home Owners' Loan Act (12 U.S.C. 1466a) is amended—

(1) in subsection (a), by striking "Director" each place it appears and inserting "Commission";

(2) in subsection (c), by striking "Director" and inserting "Commission"; and

(3) in subsection (d), by striking "Director" each place it appears and inserting "Commission".

(g) AMENDMENTS TO SECTION 9.—Section 9 of the Home Owners' Loan Act (12 U.S.C. 1467) is amended—

(1) in subsection (a), by striking "Director" each place it appears and inserting "Commission";

(2) in subsection (b), by striking "Director" each place it appears and inserting "Commission";

(3) in subsection (c), by striking "Director" and inserting "Commission";

(4) in subsection (d), by striking "Director" each place it appears and inserting "Commission";

(5) in subsection (e), by striking "Director" each place it appears and inserting "Commission";

(6) in subsection (f), by striking "Director" each place it appears and inserting "Commission";

(7) in subsection (g), by striking "Director" and inserting "Commission";

(8) in subsection (h), by striking "Director" each place it appears and inserting "Commission";

(9) in subsection (i), by striking "Director" and inserting "Commission";

(10) in subsection (j), by striking "Director" each place it appears and inserting "Commission";

(11) subsection (k) is amended to read as follows:

"(k) FEES FOR EXAMINATIONS AND SUPERVISORY ACTIVITIES.—The Commission may assess fees to fund the direct and indirect expenses of the Commission as the Commission deems necessary or appropriate. The fees may be imposed more frequently than annually at the discretion of the Commission.";

(12) in subsection (l), by striking "Director" and inserting "Commission"; and

(13) in subsection (m)—

(A) by striking "Director" each place it appears and inserting "Commission"; and

(B) by striking "Office" each place it appears and inserting "Commission";

(h) AMENDMENTS TO SECTION 10.—Section 10 of the Home Owners' Loan Act (12 U.S.C. 1467a) is amended—

(1) in subsection (a), by striking "Director" each place it appears and inserting "Commission";

(2) in subsection (b), by striking "Director" each place it appears and inserting "Commission";

(3) in subsection (c)—

(A) in paragraph (2)(F)(i), by striking "Board of Governors of the Federal Reserve System" and inserting "Federal Banking Commission"; and

(B) by striking "Director" or each place it appears and inserting "Commission";

(4) in subsection (e), by striking "Director" each place it appears and inserting "Commission";

(5) in subsection (f), by striking "Director" each place it appears and inserting "Commission";

(6) in subsection (g)—

(A) by striking "Director" each place it appears and inserting "Commission"; and

(B) in paragraph (3)(A), by striking in the first sentence "of this section," after "under paragraph (5)" and inserting "of this subsection.";

(7) in subsection (h), by striking "Director" and inserting "Commission";

(8) in subsection (i)—

(A) by striking "Director" and inserting "Commission"; and

(B) by redesignating paragraph (5) as paragraph (4);

(9) in subsection (j), by striking "Director" each place it appears and inserting "Commission";

(10) in subsection (m)—

(A) by striking "Director" each place it appears and inserting "Commission"; and

(B) in paragraph (7)(A)(ii), by inserting "the" before "period" in the last sentence.

(11) in subsection (o), by striking "Director" each place it appears and inserting "Commission";

(12) in subsection (p), by striking "Director" each place it appears and inserting "Commission";

(13) in subsection (q), by striking "Director" each place it appears and inserting "Commission";

(14) in subsection (r), by striking "Director" each place it appears and inserting "Commission"; and

(15) by redesignating subsection (t) as subsection (s).

(i) AMENDMENT TO SECTION 11.—Section 11 of the Home Owners' Loan Act (12 U.S.C. 1468) is amended—

(1) in subsection (a), by striking "Director" each place it appears and inserting "Commission";

(2) in subsection (b), by striking "Director" each place it appears and inserting "Commission"; and

(3) in subsection (c), by striking "Director" and inserting "Commission".

(j) AMENDMENT TO SECTION 12.—Section 12 of the Home Owners' Loan Act (12 U.S.C. 1468a) is amended by striking "Director" and inserting "Commission".

(k) AMENDMENT TO SECTION 13.—Section 13 of the Home Owners' Loan Act (12 U.S.C. 1468b) is amended by striking "Director" and inserting "Commission".

SEC. 639. AMENDMENTS TO THE HOUSING ACT OF 1948.

Section 502(c) of the Housing Act of 1948 (12 U.S.C. 1701c(c)) is amended in the introductory text by striking "Director of the Office of Thrift Supervision" and inserting "Federal Banking Commission".

SEC. 640. AMENDMENTS TO THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992.

(a) AMENDMENTS TO SECTION 543.—Section 543 of the Housing and Community Development Act of 1992 (12 U.S.C. 1707 note) is amended—

(1) in subsection (c)(1)—

(A) by amending subparagraph (C) to read as follows:

"(C) the Chairperson of the Federal Banking Commission"; and

(B) by striking subparagraphs (D) through (F); and

(C) by redesignating subparagraphs (G) and (H) as subparagraphs (D) and (E), respectively; and

(2) in subsection (f)—

(A) in paragraph (2)—

(i) by striking "Comptroller of the Currency, the Office of Thrift Supervision, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation" and inserting "Federal Banking Commission"; and

(ii) in subparagraph (D), by striking "Office of Thrift Supervision, the Board of Governors of the Federal Reserve, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation" and inserting "Federal Banking Commission"; and

(B) in paragraph (3)—

(i) by striking "the Office of Thrift Supervision, the Board of Governors of the Federal Reserve, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation" and inserting "and the Federal Banking Commission"; and

(ii) in subparagraph (D), by striking "Office of Thrift Supervision, the Board of Governors of the Federal Reserve, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation" and inserting "Federal Banking Commission".

(b) AMENDMENTS TO SECTION 853.—Section 853(b)(3)(A) of the Housing and Community Development Act of 1992 (42 U.S.C. 5305 note) is amended—

(1) by amending clause (i) to read as follows:

"(i) the Federal Banking Commission with respect to national banks, State-chartered banks which are members of the Federal Reserve System, bank holding companies, State-chartered banks and savings banks which are not members of the Federal Reserve System and the deposits of which are insured by the Federal Deposit Insurance Corporation, insured savings associations and savings and loan holding companies that are not bank holding companies;"

(2) by striking clauses (ii), (iii) and (v); and

(3) by redesignating clause (iv) as clause (ii).

(c) AMENDMENT TO SECTION 1315.—Section 1315(b) of the Housing and Community Development Act of 1992 (12 U.S.C. 4515(b)) is amended by striking "the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Director of the Office of Thrift Supervision" and inserting "the Federal Banking Commission, the Board of Governors of the Federal Reserve System, or the Federal Deposit Insurance Corporation".

(d) AMENDMENT TO SECTION 1317.—Section 1317(c) of the Housing and Community Development Act of 1992 (12 U.S.C. 4517(c)) is amended by striking "the Comptroller of the Currency," the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, or the Director of the Office of Thrift Supervision" and inserting "the Federal Banking Commission, the Board of Governors of the Federal Reserve System, or the Federal Deposit Insurance Corporation".

(e) AMENDMENT TO SECTION 1542.—Section 1542 of the Housing and Community Development Act of 1992 (12 U.S.C. 1831m–1)is amended—

(1) by striking "appropriate Federal banking agency" each place it appears and inserting "Federal Banking Commission";

(2) in subsection (a)(2)—

(A) in subparagraph (A)—

(i) in clause (i), by striking "an appropriate Federal banking agency" and inserting "the Federal Banking Commission"; and

(ii) in clause (ii), by striking "Each appropriate Federal banking agency" and inserting "The Federal Banking Commission"; and

(B) in subparagraph (B)(ii), by striking "the Federal banking agency" each place it appears and inserting "the Federal Banking Commission";

(3) in subsection (b)(1), by striking "each appropriate Federal banking agency" and inserting "the Federal Banking Commission";

(4) by striking subsection (d); and

(5) by redesignating subsection (e) as subsection (d).

SEC. 641. AMENDMENTS TO THE HOUSING AND URBAN-RURAL RECOVERY ACT OF 1983.

Section 469 of the Housing and Urban-Rural Recovery Act of 1983 (12 U.S.C. 1701p–1) is amended in the first sentence—

(a) by striking "Federal Home Loan Bank Board;" and

(b) by striking "the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, and the Comptroller of the Currency" and inserting "and the Federal Banking Commission".

SEC. 642. AMENDMENTS TO THE INTERNATIONAL BANKING ACT OF 1978.

(a) AMENDMENT TO SECTION 1.—Subsection 1(b)(4) of the International Banking Act of 1978 (12 U.S.C. 3101) is amended to read as follows:

"(4) 'Commission' means the Federal Banking Commission;";

(b) AMENDMENTS TO SECTION 4—Section 4 of the International Banking Act of 1978 (12 U.S.C. 3102) is amended—

(1) by striking "Comptroller" each place it appears and inserting "Commission";

(2) in subsection (a)—

(A) in paragraph (1), by striking "(1) INITIAL BRANCH OR FEDERAL AGENCY.—"; and

(B) by striking paragraph (2);

(3) in subsection (b), by striking the last sentence;

(4) in subsection (c), by striking "In" and inserting "In addition to the standards for approval listed in section 7(d), in";

(5) in subsection (g)—

(A) in paragraph (1), by striking "if it is a national bank and by the Board of Governors of the Federal Reserve System if it is a State Bank"; and

(B) in paragraph (2), by striking "he" and inserting "it";

(6) in subsection (h)—

(A) in paragraph (1), by striking "(1) APPROVAL OF AGENCY REQUIRED"; and

(B) by striking paragraph (2);

(7) in the 3rd sentence of subsection (i)—

(A) by striking "his" and inserting "its"; and

(B) by striking "he" and inserting "it"; and

(8) in subsection (j)(1), by striking "he" and inserting "it".

(c) AMENDMENT TO SECTION 5.—Section 5 of the International Banking Act of 1978 (12 U.S.C. 3103) is amended by striking "Board" each place it appears and inserting "Commission".

(d) AMENDMENT TO SECTION 6.—Section 6 of the International Banking Act of 1978 (12 U.S.C. 3104) is amended by striking "Comptroller" each place it appears and inserting "Commission".

(e) AMENDMENTS TO SECTION 7.—Section 7 of the International Banking Act of 1978 (12 U.S.C. 3105) is amended—

(1) in the section heading, by inserting "AND FEDERAL BANKING COMMISSION" after "SYSTEM";

(2) in subsection (c) through (j), by striking "Board" each place it appears and inserting "Commission";

(3) in subsection (c)(1)(B)(i), by striking "Comptroller of the Currency, the Federal Deposit Insurance Corporation, and";

(4) in subsection (e)—

(A) in paragraph (5), by striking "transmit to the Comptroller of the Currency a recommendation that the license of any Federal branch or Federal agency of a foreign bank be terminated" and inserting "terminate the license of any Federal branch or Federal agency of a foreign bank"; and

(B) by amending paragraph (6)(A) to read as follows:

"(A) IN GENERAL.—In the case of contumacy of any office or subsidiary of the foreign bank against which the Commission has issued an order under paragraph (1) or section 4(i) or a refusal by such office or subsidiary to comply with such order, the Commission may invoke the aid of the district court of the United States within the jurisdiction of which the office or subsidiary is located."; and

(5) in subsection (f)(1)(C), by striking "Comptroller of the Currency" and inserting "Commission".

(f) AMENDMENT TO SECTION 8.—Section 8 of the International Banking Act of 1978 (12 U.S.C. 3106) is amended by striking "Board" each place it appears and inserting "Commission".

(g) AMENDMENTS TO SECTION 9.—Section 9 of the International Banking Act of 1978 is amended—

(1) in subsection (a) (12 U.S.C. 601 note), by striking ", the Board, the Comptroller, and the Federal Deposit Insurance Corporation" and inserting "and the Commission"; and

(2) in subsection (b)(2) (12 U.S.C. 3106a(2)), by striking "Comptroller" and inserting "Commission".

(h) AMENDMENT TO SECTION 10.—Section 10 of the International Banking Act of 1978 (12 U.S.C. 3107) is amended by striking "Board" each place it appears and inserting "Commission".

(i) AMENDMENTS TO SECTION 13.—Section 13 of the International Banking Act of 1978 (12 U.S.C. 3108) is amended—

(1) by striking "Comptroller" each place it appears and inserting "Commission";

(2) by striking "Comptroller of the Currency" each place it appears and inserting "Commission";

(3) in subsection (b)(1), by striking "by any appropriate Federal banking agency as defined in that Act"; and

(4) in subsection (c)—

(A) by striking "as to which the Board is an appropriate Federal banking agency";

(B) by striking "in the Board" and inserting "in the Commission"; and

(C) by striking the last sentence;

(j) AMENDMENT TO SECTION 14.—Section 14 of the International Banking Act of 1978 (12 U.S.C. 36 note) is amended by striking ", the Board, the Comptroller, and the Federal Deposit Insurance Corporation," and inserting "and the Commission".

(k) AMENDMENTS TO SECTION 15.—Section 15 of the International Banking Act of 1978 (12 U.S.C. 3109) is amended—

(1) by striking "Board, Comptroller of the Currency, Federal Deposit Insurance Corporation, and Director of the Office of Thrift Supervision" each place it appears and inserting "Commission"; and

(2) in subsection (a), by striking "Board, Comptroller, Corporation, or Director" and inserting "Commission".

(l) AMENDMENTS TO SECTION 16.—Section 16 of the International Banking Act of 1978 (12 U.S.C. 3110) is amended—

(1) by striking "Board or the Comptroller of the Currency" each place it appears and inserting "Commission";

(2) in subsection (a)(6), by striking "Board and the Comptroller of the Currency shall each" and inserting "Commission shall"; and

(3) in subsection (c)(3), by striking "Board's or Comptroller's" and inserting "Commission's".

SEC. 643. AMENDMENTS TO THE INTERNATIONAL LENDING SUPERVISION ACT OF 1983.

(a) AMENDMENT TO SECTION 902.—Subsection 902(b) of the International Lending Supervision Act of 1983 (12 U.S.C. 3901(b)) is amended by striking "Federal banking agencies" and inserting "Federal Banking Commission".

(b) AMENDMENT TO SECTION 903.—Section 903 of the International Lending Supervision Act of 1983 (12 U.S.C. 3902) is amended to read as follows:

"SEC. 903. For purposes of this title, the term 'banking institution' means—

"(a)(1) an insured bank as defined in section 3(h) of the Federal Deposit Insurance Act or any subsidiary of an insured bank;

"(2) an Edge Act corporation organized under section 25A of the Federal Reserve Act;

"(3) an Agreement Corporation operating under section 25 of the Federal Reserve Act; and

"(b) to the extent determined by the Federal Banking Commission, any agency or branch of a foreign bank, and any commercial lending company owned or controlled by one or more foreign banks or companies that control a foreign bank as those terms are defined in the International Banking Act of 1978. The term 'banking institution' shall not include a foreign bank.".

(c) AMENDMENTS TO SECTION 904.—Section 904 of the International Lending Supervision Act of 1983 (12 U.S.C. 3903) is amended—

(1) in subsection (a), by striking "Each appropriate Federal banking agency" and inserting "The Federal Banking Commission"; and

(2) in subsection (b), by striking "Each such agency" and inserting "The Commission".

(d) AMENDMENTS TO SECTION 905.—Section 905 of the International Lending Supervision Act of 1983 (12 U.S.C. 3904) is amended—

(1) in subsection (a)—

(A) by striking "Each appropriate Federal banking agency" and inserting "The Federal Banking Commission"; and

(B) by striking "such appropriate Federal banking agency" and inserting "the Federal Banking Commission";

(2) in subsection (b), by striking "The appropriate Federal banking agencies" each place it appears and inserting "The Federal Banking Commission"; and

(3) in subsection (c), by striking "The appropriate Federal banking agencies" each place it appears and inserting "The Federal Banking Commission".

(e) AMENDMENTS TO SECTION 905A.—Section 905A of the International Lending Supervision Act of 1983 (12 U.S.C. 3904a) is amended—

(1) by striking "each appropriate Federal banking agency" each place it appears and inserting "the Federal Banking Commission";

(2) in subsection (a), by striking "Each agency" and inserting "The Commission";

(3) in subsection (b), by striking "appropriate Federal banking agency" and inserting "Federal Banking Commission"; and

(4) in subsection (c)—

(A) by striking "each appropriate Federal banking agency" each place it appears and inserting "the Federal Banking Commission"; and

(B) in paragraph (3), by striking "Each Federal agency required to undertake a review described in subsection (a) shall complete the review" and inserting "The Federal Banking Commission shall complete the review described in subsection (a)".

(f) AMENDMENTS TO SECTION 906.—Section 906 of the International Lending Supervision Act of 1983 (12 U.S.C. 3905) is amended—

(1) in subsection (a), by striking "Each appropriate Federal banking agency" and inserting "The Federal Banking Commission"; and

(2) in subsection (b), by striking "appropriate Federal banking agencies" each place it appears and inseting "Federal Banking Commission".

(g) AMENDMENTS TO SECTION 907.—Section 907 of the International Lending Supervision Act of 1983 (12 U.S.C. 3906) is amended—

(1) by striking "Each appropriate Federal banking agency" each place it appears and inserting "The Federal Banking Commission"; and

(2) by striking "appropriate Federal banking agencies" each place it appears and inserting "Federal Banking Commission".

(h) AMENDMENTS TO SECTION 908.—Section 908 of the International Lending Supervision Act of 1983 (12 U.S.C. 3907) is amended—

(1) by striking "Each appropriate Federal banking agency" each place it appears and inserting "The Federal Banking Commission";

(2) by striking "appropriate Federal banking agency" each place it appears and inserting "Federal Banking Commission";

(3) by striking "such appropriate Federal banking agency" each place it appears and inserting "the Federal Banking Commission"; and

(4) by striking "The Chairman of the Board of Governors of the Federal Reserve System" and inserting "The Federal Banking Commission".

(i) AMENDMENTS TO SECTION 909.—Section 909 of the International Lending Supervision Act of 1983 (12 U.S.C. 3908) is amended—

(1) in subsection (b), by striking "representatives of the appropriate Federal banking agencies whenever an examination by such appropriate Federal banking agency" and inserting "the Federal Banking Commission whenever an examination by the Commission"; and

(2) in subsection (c), by striking "Federal banking agencies" and inserting "the Federal Banking Commission".

(j) AMENDMENTS TO SECTION 910.—Section 910 of the International Lending Supervision Act of 1983 (12 U.S.C. 3909) is amended—

(1) in subsection (a)(1), by striking "The appropriate Federal banking agencies are" and inserting "The Federal Banking Commission is";

(2) in subsection (b), by striking "The appropriate Federal banking agencies" and inserting "The Federal Banking Commission";

(3) in subsection (c)(2), by striking "any appropriate Federal banking agency" and inserting "the Federal Banking Commission";

(4) by striking "each appropriate Federal banking agency" each place it appears and inserting "the Federal Banking Commission"; and

(5) by striking "appropriate Federal banking agency" each place it appears and inserting "Federal Banking Commission".

(k) AMENDMENTS TO SECTION 911.—Section 911 of the International Lending Supervision Act of 1983 (12 U.S.C. 3910) is amended—

(1) in subsection (a)—

(A) by striking "appropriate Federal banking agencies (as defined in section 903 of this title)" and inserting "Federal Banking Commission"; and

(B) by striking subsection (a)(3);

(2) by striking "the appropriate Federal banking agency" each place it appears and inserting "the Federal Banking Commission";

(3) by striking "an appropriate Federal banking agency" each place it appears and inserting "the Federal Banking Commission"; and

(4) by striking "each appropriate Federal banking agency" each place it appears and inserting "the Federal Banking Commission".

(l) AMENDMENT TO SECTION 912.—Section 912 of the International Lending Supervision Act of 1983 (12 U.S.C. 3911) is amended to read as follows:

"SEC. 912. As the insurer of the United States banks involved in international lending, the Federal Deposit Insurance Corporation shall be given equal representation with the Federal Banking Commission on the Committee on Banking Regulations and Supervisory Practices of the Group of Ten Countries and Switzerland.".

(m) AMENDMENT TO SECTION 913.—Section 913 of the International Lending Supervision Act of 1983 (12 U.S.C. 3912) is amended—

(1) in the first undesignated subsection—

(A) by striking "appropriate Federal banking agencies" each place it appears and inserting "Federal Banking Commission";

(B) by striking "Chairman of the Board of Governors of the Federal Reserve System" each place it appears and inserting "Federal Banking Commission"; and

(C) in paragraph (3)—

(i) by striking "any appropriate Federal banking agency" and inserting "the Federal Banking Commission"; and

(ii) by striking "the appropriate Federal banking agencies of their respective authorities" and inserting "the Federal Banking Commission of its authorities"; and

(2) in the subsection designated "(d)"—

(A) by striking "Federal banking agencies" and inserting "Federal Banking Commission";

(B) by striking "jointly";

(C) in paragraph (1)—

(i) by striking "each agency" and inserting "the Federal Banking Commission";

(ii) by striking "banking agencies" and inserting "Federal Banking Commission"; and

(iii) by striking "agencies'" and inserting "Commission's";

(D) in paragraph (2), by striking "appropriate Federal banking agencies" and inserting "Federal Banking Commission"; and

(E) in the last sentence, by striking "Each appropriate Federal banking agency" and inserting "The Federal Banking Commission".

SEC. 644. AMENDMENTS TO THE NATIONAL HOUSING ACT.

(a) AMENDMENTS TO SECTION 203.—Section 203(s) of the National Housing Act (12 U.S.C. 1709(s)) is amended—

(1) in paragraph (4), by inserting "and" after "Farmers Home Administration;";

(2) by amending paragraph (5) to read as follows:

"(5) if the mortgagee is a national bank, District bank, State bank, or is a subsidiary or affiliate of such national bank, District bank, or State bank, or a bank holding company or a subsidiary or affiliate of such company, or a Federal or State savings association or a subsidiary or affiliate of such savings association, the Federal Banking Commission."; and

(3) by striking paragraphs (6) through (8).

(b) AMENDMENTS TO SECTION 255.—Section 255(k)(3) of the National Housing Act (12 U.S.C. 1715z-20(k)(3)) is amended to read as follows:

"(3) The Preliminary evaluation shall incorporate comments and recommendations solicited by the Secretary from the Federal Banking Commission, the Secretary of Health and Human Services, the Federal Council on Aging, and the National Credit Union Administration Board regarding any of the matters referred to in paragraph (1) or (2).".

SEC. 645. AMENDMENTS TO THE REAL ESTATE SETTLEMENT PROCEDURES ACT.

(a) AMENDMENT TO SECTION 4.—(1) Subsection 4(a) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2603(a)) is amended by striking "the Federal Home Loan Bank Board" and inserting "the Federal Banking Commission".

(2) AMENDMENT TO SECTION 8.—Subsection 8(c)(5) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2607(c)(5)) is amended by striking "the Federal Home Loan Bank Board" and inserting "the Federal Banking Commission".

SEC. 646. AMENDMENTS TO THE RESOLUTION TRUST CORPORATION REFINANCING, RESTRUCTURING, AND IMPROVEMENT ACT OF 1991.

Section 618 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 (12 U.S.C. 1831n note) is amended—

(a) in subsection (a)(1), by striking "(a) IN GENERAL.—" and inserting "(A) IN GENERAL.—";

(b) by striking "each Federal banking agency shall amend the regulations and guidelines of the agency" each place it appears and inserting "the Federal Banking Commission shall amend the regulations and guidelines of the Commission";

(c) by striking "appropriate Federal banking agency" each place it appears and inserting "Federal Banking Commission";

(d) in subsection (b)—

(1) in paragraph (2), by striking "jurisdiction of the agency" and inserting "jurisdiction of the Federal Banking Commission"; and

(2) in paragraph (3), by striking "jurisdiction of the agency" and inserting "jurisdiction of the Federal Banking Commission"; and

(e) by striking subsection (c).

SEC. 647. AMENDMENTS TO THE REVISED STATUTES.

(a) PROVISIONS RELATING TO ESTABLISHMENT OF OCC REPEALED.—

(1) PROVISIONS REPEALED.—The following sections of the Revised Statutes are repealed:

(A) Section 325 (12 U.S.C. 2).

(B) Section 326 (12 U.S.C. 3).

(C) Section 327 (12 U.S.C. 4).

(D) Section 329 (12 U.S.C. 11).

(E) Section 331 (12 U.S.C. 13).

(2) TABLE OF CONTENTS AMENDED.—The table of sections for chapter 9 of title VII of the Revised Statutes is amended—

(A) in the item relating to section 330, by striking "Comptroller of the Currency" and inserting "Federal Banking Commission"; and

(B) by striking the item relating to each of the following sections:

(i) Section 324.

(ii) Section 325.

(iii) Section 326.

(iv) Section 327.

(v) Section 329.

(vi) Section 331.

(b) AMENDMENT TO SECTION 324.—Section 324 of the Revised Statutes (12 U.S.C. 1) is amended by striking the first sentence.

(c) AMENDMENT TO SECTION 327A.—Section 327A of the Revised Statutes (12 U.S.C. 4a) is amended by striking "Comptroller of the Currency" and inserting "Federal Banking Commission".

(d) AMENDMENT TO SECTION 328.—Section 328 of the Revised Statutes (12 U.S.C. 8) is amended to read as follows:

"SEC. 328. The Federal Banking Commission shall employ, from time to time, the necessary clerks to discharge such duties as the Commission shall direct.".

(e) AMENDMENT TO SECTION 330.—Section 330 of the Revised Statutes (12 U.S.C. 12) is amended to read as follows:

"SEC. 330. The seal devised by the Federal Banking Commission for the Commission shall be the seal of the Commission after the 'designated transfer date' as provided in the Regulatory Consolidation Act of 1994, and may be renewed when necessary by the Commission. A description of the Commission's seal shall be filed in the office of the Secretary of State. The seal devised by the Comptroller of the Currency for his office, and approved by the Secretary of the Treasury, shall continue to be the seal of the Federal Banking Commission until such time as the Commission has devised its own seal. A description of the Comptroller's seal shall be filed in the office of the Secretary of State.".

(f) AMENDMENT TO SECTION 333.—Section 333 of the Revised Statutes is amended by striking "Comptroller of the Currency" and inserting "Federal Banking Commission".

(g) AMENDMENT TO SECTION 5133.—Section 5133 of the Revised Statutes (12 U.S.C. 21) is amended—

(1) by striking "Comptroller of the Currency" and inserting "Federal Banking Commission"; and

(2) by striking "his" and inserting "the Commission's".

(h) AMENDMENT TO SECTION 5135.—Section 5135 of the Revised Statutes (12 U.S.C. 23) is amended—

(1) by striking "Comptroller of the Currency" and inserting "Federal Banking Commission"; and

(2) by striking "his" and inserting "the Commission's".

(i) AMENDMENT TO SECTION 5136.—Section 5136 of the Revised Statutes (12 U.S.C. 24) is amended—

(1) in the paragraph numbered "Seventh", by striking "Comptroller of the Currency" each place it appears and inserting "Federal Banking Commission"; and

(2) in the paragraph numbered "Eleventh"—

(A) by striking "Comptroller of the Currency" and inserting "Federal Banking Commission"; and

(B) by striking "Comptroller" and inserting "Commission".

(j) AMENDMENT TO SECTION 5136A.—Section 5136A(e) of the Revised Statutes (12 U.S.C. 25a(e)) is amended by striking "Comptroller of the Currency" and inserting "Federal Banking Commission".

(k) AMENDMENT TO SECTION 5137.—Section 5137 of the Revised Statutes (12 U.S.C. 29) is amended by striking "Comptroller of the Currency" each place it appears and inserting "Federal Banking Commission".

(l) AMENDMENT TO SECTION 5138.—Section 5138 of the Revised Statutes (12 U.S.C. 51) is amended by striking "Comptroller of the Currency" each place it appears and inserting "Federal Banking Commission".

(m) AMENDMENTS TO SECTION 5142.—Section 5142 of the Revised Statutes (12 U.S.C. 57) is amended—

(1) by striking "Comptroller of the Currency" and inserting "Federal Banking Commission";

(2) by striking "his" each place it appears and inserting "its"; and

(3) in the first sentence, by striking "said comptroller" and inserting "Commission".

(n) AMENDMENT TO SECTION 5143.—Section 5143 of the Revised Statutes (12 U.S.C. 59) is amended by striking "Comptroller of the Currency" each place it appears and inserting "Federal Banking Commission".

(o) AMENDMENT TO SECTION 5145.—Section 5145 of the Revised Statutes (12 U.S.C. 71) is amended by striking "Comptroller of the Currency" and inserting "Federal Banking Commission".

(p) AMENDMENT TO SECTION 5146.—Section 5146 of the Revised Statutes (12 U.S.C. 72) is amended—

(1) by striking "Comptroller of the Currency" each place it appears and inserting "Federal Banking Commission"; and

(2) in the first sentence, by striking "in his discretion" and inserting "in its discretion".

(q) AMENDMENT TO SECTION 5147.—Section 5147 of the Revised Statutes (12 U.S.C. 73) is amended in the last sentence—

(1) by striking "Comptroller of the Currency" and inserting "Federal Banking Commission"; and

(2) by striking "his" and inserting "its".

(r) AMENDMENTS TO SECTION 5154.—Section 5154 of the Revised Statutes (12 U.S.C. 35) is amended—

(1) by striking "Comptroller of the Currency" each place it appears and inserting "Federal Banking Commission";

(2) by striking "Comptroller" each place it appears and inserting "Commission"; and

(3) in the last sentence—

(A) by striking "his" and inserting "its"; and

(B) by striking "he" and inserting "it".

(s) AMENDMENT TO SECTION 5155.—Section 5155 of the Revised Statutes (12 U.S.C. 36) is amended by striking "Comptroller of the Currency" each place it appears and inserting "Federal Banking Commission".

(t) AMENDMENTS TO SECTION 5156A.—Subsection 5156A(b) of the Revised Statutes (12 U.S.C. 215c(b)) is amended—

(1) by striking "Comptroller of the Currency" each place it appears and inserting "Federal Banking Commission"; and

(2) in paragraph (2)(B), by striking "Comptroller's" and inserting "Commission's".

(u) AMENDMENT TO SECTION 5168.—Section 5168 of the Revised Statutes (12 U.S.C. 26) is amended—

(1) by striking "Comptroller of the Currency" and inserting "Federal Banking Commission"; and

(2) by striking "Comptroller" each place it appears and inserting "Federal Banking Commission".

(v) AMENDMENTS TO SECTION 5169.—Section 5169 of the Revised Statutes (12 U.S.C. 27) is amended—

(1) by striking "Comptroller" each place it appears and inserting "Federal Banking Commission";

(2) by striking "Comptroller of the Currency" each place it appears and inserting "Federal Banking Commission"; and

(3) in subsection (a)—

(A) by striking "appointed by him" and inserting "appointed by the Federal Banking Commission";

(B) by striking "his hand and official seal" and inserting "the Federal Banking Commission's official seal";

(C) by striking "his certificate" and inserting "the Federal Banking Commission's certificate"; and

(D) by striking "whenever he has reason" and inserting "whenever the Federal Banking Commission has reason".

(w) AMENDMENTS TO SECTION 5191.—Section 5191 of the Revised Statutes (12 U.S.C. 143) is amended—

(1) by striking "Comptroller of the Currency" and inserting "Federal Banking Commission"; and

(2) by striking "Comptroller" and inserting "Commission".

(x) AMENDMENT TO SECTION 5192.—Section 5192 of the Revised Statutes (12 U.S.C. 144) is amended by striking "Comptroller of the Currency" and inserting "Federal Banking Commission".

(y) AMENDMENT TO SECTION 5199.—Subsection 5199(b) of the Revised Statutes (12 U.S.C. 60(b)) is amended by striking "Comptroller of the Currency" and inserting "Federal Banking Commission".

(z) AMENDMENT TO SECTION 5200.—Section 5200 of the Revised Statutes (12 U.S.C. 84) is amended—

(1) in subsection (b)(1), by striking "Comptroller of the Currency" and inserting "Federal Banking Commission";

(2) in subsection (c)(7), by striking "Comptroller of the Currency" and inserting "Federal Banking Commission"; and

(3) in subsection (d)—

(A) in paragraph (1), by striking "Comptroller of the Currency" and inserting "Federal Banking Commission"; and

(B) in paragraph (2), by striking "Comptroller of the Currency" and inserting "Federal Banking Commission".

(aa) AMENDMENTS TO SECTION 5205.—Section 5205 of the Revised Statutes (12 U.S.C. 55) is amended—

(1) by striking "Comptroller of the Currency" each place it appears and inserting "Federal Banking Commission"; and

(2) by striking "Comptroller" and inserting "Commission".

(bb) AMENDMENT TO SECTION 5208.—Section 5208 of the Revised Statutes (12 U.S.C. 501) is amended by striking "Comptroller of the Currency" and inserting "Federal Banking Commission".

(cc) AMENDMENTS TO SECTION 5210.—Section 5210 of the Revised Statutes (12 U.S.C. 62) is amended in the last sentence—

(1) by striking "Comptroller of the Currency" and inserting "Federal Banking Commission"; and

(2) by striking "him" and inserting "the Commission".

(dd) AMENDMENTS TO SECTION 5211.—Section 5211 of the Revised Statutes (12 U.S.C. 161) is amended—

(1) by striking "Comptroller of the Currency" each place it appears and inserting "Federal Banking Commission";

(2) by striking "Comptroller" each place it appears and inserting "Commission";

(3) by striking "he" each place it appears and inserting "the Commission";

(4) by striking "him" each place it appears and inserting "the Commission";

(5) in the second sentence of subsection (a), by striking "his" each place it appears and inserting "its"; and

(6) in subsection (c)—

(A) by striking "his" each place it appears and inserting "its"; and

(B) in the third sentence, by striking "inform himself" and inserting "be informed".

(ee) AMENDMENTS TO SECTION 5213.—Section 5213 of the Revised Statutes (12 U.S.C. 164) is amended—

(1) by striking "Comptroller of the Currency" each place it appears and inserting "Federal Banking Commission"; and

(2) by striking "Comptroller" each place it appears and inserting "Commission".

(ff) AMENDMENT TO SECTION 5216.—Section 5216 of the Revised Statutes (omitted from the United States Code) is amended by striking "Comptroller of the Currency" and inserting "Federal Banking Commission".

(gg) AMENDMENT TO SECTION 5218.—Section 5218 of the Revised Statutes (omitted from the United States Code) is amended by striking "First Comptroller of the Treasury" and inserting "Federal Banking Commission".

(hh) AMENDMENT TO SECTION 5220.—Section 5220 of the Revised Statutes (12 U.S.C. 181) is amended by striking "Comptroller of the Currency" each place it appears and inserting "Federal Banking Commission".

(ii) AMENDMENT TO SECTION 5221.—Section 5221 of the Revised Statutes (12 U.S.C. 182) is amended by striking "Comptroller of the Currency" and inserting "Federal Banking Commission".

(jj) AMENDMENTS TO SECTION 5234.—Section 5234 of the Revised Statutes (12 U.S.C. 192) is amended—

(1) by striking "has refused to pay its circulating notes as therein mentioned, and";

(2) by striking "Comptroller of the Currency" and inserting "Federal Banking Commission";

(3) by striking "Comptroller" and "comptroller" each place they appear and inserting "Commission"; and

(4) by striking "he" each place it appears and inserting "the Commission".

(kk) AMENDMENTS TO SECTION 5235.—Section 5235 of the Revised Statutes (12 U.S.C. 193) is amended—

(1) by striking "Comptroller" and inserting "Federal Banking Commission"; and

(2) by striking "he" and inserting "the Commission".

(ll) AMENDMENTS TO SECTION 5236.—Section 5236 of the Revised Statutes (12 U.S.C. 194) is amended—

(1) by striking ", after full provision has been first made for refunding to the United States and deficiency in redeeming the notes of such association,";

(2) by striking "Comptroller" and inserting "Federal Banking Commission";

(3) by striking "him" each place it appears and inserting "the Commission"; and

(4) by striking "his" and inserting "the Commission's".

(mm) AMENDMENT TO SECTION 5238.—Section 5238 of the Revised Statutes (12 U.S.C. 196) is amended by striking the first sentence.

(nn) AMENDMENTS TO SECTION 5239.—Section 5239 of the Revised Statutes (12 U.S.C. 93) is amended—

(1) in subsection (a), by striking "Comptroller of the Currency, in his own name," and inserting "Federal Banking Commission"; and

(2) in subsection (b)—

(A) by striking "Comptroller of the Currency" each place it appears and inserting "Federal Banking Commission";

(B) by striking "Comptroller's" each place it appears and inserting "Commission's"; and

(C) in paragraph (12), by striking "Comptroller" and inserting "Commission".

(oo) AMENDMENT TO SECTION 5239A.—Section 5239A of the Revised Statutes (12 U.S.C. 93a) is amended by striking "Comptroller of the Currency" and inserting "Federal Banking Commission".

(pp) AMENDMENTS TO SECTION 5240.—Section 5240 of the Revised Statutes (12 U.S.C. 481, 482, 483, 484, and 485) is amended—

(1) by striking "Comptroller of the Currency" each place it appears and inserting "Federal Banking Commission";

(2) by striking "Comptroller" each place it appears and inserting "Commission";

(3) in the last sentence of the first undesignated paragraph—

(A) by striking "he" and inserting "the Commission"; and

(B) by striking "his" and inserting "the Commission's";

(4) in the third undesignated paragraph—

(A) by striking "Office of the Comptroller of the Currency" and inserting "Federal Banking Commission"; and

(B) by striking "Office" each place it appears and inserting "Commission";

(5) by striking the fifth undesignated paragraph; and

(6) by striking the last sentence in the last paragraph.

SEC. 648. AMENDMENTS TO THE RIGHT TO FINANCIAL PRIVACY ACT OF 1978.

(a) AMENDMENTS TO SECTION 1101.—Section 1101 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401) is amended—

(1) in paragraph (7)(B) by amending it to read as follows:

"(B) the Federal Banking Commission;"

(2) by striking paragraph (7)(E); and

(3) by redesignating paragraphs (7)(F) through (7)(H) as paragraphs (7)(E) through (7)(G), respectively.

(b) AMENDMENT TO SECTION 1112.—Section 1112(e) of the Right to Financial Privacy Act

of 1978 (12 U.S.C. 3412(e)) is amended by striking the last sentence and inserting the following: "Notwithstanding section 1101(7) or any other provision of this title, the exchange of financial records or other information with respect to a financial institution, holding company, or any subsidiary of a depository institution or holding company, among and between the Federal Deposit Insurance Corporation, the Federal Banking Commission, the National Credit Union Administration, the Board of Governors of the Federal Reserve System, and the Securities and Exchange Commission is permitted.".

(c) AMENDMENT TO SECTION 1115.—Section 1115 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3415) is amended in the last sentence by striking "Board of Governors of the Federal Reserve System" and inserting "Federal Banking Commission".

SEC. 649. AMENDMENTS TO THE TRUTH IN LENDING ACT.

(a) AMENDMENT TO TABLE OF CONTENTS.—The title of section 114 in the table of sections for chapter 1 of the Truth in Lending Act is amended to read as follows:

"114. Reports by Federal Banking Commission and Attorney General".

(b) AMENDMENTS TO SECTION 103.—Section 103 of the Truth in Lending Act (15 U.S.C. 1602) is amended—

(1) by amending subsection (b) to read as follows:

"(b) The term 'Commission' means the Federal Banking Commission.";

and

(2) in subsection (f), by striking "Board" each place it appears and inserting "Commission".

(c) AMENDMENT TO SECTION 104.—Subsection 104(4) of the Truth in Lending Act (15 U.S.C. 1603(4)) is amended by striking "Board" and inserting "Commission".

(d) AMENDMENT TO SECTION 105.—Section 105 of the Truth in Lending Act (15 U.S.C. 1604) is amended by striking "Board" each place it appears and inserting "Commission".

(e) AMENDMENT TO SECTION 106.—Subsection 106(d) of the Truth in Lending Act (15 U.S.C. 1605(d)) is amended by striking "Board" and inserting "Commission".

(f) AMENDMENT TO SECTION 107.—Section 107 of the Truth in Lending Act (15 U.S.C. 1606) is amended by striking "Board" each place it appears and inserting "Commission".

(g) AMENDMENTS TO SECTION 108.—Section 108 of the Truth in Lending Act (15 U.S.C. 1607) is amended—

(1) in subsection (a)—

(A) by amending paragraph (1) to read as follows:

"(1) section 8 of the Federal Deposit Insurance Act by the Chairman of the Federal Banking Commission, in the case of national banks, member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks, commercial lending companies owned or controlled by foreign banks, organizations operating under section 25 or 25A of the Federal Reserve Act, banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), and savings associations the deposits of which are insured by the Federal Deposit Insurance Corporation;";

(B) by striking paragraph (2); and

(C) by redesignating paragraphs (3) through (6) as paragraphs (2) through (5), respectively;

(2) in the 3d sentence of subsection (c), by inserting "Federal Trade" before "Commission";

(3) in subsection (d), by striking "Board" and inserting "Federal Banking Commission"; and

(4) in subsection (e)(3)(i), by striking "paragraphs (1) through (3) of section 108(a)" and inserting "paragraphs 1 and 2 of section 108(a)".

(h) AMENDMENT TO SECTION 109.—Section 109 of the Truth in Lending Act (15 U.S.C. 1608) is amended by striking "Board" each place that it appears and inserting "Commission".

(i) AMENDMENT TO SECTION 111.—Subsection 111(a) of the Truth in Lending Act (15 U.S.C. 1610(a)) is amended by striking "Board" each place it appears and inserting "Commission".

(j) AMENDMENT TO SECTION 112.—Subsection 112(2) of the Truth in Lending Act (15 U.S.C. 1611(2)) is amended by striking "Board" and inserting "Commission".

(k) AMENDMENT TO SECTION 113.—Subsection 113(a) of the Truth in Lending Act (15 U.S.C. 1612(a)) is amended by striking "Board" and inserting "Commission".

(l) AMENDMENTS TO SECTION 114.— Section 114 of the Truth in Lending Act (15 U.S.C. 1614) is amended—

(1) in the section title, by striking "Board" and inserting "Federal Banking Commission"; and

(2) by striking "Board" each place that it appears and inserting "Commission".

(m) AMENDMENT TO SECTION 121.—Section 121 of the Truth in Lending Act (15 U.S.C. 1631) is amended by striking "Board" each place it appears and inserting "Commission".

(n) AMENDMENT TO SECTION 122.—Section 122 of the Truth in Lending Act (15 U.S.C. 1632) is amended by striking "Board" each place it appears and inserting "Commission".

(o) AMENDMENT TO SECTION 123.—Section 123 of the Truth in Lending Act (15 U.S.C. 1633) is amended by striking "Board" and inserting "Commission".

(p) AMENDMENT TO SECTION 125.—Section 125 of the Truth in Lending Act (15 U.S.C. 1635) is amended by striking "Board" each place it appears and inserting "Commission".

(q) AMENDMENT TO SECTION 127.—Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by striking "Board" each place it appears and inserting "Commission".

(r) AMENDMENT TO SECTION 127A.—Section 127A of the Truth in Lending Act (15 U.S.C. 1637a) is amended by striking "Board" each place it appears and inserting "Commission".

(s) AMENDMENT TO SECTION 128.—Section 128 of the Truth in Lending Act (15 U.S.C. 1638) is amended by striking "Board" each place it appears and inserting "Commission".

(t) AMENDMENTS TO SECTION 130.—Section 130 of the Truth in Lending Act (15 U.S.C. 1640) is amended—

(1) by striking "Board" each place it appears and inserting "Commission"; and

(2) in subsection (f), by striking "Federal Reserve System" inserting "Commission".

(u) AMENDMENTS TO SECTION 136.—Section 136 of the Truth in Lending Act (15 U.S.C. 1646) is amended by striking "Board" each place it appears and inserting "Commission".

(v) AMENDMENT TO SECTION 137.—Subsection 137(c)(4)(B) of the Truth in Lending Act (15 U.S.C. 1647(c)(4)(B)) is amended by striking "Board" each place it appears and inserting "Commission".

(w) AMENDMENT TO SECTION 143.—Subsection 143(3) of the Truth in Lending Act (15 U.S.C. 1663(3)) is amended by striking "Board" and inserting "Commission".

(x) AMENDMENT TO SECTION 144.—Subsection 144(b) of the Truth in Lending Act (15 U.S.C. 1664(b)) is amended by striking "Board" and inserting "Commission".

(y) AMENDMENT TO SECTION 146.—Section 146 of the Truth in Lending Act (15 U.S.C. 1665a) is amended by striking "Board" and inserting "Commission".

(z) AMENDMENT TO SECTION 147.—Section 147 of the Truth in Lending Act (15 U.S.C. 1665b) is amended by striking "Board" each place it appears and inserting "Commission".

(aa) AMENDMENT TO SECTION 161.—Section 161 of the Truth in Lending Act (15 U.S.C. 1666) is amended by striking "Board" each place it appears and inserting "Commission".

(bb) AMENDMENT TO SECTION 163.—Subsection 163(b) of the Truth in Lending Act (15 U.S.C. 1666b(b)) is amended by striking "Board" and inserting "Commission".

(cc) AMENDMENT TO SECTION 164.—Section 164 of the Truth in Lending Act (15 U.S.C. 1666c) is amended by striking "Board" and inserting "Commission".

(dd) AMENDMENT TO SECTION 167.—Subsection 167(b) of the Truth in Lending Act (15 U.S.C. 1666f(b)) is amended by striking "Board" and inserting "Commission".

(ee) AMENDMENT TO SECTION 171.—Section 171 of the Truth in Lending Act (15 U.S.C. 1666j) is amended by striking "Board" each place it appears and inserting "Commission".

(ff) AMENDMENT TO SECTION 182.—The last sentence of section 182 of the Truth in Lending Act (15 U.S.C. 1667a) is amended by striking "Board" and inserting "Commission".

(gg) AMENDMENT TO SECTION 184.—Subsection 184(a) of the Truth in Lending Act (15 U.S.C. 1667c(a)) is amended by striking "Board" and inserting "Commission".

(hh) AMENDMENT TO SECTION 186.—Section 186 of the Truth in Lending Act (15 U.S.C. 1667e) is amended by striking "Board" each place it appears and inserting "Commission".

SEC. 650. AMENDMENTS TO THE TRUTH IN SAVINGS ACT.

(a) AMENDMENT TO SECTION 263.—Section 263 of the Truth in Savings Act (12 U.S.C. 4302) is amended by striking "Board" each place it appears and inserting "Commission".

(b) AMENDMENT TO SECTION 264.—Section 264 of the Truth in Savings Act (12 U.S.C. 4303) is amended by striking "Board" each place it appears and inserting "Commission".

(c) AMENDMENT TO SECTION 265.—Section 265 of the Truth in Savings Act (12 U.S.C. 4304) is amended by striking "Board" each place it appears and inserting "Commission".

(d) AMENDMENT TO SECTION 266.—Section 266 of the Truth in Savings Act (12 U.S.C. 4305) is amended by striking "Board" and inserting "Commission".

(e) AMENDMENT TO SECTION 269.—Section 269 of the Truth in Savings Act (12 U.S.C. 4308) is amended by striking "Board" each place it appears and inserting "Commission".

(f) AMENDMENT TO SECTION 270.—Section 270 of the Truth in Savings Act (12 U.S.C. 4309) is amended—

(1) by amending paragraph (1) of subsection (a) to read as follows:

"(1) section 8 of the Federal Deposit Insurance Act by the Commission in the case of—

"(A) insured depository institutions (as defined in section 3(c)(2) of the Federal Deposit Insurance Act);

"(B) depository institutions described in clause (i), (ii) or (iii) of section 19(b)(1)(A) of the Federal Reserve Act which are not insured depository institutions (as defined in section 3(c)(2) of the Federal Deposit Insurance Act); and

"(C) depository institutions described in clause (v) and or (vi) of section 19(b)(1)(A) of the Federal Reserve Act which are not insured depository institutions (as defined in section 3(c)(2) of the Federal Deposit Insurance Act); and"; and

(2) by striking "Board" each place it appears and inserting "Commission".

(g) AMENDMENT TO SECTION 271.—Section 271 of the Truth in Savings Act (12 U.S.C. 4310) is amended by striking "Board" each place it appears in subsection (f) and inserting "Commission".

(h) AMENDMENT TO SECTION 272.—Section 272 of the Truth in Savings Act (12 U.S.C. 4311) is amended by striking "Board" each place it appears and inserting "Commission".

(i) AMENDMENTS TO SECTION 274.—Section 274 of the Truth in Savings Act (12 U.S.C. 4313) is amended—

(1) in paragraph (2), by striking "Board" and inserting "Commission"; and

(2) by amending paragraph (4) to read as follows:

"(4) COMMISSION.—The term 'Commission' means the Federal Banking Commission.".

SEC. 651. REPEAL OF OBSOLETE CURRENCY STATUTES.

(a) OBSOLETE CURRENCY PROVISIONS REPEALED.—

(1) CURRENCY PROVISIONS IN REVISED STATUTES REPEALED.—The following sections of the Revised Statutes are repealed:

(A) Section 5203 (12 U.S.C. 87).
(B) Section 5206 (12 U.S.C. 88).
(C) Section 5196 (12 U.S.C. 89).
(D) Section 5158 (12 U.S.C. 102).
(E) Section 5159 (12 U.S.C. 101a).
(F) Section 5172 (12 U.S.C. 104).
(G) Section 5173 (12 U.S.C. 107).
(H) Section 5174 (12 U.S.C. 108).
(I) Section 5182 (12 U.S.C. 109).
(J) Section 5183 (12 U.S.C. 110).
(K) Section 5195 (12 U.S.C. 123).
(L) Section 5184 (12 U.S.C. 124).
(M) Section 5226 (12 U.S.C. 131).
(N) Section 5227 (12 U.S.C. 132).
(O) Section 5228 (12 U.S.C. 133).
(P) Section 5229 (12 U.S.C. 134).
(Q) Section 5230 (12 U.S.C. 137).
(R) Section 5231 (12 U.S.C. 138).
(S) Section 5232 (12 U.S.C. 135).
(T) Section 5233 (12 U.S.C. 136).
(U) Section 5185 (12 U.S.C. 151).
(V) Section 5186 (12 U.S.C. 152).
(W) Section 5160 (12 U.S.C. 168).
(X) Section 5161 (12 U.S.C. 169).
(Y) Section 5162 (12 U.S.C. 170).
(Z) Section 5163 (12 U.S.C. 171).
(AA) Section 5164 (12 U.S.C. 172).
(BB) Section 5165 (12 U.S.C. 173).
(CC) Section 5166 (12 U.S.C. 174).
(DD) Section 5167 (12 U.S.C. 175).
(EE) Section 5222 (12 U.S.C. 183).
(FF) Section 5223 (12 U.S.C. 184).
(GG) Section 5224 (12 U.S.C. 185).
(HH) Section 5225 (12 U.S.C. 186).
(II) Section 5237 (12 U.S.C. 195).

(2) CURRENCY PROVISIONS IN OTHER STATUTES REPEALED.—The following provisions of law are repealed:

(A) Section 12 of the Act entitled "An Act to define and fix the standard of value, to maintain the parity of all forms of money issued or coined by the United States, to refund the public debt, and for other purposes." and approved March 14, 1900 (12 U.S.C. 101).

(B) Section 3 of the Act entitled "An Act to amend the laws relating to the denominations, and notes by national banks and to permit the issuance of notes of small denominations, and for other purposes." and approved October 5, 1917 (12 U.S.C. 103).

(C) The following sections of the Act entitled "An Act fixing the amount of United States notes, providing for a redistribution of the national-bank currency, and for other purposes." and approved June 20, 1874:

(i) Section 5 (12 U.S.C. 105).
(ii) Section 3 (12 U.S.C. 121).
(iii) Section 8 (12 U.S.C. 126).
(iv) Section 4 (12 U.S.C. 176).

(D) The following sections of the Act entitled "An Act to enable national-banking associations to extend their corporate existence, and for other purposes." and approved July 12, 1882:

(i) Section 8 (12 U.S.C. 177).
(ii) Section 9 (12 U.S.C. 178).

(3) OTHER STATUTES REPEALED.—

(A) The Act entitled "An Act to amend the National Bank Act in providing for redemption of national bank notes stolen from or lost by banks of issue." and approved July 28, 1892 (12 U.S.C. 125) is repealed.

(B) The Act entitled "An Act authorizing the conversion of national gold banks." and approved February 14, 1880 (12 U.S.C. 153) is repealed.

(b) FEDERAL RESERVE ACT AND OTHER LAWS AMENDED.—

(1) FEDERAL RESERVE ACT.—

(A) The eighth paragraph of the fourth undesignated paragraph of section 4 of the Federal Reserve Act (12 U.S.C. 341) is amended by striking "Comptroller of the Currency" and inserting "Secretary of the Treasury".

(B) Subsection 11(d) of the Federal Reserve Act (12 U.S.C. 248(d)) is amended—

(i) by striking "bureau under the charge of the Comptroller of the Currency" and inserting "Secretary of the Treasury"; and

(ii) by striking "Comptroller" the second place it appears and inserting "Secretary".

(C) Section 16 of the Federal Reserve Act is amended—

(i) in the first sentence of the eighth undesignated paragraph (12 U.S.C. 418), by striking "the Comptroller of the Currency shall, under the direction of the Secretary of the Treasury," and inserting "the Secretary of the Treasury shall";

(ii) in the ninth undesignated paragraph (12 U.S.C. 419), to read as follows:

"When such notes have been prepared, the notes shall be delivered to the Board of Governors of the Federal Reserve System subject to the order of the Secretary of the Treasury for the delivery of such notes in accordance with this Act.";

(iii) in the tenth undesignated paragraph (12 U.S.C. 420)—

(I) by striking "Comptroller of the Currency" and inserting "Secretary of the Treasury"; and

(II) by striking "Federal Reserve Board" and inserting "Board of Governors of the Federal Reserve System"; and

(iv) in the eleventh undesignated paragraph (12 U.S.C. 421), to read as follows:

"The Secretary of the Treasury may examine the plates, dies, bed pieces, and other material used in the printing of Federal Reserve notes and may issue regulations relating to such examinations.".

(D) The sixth undesignated paragraph of section 18 of the Federal Reserve Act (omitted from U.S. Code) is amended—

(i) by striking "Comptroller of the Currency" each place it appears and inserting "Secretary of the Treasury"; and

(ii) in the seventh sentence, by striking "Comptroller" and inserting "Secretary of the Treasury".

(2) OTHER LAWS.—

(A) The Act entitled "An Act to provide for the redemption of national-bank notes, Federal Reserve notes, and Federal Reserve notes which cannot be identified as to the bank of issue." and approved June 13, 1933, is amended—

(i) in the first section (12 U.S.C. 121a)—

(I) by striking "whenever any national-bank notes, Federal Reserve bank notes," and inserting "whenever any Federal Reserve bank notes"; and

(II) by striking ", and the notes, other than Federal Reserve notes, so redeemed shall be forwarded to the Comptroller of the Currency for cancellation and destruction"; and

(ii) in the second section (12 U.S.C. 122a)—

(I) by striking "National-bank notes and"; and

(II) by striking "national-bank notes and".

(B) The first section of the Act entitled "An Act making appropriations for sundry civil expenses of Government for the fiscal year ending June thirtieth, eighteen hundred and seventy-six, and for other purposes." and approved March 3, 1875 (12 U.S.C. 106), is amended in the first paragraph that appears under the heading "NATIONAL CURRENCY." by striking "Secretary of the Treasury: Provided, That" and all that follows through the period and inserting "Secretary of the Treasury.".

(C) The Act entitled "An Act to simplify the accounts of the Treasurer of the United States, and for other purposes." and approved October 10, 1940 (12 U.S.C. 177a) is amended by striking all after the enacting clause and inserting the following: "The cost of transporting and redeeming outstanding national bank notes and Federal Reserve bank notes as may be presented to the Treasurer of the United States for redemption shall be paid from the regular annual appropriation for the Department of the Treasury.".

(D) Section 5234 of the Revised Statutes (12 U.S.C. 192) is amended by striking "has refused to pay its circulating notes as therein mentioned, and".

(E) Section 5236 of the Revised Statutes (12 U.S.C. 194) is amended by striking ", after full provision has been first made for refunding to the United States any deficiency in redeeming the notes of such association,".

(F) Section 5238 of the Revised Statutes (12 U.S.C. 196) is amended by striking the first sentence.

(c) CLERCIAL AMENDMENTS.—

(1) The table of sections for chapter 1 of title LXII of the Revised Statutes of the United States is amended—

(A) by inserting after the item relating to section 5156 the following new item:

"5156A. Mergers, consolidations, and other acquisitions authorized.";

and

(B) by striking the items relating to sections 5141 and 5151.

(2) The table of sections for chapter 2 of title LXII of the Revised Statutes of the United States is amended—

(A) by striking "OBTAINING AND ISSUING CIRCULATING NOTES." and inserting "CERTIFICATION FOR COMMENCEMENT OF BUSINESS AND NATIONAL BANKING ASSOCIATIONS.";

(B) in the item relating to section 5168, by striking "Comptroller" and inserting "Federal Banking Commission"; and

(C) by striking the item relating to each of the following sections:

(i) Section 5158.
(ii) Section 5159.
(iii) Section 5160.
(iv) Section 5161.
(v) Section 5162.
(vi) Section 5163.
(vii) Section 5164.
(viii) Section 5165.
(ix) Section 5166.
(x) Section 5167.
(xi) Section 5171.
(xii) Section 5172.
(xiii) Section 5173.
(xiv) Section 5174.
(xv) Section 5175.
(xvi) Section 5176.
(xvii) Section 5177.
(xviii) Section 5178.
(xix) Section 5179.
(xx) Section 5180.
(xxi) Section 5181.
(xxii) Section 5182.
(xxiii) Section 5183.
(xxiv) Section 5184.
(xxv) Section 5185.
(xxvi) Section 5186.
(xxvii) Section 5187.
(xxviii) Section 5188.
(xxix) Section 5189.

(3) The table of sections for chapter 3 of title LXII of the Revised Statutes of the United States is amended—

(A) in the item relating to section 5211, by striking "Comptroller of the Currency" and inserting "Federal Banking Commission"; and

(B) by striking the item relating to each of the following sections:

(i) Section 5193.
(ii) Section 5194.
(iii) Section 5195.
(iv) Section 5196.
(v) Section 5202.
(vi) Section 5203.
(vii) Section 5206.
(viii) Section 5209.
(ix) Section 5212.

(4) The table of sections for chapter 4 of title LXII of the Revised Statutes of the United States is amended—

(A) by inserting after the item relating to section 5239 the following new item:

"5239A. Regulatory authority.";

and

(B) by striking the items relating to the following sections:

(i) Section 5222.
(ii) Section 5223.
(iii) Section 5224.
(iv) Section 5225.
(v) Section 5226.
(vi) Section 5227.
(vii) Section 5228.
(viii) Section 5229.
(ix) Section 5230.
(x) Section 5231.
(xi) Section 5232.
(xii) Section 5233.
(xiii) Section 5237.
(xiv) Section 5243.

TITLE VII—CONFORMING AMENDMENTS TO OTHER STATUTES

SEC. 701. AMENDMENTS TO THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985.

(a) AMENDMENT TO SECTION 250.—Section 250(c)(19) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900(c)(19)) is amended by striking "Office of Thrift Supervision, the Comptroller of the Currency Assessment Fund" and inserting "Federal Banking Commission".

(b) AMENDMENTS TO SECTION 255.—Section 255(g)(1)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(g)(1)(A)) is amended—

(1) by striking "Comptroller of the Currency";

(2) by striking "Director of the Office of Thrift Supervision"; and

(3) inserting "Federal Banking Commission" before "Federal Deposit Insurance Corporation".

(c) AMENDMENTS TO SECTION 256.—Section 256(h)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 906(h)(4)) is amended—

(1) in subparagraph (A), by striking "Comptroller of the Currency" and inserting "Federal Banking Commission";

(2) by striking subparagraphs (C) and (D); and

(3) by redesignating subparagraphs (E) through (I) as subparagraphs (C) through (G).

SEC. 702. AMENDMENTS TO THE BANKRUPTCY CODE.

(a) AMENDMENT TO SECTION 101.—Section 101(3)(A) of the Bankruptcy Code (11 U.S.C. 101(3)(A)) is amended by striking "the appropriate Federal banking agency (as defined in section 3(q) of such Act)" and inserting "the Federal Banking Commission".

(b) AMENDMENTS TO SECTION 365.—Section 365(o) of the Bankruptcy Code (11 U.S.C. 356(o)) is amended—

(1) by striking "Director of the Office of Thrift Supervision, the Comptroller of the Currency" and inserting "Federal Banking Commission"; and

(2) by striking "its" and inserting "their".

(c) AMENDMENT TO SECTION 507.—Section 507(a)(8) of the Bankruptcy Code (11 U.S.C. 507(a)(8)) is amended by striking "Director of the Office of Thrift Supervision, the Comptroller of the Currency" and inserting "Federal Banking Commission".

SEC. 703. AMENDMENTS TO THE COMMODITY EXCHANGE ACT.

Section 4f(c) of the Commodity Exchange Act (7 U.S.C. 6f(c)) is amended—

(a) in paragraph (1)—

(1) by striking the colon after "subsection";

(2) by striking "(i) The" and inserting "the"; and

(3) by striking clause (ii);

(b) by striking "the Federal banking agency", and "a Federal banking agency", and "any Federal banking agency" each place they appear and inserting "the Federal Banking Commission";

(c) in paragraph (4)(A), by striking "each such Federal banking agency" and inserting "the Federal Banking Commission"; and

(d) in paragraph (5), by striking "the agency" each place it appears and inserting "the Federal Banking Commission".

SEC. 704. AMENDMENTS TO THE CRIME CONTROL ACT OF 1990.

(a) AMENDMENTS TO SECTION 2539.—Section 2539(c)(2) of the Crime Control Act of 1990, Public Law 101-647, is amended—

(1) in subparagraph (C), by striking "Office of Thrift Supervision" and inserting "Federal Banking Commission"; and

(2) by striking subparagraph (F) and redesignating subparagraphs (G) and (H) as subparagraphs (F) through (G).

(b) AMENDMENT TO SECTION 2554.—Section 2554(b)(2) of the Crime Control Act of 1990, Public Law 101-647, is amended by striking "Director of the Office of Thrift Supervision" and inserting "Chairman of the Federal Banking Commission".

SEC. 705. AMENDMENT TO THE ENERGY CONSERVATION AND PRODUCTION ACT.

Section 303(7) of the Energy Conservation and Product Act (42 U.S.C. 6832(7)) is amended by striking "Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Federal Home Loan Bank Board, the Federal Savings and Loan Insurance Corporation" and inserting "Federal Banking Commission".

SEC. 706. AMENDMENTS TO THE FARM CREDIT ACT OF 1971.

(a) AMENDMENT TO SECTION 5.20.—Section 5.20 of the Farm Credit Act of 1971 (12 U.S.C. 2255) is amended by striking "Comptroller of the Currency" and inserting "Federal Banking Commission".

(b) AMENDMENT TO SECTION 5.22.—Section 5.22 of the Farm Credit Act of 1971 (12 U.S.C. 2257) is amended by striking "Comptroller of the Currency" and inserting "Federal Banking Commission".

SEC. 707. AMENDMENTS TO THE FEDERAL TRADE COMMISSION ACT.

Section 18(f) of the Federal Trade Commission Act (15 U.S.C. 57a(f)) is amended—

(a) in the heading of subsection (f), by striking "BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM, FEDERAL HOME LOAN BANK BOARD" and inserting "FEDERAL BANKING COMMISSION";

(b) in paragraph (1)—

(1) by striking "The Board of Governors of the Federal Reserve System (with respect to banks) and the Federal Home Loan Bank Board (with respect to" and inserting "The Federal Banking Commission (with respect to banks described in paragraph (2) and"; and

(2) by striking "such Board" each place it appears and inserting "such agency";

(c) in paragraph (2)—

(1) by striking "in the case of—"; and

(2) by striking subparagraphs (A) through (C) and inserting "by the Federal Banking Commission in the case of national banks, banks operating under the code of law for the District of Columbia, member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks, commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act, savings associations and other banks insured by the Federal Deposit Insurance Corporation.";

(d) in paragraph (5)—

(1) by striking "any agency referred to in paragraph (2)" and inserting "the Federal Banking Commission"; and

(2) by striking "each of the agencies referred to in that paragraph" and inserting "the Federal Banking Commission"; and

(e) in paragraph (6), by striking "Board of Governors of the Federal Reserve System" and inserting "Federal Banking Commission"; and

(f) by striking paragraph (3) and redesignating paragraphs (4) through (7) as paragraphs (3) through (6).

SEC. 708. AMENDMENT TO THE FINANCIAL REPORTS ACT OF 1988.

Section 3602 of the Financial Reports Act of 1988 (22 U.S.C. 5352) is amended by striking "Comptroller of the Currency" and inserting "Federal Banking Commission".

SEC. 709. AMENDMENT TO THE FLOOD DISASTER PROTECTION ACT OF 1973.

Section 3(a)(5) of the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4003(a)(5)) is amended by striking "Comptroller of the Currency" and inserting "Federal Banking Commission."

SEC. 710. AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.

(a) AMENDMENT TO SECTION 581.—Section 581 of the Internal Revenue Code (26 U.S.C. 581) is amended by striking "Comptroller of the Currency" and inserting "Federal Banking Commission".

(b) AMENDMENT TO SECTION 584.—Section 584(a)(2) of the Internal Revenue Code (26 U.S.C. 584(a)(2)) is amended by striking "Board of Governors of the Federal Reserve System or the Comptroller of the Currency" and inserting "Federal Banking Commission".

(c) AMENDMENT TO SECTION 3305.—Section 3305(c) of the Internal Revenue Code (26 U.S.C. 3305(c)) is amended by striking "Comptroller of the Currency" and inserting "Federal Banking Commission".

(d) AMENDMENT TO SECTION 7507.—Section 7507(a) of the Internal Revenue Code (26 U.S.C. 7507(a)) is amended by striking "Comptroller of the Currency" and inserting "Federal Banking Commission".

SEC. 711. AMENDMENT TO THE INVESTMENT ADVISERS ACT OF 1940.

Section 202(a)(2) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(2)) is amended by striking "Comptroller of the Currency" and inserting "Federal Banking Commission".

SEC. 712. AMENDMENTS TO THE INVESTMENT COMPANY ACT OF 1940.

(a) AMENDMENT TO SECTION 2.—Section 2(a)(5) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(5)) is amended by striking "Comptroller of the Currency" and inserting "Federal Banking Commission".

(b) AMENDMENT TO SECTION 6.—Section 6(a)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a-6(a)(3)) is amended by inserting "or successor thereto" after "Federal Savings and Loan Insurance Corporation".

SEC. 713. AMENDMENTS TO THE NEIGHBORHOOD REINVESTMENT CORPORATION ACT.

(a) AMENDMENTS TO SECTION 604.—Section 604 of the Neighborhood Reinvestment Corporation Act, as amended (42 U.S.C. 8103) is amended—

(1) in subsection (a)(5), by striking "Comptroller of the Currency" and inserting "Chairman of the Federal Banking Commission"; and

(2) in subsection (f), by striking "Comptroller of the Currency, through a duly designated Deputy Comptroller".

(b) AMENDMENT TO SECTION 606.—Section 606 of the Neighborhood Reinvestment Corporation Act, as amended (42 U.S.C. 8105(c)(3)) is amended—

(1) by striking "Comptroller of the Currency" and inserting "Federal Banking Commission"; and

(2) by striking "the Federal Home Loan Bank Board".

SEC. 714. AMENDMENT TO THE PAPERWORK REDUCTION ACT OF 1980.

Section 3502(10) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3502(10)) is amended by inserting "the Federal Banking Commission" after the "Consumer Product Safety Commission".

SEC. 715. AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934.

(a) AMENDMENTS TO SECTION 3.—Section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c) is amended—

(1) in subsection (a)—

(A) in paragraph (6), by striking "Comptroller of the Currency" and inserting "Federal Banking Commission"; and

(B) by amending paragraph (34) to read as follows:

"(34) The term 'appropriate regulatory agency' means:

"(A) When used with respect to a municipal securities dealer—

"(i) the Federal Banking Commission, in the case of—

"(I) a national bank or a bank operating under the Code of Law for the District of Columbia, or a subsidiary or a department or division of any such bank;

"(II) a State member bank of the Federal Reserve System, a subsidiary or a department or division thereof, a bank holding company, a subsidiary of a bank holding company which is a bank other than a bank specified in subclause (I) or (III) of this subparagraph, or a subsidiary or a department or division of such subsidiary; and

"(III) a bank insured by the Federal Deposit Insurance Corporation (other than a member of the Federal Reserve System), or a subsidiary or department or division thereof; and

"(ii) the Commission in the case of all other municipal securities dealers.

"(B) When used with respect to a clearing agency or transfer agent—

"(i) the Federal Banking Commission, in the case of—

"(I) a national bank or a bank operating under the Code of Law for the District of Columbia, or a subsidiary of any such bank;

"(II) a State member bank of the Federal Reserve System, a subsidiary thereof, a bank holding company, or a subsidiary of a bank holding company which is a bank other than a bank specified in subclause (I) or (II) of this subparagraph; and

"(III) a bank insured by the Federal Deposit Insurance Corporation (other than a member of the Federal Reserve System), or a subsidiary thereof; and

"(ii) the Commission in the case of all other clearing agencies and transfer agents.

"(C) When used with respect to a participant or applicant to become a participant in a clearing agency or a person requesting or having access to services offered by a clearing agency—

"(i) the Federal Banking Commission, when the appropriate regulatory agency for such clearing agency is not the Commission, in the case of—

"(I) a national bank or a bank operating under the Code of Law for the District of Columbia;

"(II) a State member bank of the Federal Reserve System, a bank holding company, or a subsidiary of a bank holding company, or a subsidiary of a bank holding company which is a bank other than a bank specified in subclause (I) or (III) of this subparagraph; and

"(III) a bank insured by the Federal Deposit Insurance Corporation (other than a member of the Federal Reserve System); and

"(ii) the Commission in all other cases.

"(D) When used with respect to an institutional investment manager which is a bank the deposits of which are insured in accordance with the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.), the Federal Banking Commission.

"(E) When used with respect to a national securities exchange or registered securities association, member thereof, person associated with a member thereof, applicant to become a member thereof or to become associated with a member thereof, or person requesting or having access to services offered by such exchange or association or member thereof, or the Municipal Securities Rulemaking Board, the Commission.

"(F) When used with respect to a person exercising investment discretion with respect to an account—

"(i) the Federal Banking Commission, in the case of—

"(I) a national bank or a bank operating under the Code of Law for the District of Columbia;

"(II) any other member bank of the Federal Reserve System; and

"(III) any other bank the deposits of which are insured in accordance with the Federal Deposit Insurance Act; and

"(ii) the Commission in the case of all other such persons.

"(G) When used with respect to a government securities broker or government securities dealer, or person associated with a government securities broker or government securities dealer:—

"(i) the Federal Banking Commission, in the case of—

"(I) a national bank or a bank in the District of Columbia examined by the Federal Banking Commission;

"(II) a foreign bank, a branch or agency of a foreign bank, a commercial lending company owned or controlled by a foreign bank (as such terms are used in the International Banking Act of 1978), or a corporation organized or having an agreement with the Federal Banking Commission pursuant to section 25 or 25A of the Federal Reserve Act;

"(III) a State member bank of the Federal Reserve System;

"(IV) a bank insured by the Federal Deposit Insurance Corporation (other than a member of the Federal Reserve System or a Federal savings bank); and

"(V) a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act) the deposits of which are insured by the Federal Deposit Insurance Corporation; and

"(ii) the Commission, in the case of all other government securities brokers and government securities dealers.

"As used in this paragraph, the terms 'bank holding company' and 'subsidiary of a bank holding company' have the meanings given them in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841).".

(b) AMENDMENT TO SECTION 12.—Section 12(i) of the Securities Exchange Act of 1934 (12 U.S.C. 78l(i)) is amended to read as follows:

"(i) SECURITIES ISSUED BY BANKS.—In respect of any securities issued by banks and savings associations the deposits of which are insured in accordance with the Federal Deposit Insurance Act, the powers, functions, and duties vested in the Commission to administer and enforce sections 12, 13, 14(a), 14(c), 14(d), 14(f), and 16 of this title are vested in the Federal Banking Commission. The Federal Banking Commission shall have the power to make such rules and regulations as may be necessary for the execution of the functions vested in it as provided in this subsection. In carrying out its responsibilities under this subsection, the Federal Banking Commission shall issue substantially similar regulations to regulations and rules issued by the Commission under sections 12, 13, 14(a), 14(c), 14(d), 14(f), and 16 of this title, unless it finds that implementation of substantially similar regulations with respect to insured banks and insured institutions are not necessary or appropriate in the public interest or for protection of investors, and publish such findings, and the detailed reasons therefor, in the Federal Register. Such regulations of the Federal Banking Commission, or the reasons for failure to publish such substantially similar regulations to those of the Commission, shall be published in the Federal Register within 120 days of October 28, 1974, and, thereafter, within 60 days of any changes made by the Commission in its relevant regulations and rules.".

(c) AMENDMENT TO SECTION 13.—Section 13(f)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(f)(4)) is amended in the last sentence by striking "appropriate regulatory agency" and inserting "Federal Banking Commission".

(d) AMENDMENTS TO SECTION 15.—Section 15(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(c)) is amended—

(1) in paragraph (1)(E)—

(A) in the 1st sentence, by striking "each appropriate regulatory agency" and inserting "Federal Banking Commission"; and

(B) in the second sentence, by striking "any appropriate regulatory agency" and inserting "Federal Banking Commission"; and

(2) in paragraph (2)(E)—

(A) in the 1st sentence, by striking "each appropriate regulatory agency" and inserting "Federal Banking Commission"; and

(B) in the second sentence, by striking "any appropriate regulatory agency" and inserting "Federal Banking Commission".

(e) AMENDMENTS TO SECTION 15B.—Section 15B(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–4) is amended—

(1) in paragraph (5)—

(A) by striking "such appropriate regulatory agency" each place it appears and inserting "the Federal Banking Commission"; and

(B) in the first sentence, by striking "With respect to any municipal securities dealer for which the Commission is not the appropriate regulatory agency, the appropriate regulatory agency for such municipal securities dealer" and inserting "With respect to any municipal securities dealer for which the Federal Banking Commission is the appropriate regulatory agency, the Federal Banking Commission"; and

(2) in paragraph (6)(A)—

(A) by striking "appropriate regulatory agency for such municipal securities dealer" and inserting "Federal Banking Commission"; and

(B) by striking "such appropriate regulatory agency" each place it appears and inserting "the Federal Banking Commission".

(f) AMENDMENTS TO SECTION 15C.—Section 15C of the Securities Exchange Act of 1934 (15 U.S.C. 78o–5) is amended—

(1) in subsection (b)(2)(C)—

(A) in the heading of subsection (b)(2)(C), by striking "FEDERAL BANKING AGENCY" and inserting "FEDERAL BANKING COMMISSION";

(B) by striking "the Federal banking agency", and "a Federal banking agency", and "any Federal banking agency" each place they appear and inserting "the Federal Banking Commission";

(C) in clause (i), by striking "each such Federal banking agency" and inserting "Federal Banking Commission";

(D) in the heading of clause (ii), by striking "BANKING AGENCY" and inserting "FEDERAL BANKING COMMISSION";

(E) in clause (iii)—

(i) by striking "the appropriate regulatory agency" each place it appears and inserting "the Commission";

(ii) in subclause (I), by striking "such banking agency" and inserting "the Federal Banking Commission"; and

(iii) in subclause (II), by striking "such agency" each place it appears and inserting "the Federal Banking Commission";

(F) in clause (v), by striking "an appropriate regulatory agency" and inserting "the Commission";

(G) in clause (vi)—

(i) in the heading, by striking "banking agencies" and inserting "the Federal Banking Commission"; and

(ii) by striking "appropriate regulatory agency" and "the appropriate regulatory agency" each place they appear and inserting "the Commission"; and

(H) by striking clause (vii);

(2) in subsection (c)(2)(E), by striking "Each appropriate regulatory agency (other than the Commission)" and inserting "The Federal Banking Commission";

(3) in subsection (d)—

(A) in paragraph (2)—

(i) by striking "an appropriate regulatory agency" and inserting "the Federal Banking Commission";

(ii) by striking "recipient agency" and inserting "Federal Banking Commission";

(iii) by striking "any appropriate regulatory agency" and inserting "the Federal Banking Commission"; and

(B) in paragraph (3)—

(i) in subparagraph (A), by striking "an appropriate regulatory agency", and inserting "the Federal Banking Commission";

(ii) in subparagraph (C), by striking "the appropriate regulatory agency" after "the Commission shall notify" and inserting "the Federal Banking Commission";

(iii) in subparagraph (D)—

(I) by striking "any other appropriate regulatory agency" and inserting "the Federal Banking Commission"; and

(II) by striking "other appropriate regulatory agencies" each place it appears and inserting "Federal Banking Commission";

(iv) in subparagraph (E), by striking "any appropriate regulatory agency other than the Commission" and inserting "the Federal Banking Commission"; and

(v) in subparagraph (F)—

(I) in the first sentence, by striking "appropriate regulatory agencies" and inserting "Federal Banking Commission"; and

(II) in the second sentence—

(aa) by striking "any appropriate regulatory agency" each place it appears and inserting "the Federal Banking Commission"; and

(bb) by striking "appropriate regulatory agency" and inserting "Federal Banking Commission";

(4) in subsection (g)(1)—

(A) by striking "the Comptroller of the Currency" and inserting "the Federal Banking Commission"; and

(B) by striking "the Director of the Office of Thrift Supervision, the Federal Savings and Loan Insurance Corporation,".

(g) AMENDMENTS TO SECTION 17.—Section 17 of the Securities Exchange Act of 1934 (15 U.S.C. 78q) is amended—

(1) in subsection (b)—

(A) by striking "appropriate regulatory agency for such persons" each place it appears and inserting "Federal Banking Commission";

(B) by striking "for which it is not the appropriate regulatory agency, give notice to the appropriate regulatory agency for such clearing agency, transfer agent, or municipal securities dealer" and inserting "for which the Federal Banking Commission is the appropriate regulatory agency, give notice to the Federal Banking Commission"; and

(C) by striking "such appropriate regulatory agency" each place it appears and inserting "the Federal Banking Commission";

(2) in subsection (c)—

(A) in paragraph (1)—

(i) by striking "for which the Commission is not the appropriate regulatory agency" and inserting "for which the Federal Banking Commission is the appropriate regulatory agency";

(ii) by striking "appropriate regulatory agency for such clearing agency, transfer agent, or municipal securities dealer" and inserting "Federal Banking Commission";

(iii) by striking "such appropriate regulatory agency" and inserting "the Federal Banking Commission"; and

(iv) by striking "each agency enumerated in section 3(a)(34)(A) of this title" and inserting "Federal Banking Commission";

(B) in paragraph (2)—

(i) by striking "The appropriate regulatory agency for a clearing agency, transfer agent, or municipal securities dealer for which the Commission is not the appropriate regulatory agency" and inserting "The Federal Banking Commission";

(ii) by striking "by such appropriate regulatory agency" and inserting "by the Federal Banking Commission";

(iii) by striking "such appropriate regulatory agency, if any," and inserting "the Federal Banking Commission"; and

(iv) by striking "the agency" and inserting "the Federal Banking Commission";

(C) in paragraph (3), by striking "appropriate regulatory agency for a clearing agency, transfer agent, or municipal securities dealer for which the Commission is not the appropriate regulatory agency" and inserting "Federal Banking Commission"; and

(D) in paragraph (4)—

(i) by striking "the appropriate regulatory agency" each place it appears and inserting "the Federal Banking Commission";

(ii) by striking "such agency" and inserting "the Federal Banking Commission"; and

(iii) by striking ", or filed with another appropriate regulatory agency";

(3) in subsection (f)(4)—

(A) by striking the colon after "to" and inserting "the Federal Banking Commission."; and

(B) by striking subparagraphs (A), (B) and (C); and

(4) in subsection (h)(3)—

(A) by amending the heading to read as follows:

"(3) SPECIAL PROVISIONS WITH RESPECT TO ASSOCIATED PERSONS SUBJECT TO REGULATION BY THE FEDERAL BANKING COMMISSION.—";

(B) by striking "a Federal banking agency" and "the Federal banking agency" each place they appear and inserting "the Federal Banking Commission";

(C) in subparagraph (A), by striking "each such Federal banking agency" and inserting "the Federal Banking Commission";

(D) in the heading of subparagraph (B), by striking "BANKING AGENCY" and inserting "FEDERAL BANKING AGENCY";

(E) in subparagraph (C), by striking "such agency" each place it appears in clauses (i) and (ii) and inserting "the Federal Banking Commission";

(F) in subparagraph (D), by striking "any Federal banking agency" and inserting "the Federal Banking Commission";

(G) in subparagraph (E), by striking "any Federal banking agency" and inserting "the Federal Banking Commission";

(H) in the heading in subparagraph (F), by striking "BANKING AGENCIES" and inserting "THE FEDERAL BANKING COMMISSION"; and

(I) by striking subparagraph (G).

(h) AMENDMENTS TO SECTION 17A.—Section 17A(d) of Securities Exchange Act of 1934 (15 U.S.C. 78q–1(d)) is amended—

(1) in paragraph (1), by striking "appropriate regulatory agency" and inserting "Federal Banking Commission";

(2) in paragraph (2), by striking "for which the Commission is not the appropriate regulatory agency, the appropriate regulatory agency for such clearing agency or transfer agent" and inserting "for which the Federal

Banking Commission is the appropriate regulatory agency, the Federal Banking Commission"; and

(3) in paragraph (3)(A)—

(A) by striking "for which the Commission is not the appropriate regulatory agency, the Commission and the appropriate regulatory agency for such clearing agency or transfer agent" and inserting "for which the Federal Banking Commission is the appropriate regulatory agency, the Commission and the Federal Banking Commission";

(B) in clause (i), by striking "such appropriate regulatory agency" and inserting "the Federal Banking Commission"; and

(C) in clause (ii), by striking "such appropriate regulatory agency" and inserting "the Federal Banking Commission".

(i) AMENDMENTS TO SECTION 21B.—Section 21B of the Securities Exchange Act of 1934 (15 U.S.C. 78u-2) is amended—

(1) in subsection (a)—

(A) by striking "the appropriate regulatory agency" and inserting "the Federal Banking Commission"; and

(B) in paragraph (3), by striking "any other appropriate regulatory agency" and inserting "the Federal Banking Commission";

(2) in subsection (c)—

(A) in the introductory text, by striking "the appropriate regulatory agency" and inserting "the Federal Banking Commission"; and

(B) in paragraph (4), by striking "another appropriate regulatory agency" and inserting "the Federal Banking Commission";

(3) in subsection (d), by striking "appropriate regulatory agency" each place it appears and inserting "Federal Banking Commission"; and

(4) in subsection (e), by striking "appropriate regulatory agency" each place it appears and inserting "Federal Banking Commission".

(j) AMENDMENTS TO SECTION 23.—Section 23 of the Securities Exchange Act of 1934 (15 U.S.C. 78w) is amended—

(1) by striking "other agencies enumerated in section 3(a)(34) of this title (15 U.S.C. 78c(a)(34))" each place it appears and inserting "Federal Banking Commission"; and

(2) in the last sentence of subsection (a)(1), by striking "other agency enumerated in section 3(a)(34) of this title (15 U.S.C. 78c(a)(34))" and insert "the Federal Banking Commission".

(k) AMENDMENTS TO SECTION 25.—Section 25(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78y(d)) is amended—

(1) by amending the heading to read as follows:

"(d) OTHER APPROPRIATE REGULATORY AGENCY"; and

and

(2) in paragraph (1), by striking "agencies enumerated in section 3(a)(34) of this title (15 U.S.C. 78c(a)(34)) insofar as such agencies are acting pursuant to this title" and inserting Federal Banking Commission insofar as the Federal Banking Commission is acting pursuant to this title".

SEC. 716. AMENDMENT TO THE SMALL BUSINESS INVESTMENT ACT OF 1958.

Section 308(b) of the Small Business Investment Act of 1958 (15 U.S.C. 687(b)) is amended by striking "or the Federal Savings and Loan Insurance Corporation".

SEC. 717. AMENDMENTS TO TITLE 5, UNITED STATES CODE

(a) AMENDMENT TO SECTION 3132.—Section 3132(a)(1)(D) of title 5, United States Code (5 U.S.C. 3132(a)(1)(D)) is amended by striking "Office of the Comptroller of the Currency, the Office of Thrift Supervision" and inserting "Federal Banking Commission".

(b) AMENDMENT TO SECTION 5313.—Section 5313 of title 5, United States Code (5 U.S.C. 5313) is amended by adding at the end the following new item:

"Chairperson of the Federal Banking Commission.".

(c) AMENDMENTS TO SECTION 5314.—Section 5314 of title 5, United States Code (5 U.S.C. 5314) is amended—

(1) by adding at the end of the following new item:

"Presidentially appointed members of the Federal Banking Commission (2).."; and

(2) 90 days after the designated transfer date, by striking "Comptroller of the Currency" and "Director of the Office of Thrift Supervision".

SEC. 718. AMENDMENTS TO TITLE 18, UNITED STATES CODE.

(a) AMENDMENT TO SECTION 212.—Section 212 of title 18, United States Code (18 U.S.C. 212) is amended—

(1) by striking "Comptroller of the Currency" and inserting "Federal Banking Commission"; and

(2) by striking "the Office of Thrift Supervision".

(b) AMENDMENT TO SECTION 655.—Section 655 of title 18, United States Code (18 U.S.C. 655) is amended by striking "Comptroller of the Currency" and inserting "Federal Banking Commission".

(c) AMENDMENT TO SECTION 657.—Section 657 of title 18, United States Code (18 U.S.C. 657) is amended by striking "Office of Thrift Supervision" and inserting "Federal Banking Commission".

(d) AMENDMENT TO SECTION 981.—Section 981(a)(1)(D) of title 18, United States Code (18 U.S.C. 981(a)(1)(D)) is amended by striking "Office of the Comptroller of the Currency or the Office of Thrift Supervision" and inserting "Federal Banking Commission".

(e) AMENDMENT TO SECTION 982.—Section 982(a)(3) of title 18, United States Code (18 U.S.C. 982(a)(3)) is amended by striking "Office of the Comptroller of the Currency or the Office of Thrift Supervision" and inserting "Federal Banking Commission".

(f) AMENDMENT TO SECTION 1005.—Section 1005 of title 18, United States Code (18 U.S.C. 1005) is amended by striking "Comptroller of the Currency" and inserting "Federal Banking Agency".

(g) AMENDMENT TO SECTION 1006.—Section 1006 of title 18, United States Code (18 U.S.C. 1006) is amended by striking "Office of Thrift Supervision" and inserting "Federal Banking Commission".

(h) AMENDMENT TO SECTION 1014.—Section 1014 of title 18, United States Code (18 U.S.C. 1014) is amended by striking "Office of Thrift Supervision" and inserting "Federal Banking Commission".

(i) AMENDMENT TO SECTION 1032.—Section 1032 of title 18, United States Code (18 U.S.C. 1032) is amended by striking "Comptroller of the Currency or the Director of the Office of Thrift Supervision" and inserting "Federal Banking Commission".

(j) AMENDMENT TO SECTION 1114.—Section 1114 of title 18, United States Code (18 U.S.C. 1114) is amended by striking "Comptroller of the Currency, the Office of Thrift Supervision" and inserting "Federal Banking Commission".

(k) AMENDMENT TO SECTION 1906.—Section 1906 of title 18, United States Code (18 U.S.C. 1906) is amended to read as follows:

"Whoever, being an examiner, public or private, or a General Accounting Office employee with access to bank examination report information under section 714 of title 31, United States Code, or a member of the Board of Governors of the Federal Reserve System, a member of the Board of Directors of the Federal Deposit Insurance Corporation, or an employee of the Board of Governors of the Federal Reserve System or the Federal Deposit Insurance Corporation with access to bank examination report information under section 307 of the Regulatory Consolidation Act of 1994, discloses the names of borrowers or the collateral for loans of any member bank of the Federal Reserve System, or any bank insured by the Federal Deposit Insurance Corporation examined by him or subject to General Accounting Office audit under section 714 of title 31, United States Code, or to whom bank examination report information has been given under section 307 of the Regulatory Consolidation Act of 1994, without first having obtained the express permission in writing from the Commission, or from the board of directors of such bank, except when ordered to do so by a court of competent jurisdiction, or by direction of the Congress of the United States, or either House thereof, or any committee of the Congress or either House duly authorized or as authorized by section 714 of title 31, United States Code, shall be fined not more than $5,000 or imprisoned not more than one year or both.".

(l) AMENDMENT TO SECTION 1908.—Section 1908 of title 18, United States Code (18 U.S.C. 1908) is amended by striking "Comptroller of the Currency" and inserting "Federal Banking Commission".

SEC. 719. AMENDMENT TO TITLE 25, UNITED STATES CODE.

Section 162a(a) of title 25, United States Code (25 U.S.C. 162a(a)) is amended by striking "Board of Governors of the Federal Reserve System in the case of member banks, and of the Board of Directors of the Federal Deposit Insurance Corporation in the case of insured nonmember banks" and inserting "Federal Banking Commission".

SEC. 720. AMENDMENTS OF TITLE 28, UNITED STATES CODE.

(a) AMENDMENT TO SECTION 1348.—Section 1348 of title 28, United States Code (28 U.S.C. 1348) is amended by striking "Comptroller of the Currency" and inserting "Federal Banking Commission".

(b) AMENDMENTS TO SECTION 1394.—Section 1394 of title 28, United States Code (28 U.S.C. 1394) is amended—

(1) in the heading of section 1934, by striking "Comptroller of the Currency" and inserting "Federal Banking Commission"; and

(2) by striking "Comptroller of the Currency" and inserting "Federal Banking Commission".

(c) AMENDMENT TO SECTION 2001.—Section 2001(c) of title 28, United States Code (28 U.S.C. 2001(c)) is amended by striking "Comptroller of the Currency" and inserting "Federal Banking Commission".

(d) AMENDMENT TO SECTION 2002.—Section 2002 of title 28, United States Code (28 U.S.C. 2002) is amended by striking "Comptroller of the Currency" and inserting "Federal Banking Commission".

(e) AMENDMENT TO SECTION 2004.—Section 2004 of title 28, United States Code (28 U.S.C. 2004) is amended by striking "Comptroller of the Currency".

SEC. 721. AMENDMENTS TO TITLE 31, UNITED STATES CODE.

(a) REPEAL OF SECTION 307.—Section 307 of title 31, United States Code (31 U.S.C. 307) is repealed.

(b) REPEAL OF SECTION 309.—Section 309 of title 31, United States Code (31 U.S.C. 309) is repealed.

(c) AMENDMENTS TO SECTION 321.—Section 321 of title 31, United States Code (31 U.S.C. 321) is amended—

(1) by inserting "and" at the end of subsection (c)(1);

(2) in subsection (c)(2) by striking "Comptroller of the Currency" and inserting "Federal Banking Commission";

(3) by striking subsection (c)(3); and

(4) by striking subsection (e).

(d) AMENDMENTS TO SECTION 714.—Section 714 of title 31, United States Code (31 U.S.C. 714) is amended—

(1) in the heading of section 714, by striking "Office of the Comptroller of the Currency" and inserting "Federal Banking Commission"; and

(2) in subsection (a) by striking "Office of the Comptroller of the Currency, and the Office of Thrift Supervision" and inserting "Federal Banking Agency".

(e) AMENDMENT TO SECTION 718.—Section 718(a) of title 31, United States Code (31 U.S.C. 718(a)) is amended by striking "Office of the Comptroller of the Currency" and inserting "Federal Banking Commission".

(f) AMENDMENT TO SECTION 1321.—Section 1321(b) of title 31, United States Code (31 U.S.C. 1321) is amended by striking "Comptroller of the Currency" and inserting "Federal Banking Commission".

SEC. 722. AMENDMENTS TO TITLE 44, UNITED STATES CODE.

(a) AMENDMENT TO SECTION 1111.—Section 1111 of title 44, United States Code (44 U.S.C. 1111) is amended by striking "Comptroller of the Currency" and inserting "Federal Banking Commission".

(b) AMENDMENT TO SECTION 1344.—Section 1344 of title 44, United States Code (44 U.S.C. 1344) is amended by striking "Comptroller of the Currency" each place it appears and inserting "Federal Banking Commission".

SEC. 723. AMENDMENT TO THE TRUST INDENTURE ACT OF 1939.

Section 321(b) of the Trust Indenture Act of 1939 (15 U.S.C. 77uuu(b)) is amended by striking "Comptroller of the Currency" and inserting "Federal Banking Commission".●

REGARDING THE 25TH ANNIVERSARY OF WTOP RADIO

● Mr. ROBB. Mr. President, I have some passing familiarity with the media in the Washington area. And one institution I actually enjoy is WTOP Radio.

I have listened to WTOP for some years, both for the CBS network features and their excellent local coverage. Dave McConnell's "Today on the Hill" is a concise—and often pointed—review of our work as may be heard anywhere.

WTOP is celebrating its 25th anniversary, and I join my colleagues in congratulating them and wishing them well. This is not just some rip-and-read station; they do real reporting in our communities.

But perhaps the ultimate compliment I can pay them is to note that when I am stuck in traffic on the George Washington Parkway, I tune in WTOP to tell me what I am missing.●

BISTI/DE-NA-ZIN WILDERNESS EXPANSION AND FOSSIL FOREST PROTECTION ACT

Mr. HOLLINGS. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 374, S. 313, a bill relating to the San Juan Basin; that the committee amendments be agreed to en bloc; that the bill be read a third time, passed, and the motion to reconsider be laid upon the table; and that any statements relative to passage of this item appear at the appropriate place in the RECORD.

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

So the bill (S. 313) was deemed read the third time and passed, as follows:

S. 313

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 "Bisti/De-Na-Zin Wilderness Expansion and Fossil Forest Protection Act".

SEC. 2. BISTI/DE-NA-ZIN WILDERNESS.

(a) WILDERNESS DESIGNATION.—Section 102 of the San Juan Basin Wilderness Protection Act of 1984 (Public Law 98-603) is amended—

(1) in subsection (a)—

(A) by striking "wilderness, and, therefore," and all that follows through "System—" and inserting "wilderness areas, and as one component of the National Wilderness Preservation System, to be known as the 'Bisti/De-Na-Zin Wilderness'—";

(B) in paragraph (1), by striking ", and which shall be known as the Bisti Wilderness; and" and inserting a semicolon;

(C) in paragraph (2), by striking ", and which shall be known as the De-na-zin Wilderness." and inserting "; and"; and

(D) by adding at the end the following new paragraph:

"(3) certain lands in the Farmington District of the Bureau of Land Management, New Mexico, which comprise approximately 16,674 acres, as generally depicted on a map entitled 'Bisti/De-Na-Zin Wilderness Amendment Proposal', dated May 1992.";

(2) in the first sentence of subsection (c), by inserting after "of this Act" the following: "with regard to the areas described in paragraphs (1) and (2) of subsection (a), and as soon as practicable after the date of enactment of subsection (a)(3) with regard to the area described in subsection (a)(3)";

(3) in subsection (d), by inserting after "of this Act" the following: "with regard to the areas described in paragraphs (1) and (2) of subsection (a), and where established prior to the date of enactment of subsection (a)(3) with regard to the area described in subsection (a)(3)"; and

(4) by adding at the end the following new subsection:

"(e)(1) Subject to valid existing rights, the lands described in subsection (a)(3) are withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral leasing, geothermal leasing, and mineral material sales.

"(2) The Secretary of the Interior is authorized to issue coal leases in New Mexico in exchange for any preference right coal lease application within the area described in section 2(a)(3). Such exchanges shall be made in accordance with applicable existing laws and regulations relating to coal leases after a determination has been made by the Secretary that the applicant is entitled to a preference right lease and that the exchange is in the public interest.

"(3) Operations on oil and gas leases issued prior to the date of enactment of subsection (a)(3) shall be subject to the applicable provisions of Group 3100 of title 43, Code of Federal Regulations (including section 3162.5-1), and such other terms, stipulations, and conditions as the Secretary of the Interior considers necessary to avoid significant disturbance of the land surface or impairment of the ecological, educational, scientific, recreational, scenic, and other wilderness values of the lands described in subsection (a)(3) in existence on the date of enactment of subsection (a)(3).".

(b) EXCHANGES FOR STATE LANDS.—Section 104 of the Act is amended—

(1) in the first sentence of subsection (b), by inserting after "of this Act" the following: "with regard to the areas described in paragraphs (1) and (2) of subsection (a), and not later than 120 days after the date of enactment of subsection (a)(3) with regard to the area described in subsection (a)(3)";

(2) in subsection (c), by inserting before the period the following: "with regard to the areas described in paragraphs (1) and (2) of subsection (a), and as of the date of enactment of subsection (a)(3) with regard to the area described in subsection (a)(3)"; and

(3) in the last sentence of subsection (d), by inserting before the period the following: "with regard to the areas described in paragraphs (1) and (2) of subsection (a), and not later than 2 years after the date of enactment of subsection (a)(3) with regard to the area described in subsection (a)(3)".

(c) EXCHANGES FOR INDIAN LANDS.—Section 105 of the Act is amended by adding at the end the following new subsection:

"(d)(1) The Secretary of the Interior shall exchange any lands held in trust for the Navajo Tribe by the Bureau of Indian Affairs that are within the boundary of the area described in subsection (a)(3).

"(2) The lands shall be exchanged for lands within New Mexico approximately equal in value that are selected by the Navajo Tribe.

"(3) After the exchange, the lands selected by the Navajo Tribe shall be held in trust by the Secretary of the Interior in the same manner as the lands described in paragraph (1).".

SEC. 3. FOSSIL FOREST RESEARCH NATURAL AREA.

Section 103 of the San Juan Basin Wilderness Protection Act of 1984 (Public Law 98-603) is amended to read as follows:

"SEC. 103. FOSSIL FOREST RESEARCH NATURAL AREA.

"(a) ESTABLISHMENT.—To conserve and protect natural values and to provide scientific knowledge, education, and interpretation for the benefit of future generations, there is established the Fossil Forest Research Natural Area (referred to in this section as the 'Area'), consisting of the approximately 2,770 acres in the Farmington District of the Bureau of Land Management, New Mexico, as generally depicted on a map entitled 'Fossil Forest', dated June 1983.

"(b) MAP AND LEGAL DESCRIPTION.—

"(1) IN GENERAL.—As soon as practicable after the date of enactment of this paragraph, the Secretary of the Interior shall file a map and legal description of the Area with the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives.

"(2) FORCE AND EFFECT.—The map and legal description described in paragraph (1) shall have the same force and effect as if included in this Act.

"(3) TECHNICAL CORRECTIONS.—The Secretary of the Interior may correct clerical, typographical, and cartographical errors in

the map and legal description subsequent to filing the map pursuant to paragraph (1).

"(4) PUBLIC INSPECTION.—The map and legal description shall be on file and available for public inspection in the Office of the Director of the Bureau of Land Management, Department of the Interior.

"(c) MANAGEMENT.—

"(1) IN GENERAL.—The Secretary of the Interior, acting through the Director of the Bureau of Land Management, shall manage the Area—

"(A) to protect the resources within the Area; and

"(B) in accordance with—

"(i) this Act;

"(ii) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and

"(iii) other applicable provisions of law.

"(2) MINING.—

"(A) WITHDRAWAL.—Subject to valid existing rights, the lands within the Area are withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral leasing, geothermal leasing, and mineral material sales.

"(B) COAL PREFERENCE RIGHTS.—The Secretary of the Interior is authorized to issue coal leases in New Mexico in exchange for any preference right coal lease application within the Area. Such exchanges shall be made in accordance with applicable existing laws and regulations relating to coal leases after a determination has been made by the Secretary that the applicant is entitled to a preference right lease and that the exchange is in the public interest.

"(C) OIL AND GAS LEASES.—Operations on oil and gas leases issued prior to the date of enactment of this paragraph shall be subject to the applicable provisions of Group 3100 of title 43, Code of Federal Regulations (including section 3162.5-1), and such other terms, stipulations, and conditions as the Secretary of the Interior considers necessary to avoid significant disturbance of the land surface or impairment of the natural, educational, and scientific research values of the Area in existence on the date of enactment of this paragraph.

"(3) GRAZING.—Livestock grazing on lands within the Area may not be permitted.

"(d) INVENTORY.—Not later than 3 full fiscal years after the date of enactment of this subsection, the Secretary of the Interior, acting through the Director of the Bureau of Land Management, shall develop a baseline inventory of all categories of fossil resources within the Area. After the inventory is developed, the Secretary shall conduct monitoring surveys at intervals specified in the management plan developed for the Area in accordance with subsection (e).

"(e) MANAGEMENT PLAN.—

"(1) IN GENERAL.—Not later than 5 years after the date of enactment of this Act, the Secretary of the Interior shall develop and submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a management plan that describes the appropriate uses of the Area consistent with this Act.

"(2) CONTENTS.—The management plan shall include—

"(A) a plan for the implementation of a continuing cooperative program with other agencies and groups for—

"(i) laboratory and field interpretation; and

"(ii) public education about the resources and values of the Area (including vertebrate fossils);

"(B) provisions for vehicle management that are consistent with the purpose of the Area and that provide for the use of vehicles to the minimum extent necessary to accomplish an individual scientific project;

"(C) procedures for the excavation and collection of fossil remains, including botanical fossils, and the use of motorized and mechanical equipment to the minimum extent necessary to accomplish an individual scientific project; and

"(D) mitigation and reclamation standards for activities that disturb the surface to the detriment of scenic and environmental values.".

STAR PRINT—S. 1869

Mr. HOLLINGS. Madam President, I ask unanimous consent that S. 1869 be star printed to reflect the following changes, which I send to the desk.

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

BILL PRINTED AS PASSED—S. 473

Mr. HOLLINGS. Madam President, I ask unanimous consent that S. 473, the Department of Energy National Competitiveness Technology Partnership Act of 1993 be printed, as passed, by the Senate on November 20, 1993.

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

S. 473

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 "Department of Energy National Competitiveness Technology Partnership Act of 1993".

SEC. 2. DEFINITIONS.

For purposes of this Act, the term—

(1) "Department" means the United States Department of Energy; and

(2) "Secretary" means the Secretary of the United States Department of Energy.

SEC. 3. COMPETITIVENESS AMENDMENT TO THE DEPARTMENT OF ENERGY ORGANIZATION ACT.

(a) The Department of Energy Organization Act is amended by adding the following new title (42 U.S.C. 7101 et seq.):

"TITLE XI—TECHNOLOGY PARTNERSHIPS

"SEC. 1101. FINDINGS, PURPOSES AND DEFINITIONS.

"(a) FINDINGS.—For purposes of this title, Congress finds that—

"(1) the Department has scientific and technical resources within the departmental laboratories in many areas of importance to the economic, scientific and technological competitiveness of United States industry;

"(2) the extensive scientific and technical investment in people, facilities and equipment in the departmental laboratories can contribute to the achievement of national technology goals in areas such as the environment, health, space, and transportation;

"(3) the Department has pursued aggressively the transfer of technology from departmental laboratories to the private sector; however, the capabilities of the laboratories could be made more fully accessible to United States industry and to other Federal agencies;

"(4) technology development has been increasingly driven by the commercial marketplace, and the private sector has research and development capabilities in a broad range of generic technologies;

"(5) the Department and the departmental laboratories would benefit, in carrying out their missions, from collaboration and partnership with United States industry and other Federal agencies; and

"(6) partnerships between the departmental laboratories and United States industry can provide significant benefits to the Nation as a whole, including creation of jobs for United States workers and improvement of the competitive position of the United States in key sectors of the economy such as aerospace, automotive, chemical and electronics.

"(b) PURPOSES.—The purposes of this title are—

"(1) to promote partnerships among the Department, the departmental laboratories and the private sector;

"(2) to establish a goal for the amount of departmental laboratory resources to be committed to partnerships;

"(3) to ensure that the Department and the departmental laboratories play an appropriate role, consistent with the core competencies of the laboratories, in implementing the President's critical technology strategies;

"(4) to provide additional authority to the Secretary to enter into partnerships with the private sector to carry out research, development, demonstration and commercial application activities;

"(5) to streamline the approval process for cooperative research and development agreements proposed by the departmental laboratories; and

"(6) to facilitate greater cooperation between the Department and other Federal agencies as part of an integrated national effort to improve United States competitiveness.

"(c) DEFINITIONS.—For purposes of this title, the term—

"(1) 'cooperative research and development agreement' has the meaning given that term in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)(1));

"(2) 'core competency' means an area in which the Secretary determines a departmental laboratory has developed expertise and demonstrated capabilities;

"(3) 'critical technology' means a technology identified in the Report of the National Critical Technologies Panel;

"(4) 'departmental laboratory' means a facility operated by or on behalf of the Department that would be considered a laboratory as that term is defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)(2)) or any other laboratory or facility designated by the Secretary;

"(5) 'disadvantaged' has the same meaning as that term has in section 8(a) (5) and (6) of the Small Business Act (15 U.S.C. 637(a) (5) and (6));

"(6) 'dual-use technology' means a technology that has military and commercial applications;

"(7) 'educational institution' means a college, university, or elementary or secondary school, including any not-for-profit organization dedicated to education that would be exempt under section 501(a) of the Internal Revenue Code of 1986;

"(8) 'minority college or university' means a historically Black college or university that would be considered a 'part B institution' by section 322(2) of the Higher Edu-

cation Act of 1965 (20 U.S.C. 1061(2)) or a 'minority institution' as that term is defined in section 1046 of the Higher Education Act of 1965 (20 U.S.C. 1135d-5(3)).

"(9) 'multi-program departmental laboratory' means any of the following: Argonne National Laboratory, Brookhaven National Laboratory, Idaho Nation Engineering Laboratory, Lawrence Berkeley Laboratory, Lawrence Livermore National Laboratory, Los Alamos National Laboratory, National Renewable Energy Laboratory, Oak Ridge National Laboratory, Pacific Northwest Laboratory, and Sandia National Laboratories;

"(10) 'partnership' means any arrangement under which the Secretary or one or more departmental laboratories undertakes research, development, demonstration, commercial application or technical assistance activities in cooperation with one or more non-Federal partners and which may include partners from other Federal agencies;

"(11) 'Report of the National Critical Technologies Panel' means the biennial report on national critical technologies submitted to Congress by the President pursuant to section 603(d) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6683(d)); and

"(12) 'small business' means a business concern that meets the applicable standards prescribed pursuant to section 3(a) of the Small Business Act (15 U.S.C. 632(a)).

"SEC. 1102. GENERAL AUTHORITY.

"(a)(1) In carrying out the missions of the Department, the Secretary and the departmental laboratories may conduct research, development, demonstration or commercial application activities that build on the core competencies of the departmental laboratories.

"(2) In addition to missions established pursuant to other laws, the Secretary may assign to departmental laboratories any of the following missions:

"(A) National security, including the—

"(i) advancement of the military application of atomic energy;

"(ii) support of the production of atomic weapons, or atomic weapons parts, including special nuclear materials;

"(iii) support of naval nuclear propulsion programs;

"(iv) support for the dismantlement of atomic weapons and the safe storage, transportation and disposal of special nuclear materials;

"(v) development of technologies and techniques for the safe storage, processing, treatment, transportation, and disposal of hazardous waste (including radioactive waste) resulting from nuclear materials production, weapons production and surveillance programs, and naval nuclear propulsion programs and of technologies and techniques for the reduction of environmental hazards and contamination due to such waste and the environmental restoration of sites affected by such waste;

"(vi) development of technologies and techniques needed for the effective negotiation and verification of international arms control agreements and for the containment of the proliferation of nuclear, chemical, and biological weapons and delivery vehicles of such weapons; and

"(vii) protection of health and promotion of safety in carrying out other national security missions.

"(B) Energy-related science and technology, including the—

"(i) enhancement of the nation's understanding of all forms of energy production and use;

"(ii) support of basic and applied research on the fundamental nature of matter and energy, including construction and operation of unique scientific instruments;

"(iii) development of energy resources, including solar, geothermal, fossil, and nuclear energy resources, and related fuel cycles;

"(iv) pursuit of a comprehensive program of research and development on the environmental effects of energy technologies and programs;

"(v) development of technologies and processes to reduce the generation of waste or pollution or the consumption of energy or materials;

"(vi) development of technologies and techniques for the safe storage, processing, treatment, management, transportation and disposal of nuclear waste resulting from commercial nuclear activities; and

"(vii) improvement of the quality of education in science, mathematics, and engineering.

"(C) Technology transfer.

"(3)(A) In addition to the missions identified in subsection (a)(2), the Departmental laboratories may pursue supporting missions to the extent that these supporting missions—

"(i) support the technology policies of the President;

"(ii) are developed in consultation with and coordinated with any other Federal agency or agencies that carry out such mission activities;

"(iii) are built upon the competencies developed in carrying out the primary missions identified in subsection (a)(2) and do not interfere with the pursuit of the missions identified in subsection (a)(2); and

"(iv) are carried out through a process that solicits the views of United States industry and other appropriate parties.

"(B) These supporting missions shall include activities in the following areas:

"(i) developing and operating high-performance computing and communications systems, with the goals of contributing to a national information infrastructure and addressing complex scientific and industrial challenges which require large-scale computational capabilities;

"(ii) conducting research on and development of advanced manufacturing systems and technologies, with the goal of assisting the private sector in improving the productivity, quality, energy efficiency, and control of manufacturing processes;

"(iii) conducting research on and development of advanced materials, with the goals of increasing energy efficiency, environmental protection, and improved industrial performance.

"(4) In carrying out the Department's missions, the Secretary, and the directors of the departmental laboratories, shall, to the maximum extent practicable, make use of partnerships. Such partnerships shall be for purposes of the following:

"(A) to lead to the development of technologies that the private sector can commercialize in areas of technology with broad application important to United States technological and economic competitiveness;

"(B) to provide Federal support in areas of technology where the cost or risk is too high for the private sector to support alone but that offer a potentially high payoff to the United States;

"(C) to contribute to the education and training of scientists and engineers;

"(D) to provide university and private researchers access to departmental laboratory facilities; or

"(E) to provide technical expertise to universities, industry or other Federal agencies.

"(b) The Secretary, in carrying out partnerships, may enter into agreements using instruments authorized under applicable laws, including but not limited to contracts, cooperative research and development agreements, work for other agreements, user-facility agreements, cooperative agreements, grants, personnel exchange agreements and patent and software licenses with any person, any agency or instrumentality of the United States, any State or local governmental entity, any educational institution, and any other entity, private sector or otherwise.

"(c) The Secretary, and the directors of the departmental laboratories, shall utilize partnerships with United States industry, to the maximum extent practicable, to ensure that technologies developed in pursuit of the Department's missions are applied and commercialized in a timely manner.

"(d) The Secretary shall work with other Federal agencies to carry out research, development, demonstration or commercial application activities where the core competencies of the departmental laboratories could contribute to the missions of such other agencies.

"SEC. 1103. ESTABLISHMENT OF GOAL FOR PARTNERSHIPS BETWEEN DEPARTMENTAL LABORATORIES AND UNITED STATES INDUSTRY.

"(a) Beginning in fiscal year 1994, the Secretary shall establish a goal to allocate to cost-shared partnerships with United States industry not less than 20 percent of the annual funds provided by the Secretary to each multi-program departmental laboratory for research, development, demonstration and commercial application activities.

"(b) Beginning in fiscal year 1994, the Secretary shall establish an appropriate goal for the amount of resources to be committed to cost-shared partnerships with United States industry at other departmental laboratories.

"SEC. 1104. ROLE OF THE DEPARTMENT IN THE DEVELOPMENT OF CRITICAL TECHNOLOGY STRATEGIES.

"(a) The Secretary shall develop a multiyear critical technology strategy for research, development, demonstration and commercial application activities supported by the Department for the critical technologies listed in the Report of the National Critical Technologies Panel.

"(b) In developing such strategy, the Secretary shall—

"(1) identify the core competencies of each departmental laboratory;

"(2) develop goals and objectives for the appropriate role of the Department in each of the critical technologies listed in the report, taking into consideration the core competencies of the departmental laboratories;

"(3) consult with appropriate representatives of United States industry, including members of industry associations and representatives of labor organizations; and

"(4) participate in the executive branch process to develop critical technology strategies.

"SEC. 1105. PARTNERSHIP PREFERENCES.

"(a) The Secretary shall ensure that the principal economic benefits of any partnership accrue to the United States economy.

"(b) Any partnership that would be given preference under section 12(c)(4) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(c)(4) if it were a cooperative research and development agreement shall be given preference under this title.

"(c) The Secretary shall issue guidelines, after consultation with the Laboratory Part-

nership Advisory Board established in section 1109, for application of section 12(c)(4) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(c)(4)) and application of subsection (a) of this section to partnerships.

"(d) The Secretary shall encourage partnerships that involve minority colleges or universities or private sector entities owned or controlled by disadvantaged individuals.

"SEC. 1106. EVALUATION OF PARTNERSHIP PROGRAMS.

"(a) The Secretary, in consultation with the Laboratory Partnership Advisory Board established in section 1109, shall develop mechanisms for independent evaluation of the ongoing partnership activities of the Department and the departmental laboratories.

"(b)(1) The Secretary and the director of each departmental laboratory shall develop mechanisms for assessing the progress of each partnership.

"(2) The Secretary and the director of each departmental laboratory shall utilize the mechanisms developed under paragraph (1) to evaluate the accomplishments of each ongoing multiyear partnership and shall condition continued Federal participation in each partnership on demonstrated progress.

"SEC. 1107. ANNUAL REPORT.

"(a) The Secretary shall submit an annual report to Congress describing the ongoing partnership activities of the Secretary and each departmental laboratory and, to the extent practicable, the activities planned by the Secretary and by each departmental laboratory for the coming fiscal year. In developing the report, the Secretary shall seek the advice of the Laboratory Partnership Advisory Board established in section 1109.

"(b) The Secretary shall submit the report under subsection (a) to the Committees on Appropriations and Energy and Natural Resources of the Senate and to the appropriate Committees of the House of Representatives. No later than March 1, 1994, and no later than the first of March of each subsequent year, the Secretary shall submit the report under subsection (a) that covers the fiscal year beginning on the first of October of such year.

"(c) Each director of a departmental laboratory shall provide annually to the Secretary a report on ongoing partnership activities and a plan and such other information as the Secretary may reasonably require describing the partnership activities the director plans to carry out in the coming fiscal year. The director shall provide such report and plan in a timely manner as prescribed by the Secretary to permit preparation of the report under subsection (a).

"(d) The Secretary's description of planned activities under subsection (a) shall include, to the extent such information is available, appropriate information on—

"(1) the total funds to be allocated to partnership activities by the Secretary and by the director of each departmental laboratory;

"(2) a breakdown of funds to be allocated by the Secretary and by the director of each departmental laboratory for partnership activities by areas of technology;

"(3) any plans for additional funds not described in paragraph (2) to be set aside for partnerships during the coming fiscal year;

"(4) any partnership that involves a federal contribution in excess of $500,000 the Secretary or the director of each departmental laboratory expects to enter into in the coming fiscal year;

"(5) the technologies that will be advanced by each partnership that involves a Federal contribution in excess of $500,000;

"(6) the types of entities that will be eligible for participation in partnerships;

"(7) the nature of the partnership arrangements, including the anticipated level of financial and in-kind contribution from participants and any repayment terms;

"(8) the extent of use of competitive procedures in selecting partnerships; and

"(9) such other information that the Secretary finds relevant to the determination of the appropriate level of Federal support for such partnerships.

"(e) The Secretary shall provide appropriate notice in advance to Congress of any partnership, which has not been described previously in the report required by subsection (a), that involves a Federal contribution in excess of $500,000.

"SEC. 1108. PARTNERSHIP PAYMENTS.

"(a)(1) Partnership agreements entered into by the Secretary may require a person or other entity to make payments to the Department, or any other Federal agency, as a condition for receiving support under the agreement.

"(2) The amount of any payment received by the Federal Government pursuant to a requirement imposed under paragraph (1) may be credited, to the extent authorized by the Secretary, to the account established under paragraph (3). Amounts so credited shall be available, subject to appropriations, for partnerships.

"(3) There is hereby established in the United States Treasury an account to be known as the 'Department of Energy Partnership Fund'. Funds in such account shall be available to the Secretary for the support of partnerships.

"(b) The Secretary may advance funds under any partnership without regard to section 3324 of title 31 of the United States Code to—

"(1) small businesses;

"(2) not-for-profit organizations that would be exempt under section 501(a) of the Internal Revenue Code of 1986; or

"(3) State or local governmental entities.

"SEC. 1109. LABORATORY PARTNERSHIP ADVISORY BOARD AND INDUSTRIAL ADVISORY GROUPS AT MULTI-PROGRAM DEPARTMENTAL LABORATORIES.

"(a)(1) The Secretary shall establish within the Department an advisory board to be known as the "Laboratory Partnership Advisory Board", to provide the Secretary with advice on the implementation of this title.

"(2) The membership of the Laboratory Partnership Advisory Board shall consist of persons who are qualified to provide the Secretary with advice on the implementation of this title. Members of the Board shall include representatives primarily from United States industry but shall also include representatives from—

"(A) small businesses;

"(B) private sector entities owned or controlled by disadvantaged persons;

"(C) educational institutions, including representatives from minority colleges or universities;

"(D) laboratories of other Federal agencies; and

"(E) professional and technical societies in the United States.

"(3) The Laboratory Partnership Advisory Board shall request comment and suggestions from departmental laboratories to assist the Board in providing advice to the Secretary on the implementation of this title.

"(b) The director of each multiprogram departmental laboratory shall establish an advisory group consisting of persons from United States industry to—

"(1) evaluate new initiatives proposed by the departmental laboratory;

"(2) identify opportunities for partnerships with United States industry; and

"(3) evaluate ongoing programs at the departmental laboratory from the perspective of United States industry.

"(c) Nothing in this section is intended to preclude the Secretary or the director of a departmental laboratory from utilizing existing advisory boards to achieve the purposes of this section.

"SEC. 1110. FELLOWSHIP PROGRAM.

"The Secretary shall encourage scientists, engineers and technical staff from departmental laboratories to serve as visiting fellows in research and manufacturing facilities of industrial organizations, State and local governments, and educational institutions in the United States and foreign countries. The Secretary may establish a formal fellowship program for this purpose or may authorize such activities on a case-by-case basis. The Secretary shall also encourage scientists and engineers from United States industry to serve as visiting scientists and engineers in the departmental laboratories.

"SEC. 1111. COOPERATION WITH STATE AND LOCAL PROGRAMS FOR TECHNOLOGY DEVELOPMENT AND DISSEMINATION.

"The Secretary and the director of each departmental laboratory shall seek opportunities to coordinate their activities with programs of State and local governments for technology development and dissemination, including programs funded in part by the Secretary of Defense pursuant to section 2523 of title 10, of the United States Code, and section 2513 of title 10, of the United States Code, and programs funded in part by the Secretary of Commerce pursuant to sections 25 and 26 of the Act of March 3, 1901 (15 U.S.C. 278k and 2781), and section 5121(b) of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 2781 note).

"SEC. 1112. AVAILABILITY OF FUNDS FOR PARTNERSHIPS.

"(a) All of the funds authorized to be appropriated to the Secretary for research, development, demonstration or commercial application activities, other than atomic energy defense programs, shall be available for partnerships to the extent such partnerships are consistent with the goals and objectives of such activities.

"(b) All of the funds authorized to be appropriated to the Secretary for research, development, demonstration or commercial application of dual-use technologies within the Department's atomic energy defense activities shall be available for partnerships to the extent such partnerships are consistent with the goals and objectives of such activities.

"(c) Funds authorized to be appropriated to the Secretary and made available for departmental laboratory-directed research and development shall be available for any partnership.

"SEC. 1113. PROTECTION OF INFORMATION.

"Section 12(c)(7) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(c)(7)), relating to the protection of information, shall apply to the partnership activities undertaken by the Secretary and by the directors of the departmental laboratories.

"SEC. 1114. FAIRNESS OF OPPORTUNITY.

"(a) The Secretary and the director of each departmental laboratory shall institute procedures to ensure that information on laboratory capabilities and arrangements for participating in partnerships with the Secretary or the departmental laboratories is publicly disseminated.

"(b) Prior to entering into any partnership having a Federal contribution in excess of $5,000,000, the Secretary or director of a departmental laboratory shall ensure that the opportunity to participate in such partnership has been publicly announced to potential participants.

"(c) In cases where the Secretary or the director of a departmental laboratory believes a potential partnership activity would benefit from broad participation from the private sector, the Secretary or the director of such departmental laboratory may take such steps as may be necessary to facilitate formation of a United States industry consortium to pursue the partnership activity.

"SEC. 1115. PRODUCT LIABILITY.

"The Secretary, after consultation with the Laboratory Partnership Advisory Board established in section 1109, and the Attorney General shall enter into a memorandum of understanding establishing a consistent policy and standards regarding the liability of the United States, of the non-Federal entity operating a departmental laboratory and of any other party to a partnership for product liability claims arising from partnership activities. The Secretary and the director of each departmental laboratory shall, to the maximum extent practicable, incorporate into any partnership the policy and standards established in the memorandum of understanding.

"SEC. 1116. INTELLECTUAL PROPERTY.

"The Secretary shall, after consultation with the Laboratory Partnership Advisory Board established in section 1109, develop guidelines governing the application of intellectual property laws by the Secretary and by the director of each departmental laboratory in partnership arrangements.

"SEC. 1117. SMALL BUSINESS.

"(a) The Secretary shall develop simplified procedures and guidelines for partnerships involving small businesses to facilitate access to the resources and capabilities of the departmental laboratories.

"(b) Notwithstanding any other law, the Secretary may waive, in whole or in part, any cost-sharing requirement for a small business involved in a partnership if the Secretary determines that the cost-sharing requirement would impose an undue hardship on the small business and would prevent the formation of the partnership.

"(c) Notwithstanding section 12(d) of the Stevenson-Wydler Innovation Act of 1980 (15 U.S.C. 3710a(d)(1)), the Secretary may provide funds as part of a cooperative research and development agreement to a small business if the Secretary determines that the funds are necessary to prevent imposing an undue hardship on the small business and necessary for the formation of the cooperative research and development agreement.

"SEC. 1118. MINORITY COLLEGE AND UNIVERSITY REPORT.

"Within one year after the date of enactment of this title, and annually thereafter, the Secretary shall submit to the Committee on Energy and Natural Resources of the United States Senate and to the United States House of Representatives a report identifying opportunities for minority colleges and universities to participate in programs and activities being carried out by the Department or the departmental laboratories. The Secretary shall consult with representatives of minority colleges and universities in preparing the report. Such report shall—

"(a) describe ongoing education and training programs being carried out by the Department or the departmental laboratories with respect to or in conjunction with minority colleges and universities in the areas of mathematics, science, and engineering;

"(b) describe ongoing research, development demonstration or commercial application activities involving the Department or the departmental laboratories and minority colleges and universities;

"(c) describe funding levels for the programs and activities described in subsections (a) and (b);

"(d) identify ways for the Department or the departmental laboratories to assist minority colleges and universities in providing education and training in the fields of mathematics, science, and engineering;

"(e) identify ways for the Department or the departmental laboratories to assist minority colleges and universities in entering into partnerships;

"(f) address the need for and potential role of the Department or the departmental laboratories in providing to minority colleges and universities the following:

"(1) increased research opportunities for faculty and students;

"(2) assistance in faculty development and recruitment and curriculum enhancement and development; and

"(3) laboratory instrumentation and equipment, including computer equipment, through purchase, loan, or other transfer;

"(g) address the need for and potential role of the Department or departmental laboratories in providing funding and technical assistance for the development of infrastructure facilities, including buildings and laboratory facilities at minority colleges and universities; and

"(h) make specific proposals and recommendations, together with estimates of necessary funding levels, for initiatives to be carried out by the Department or the departmental laboratories to assist minority colleges and universities in providing education and training in the areas of mathematics, science, and engineering, and in entering into partnerships with the Department or departmental laboratories.

"SEC. 1119. MINORITY COLLEGE AND UNIVERSITY SCHOLARSHIP PROGRAM.

"The Secretary shall establish a scholarship program for students attending minority colleges or universities and pursuing a degree in energy-related scientific, mathematical, engineering, and technical disciplines. The program shall include tuition assistance. The program shall provide an opportunity for the scholarship recipient to participate in an applied work experience in a departmental laboratory. Recipients of such scholarships shall be students deemed by the Secretary to have demonstrated (1) a need for such assistance and (2) academic potential in the particular area of study. Scholarships awarded under this program shall be known as Secretary of Energy Scholarships.".

(b) CONFORMING AMENDMENT—The table of contents of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.) is amended by adding at the end thereof the following items:

"TITLE XI—TECHNOLOGY PARTNERSHIPS

"Sec. 1101. Finding, Purposes and Definitions.
"Sec. 1102. General Authority.
"Sec. 1103. Establishment of Goal for Partnerships Between Departmental Laboratories and United States Industry.
"Sec. 1104. Role of the Department in the Development of Critical Technology Strategies.
"Sec. 1105. Partnership Preferences.
"Sec. 1106. Evaluation of Partnership Programs.
"Sec. 1107. Annual Report.
"Sec. 1108. Partnership Payments.
"Sec. 1109. Laboratory Partnership Advisory Board and Industrial Advisory Groups at Multi-Program Departmental Laboratories.
"Sec. 1110. Fellowship Program.
"Sec. 1111. Cooperation with State and Local Programs for Technology Development and Dissemination.
"Sec. 1112. Availability of Funds for Partnerships.
"Sec. 1113. Protection of Information.
"Sec. 1114. Fairness of Opportunity.
"Sec. 1115. Product Liability.
"Sec. 1116. Intellectual Property.
"Sec. 1117. Small Business.
"Sec. 1118. Minority College and University Report.
"Sec. 1119. Minority College and University Scholarship program.".

SEC. 4. NATIONAL ADVANCED MANUFACTURING TECHNOLOGIES PROGRAM.

The Secretary is encouraged to use partnerships to expedite the private sector deployment of advanced manufacturing technologies as required by section 2202(a) of the Energy Policy Act of 1992 (42 U.S.C. 13502).

SEC. 5. NOT-FOR-PROFIT ORGANIZATIONS.

The Secretary shall encourage the establishment of not-for-profit organizations, such as the Center for Applied Development of Environmental Technology (CADET), that will facilitate the transfer of technologies from the departmental laboratories to the private sector.

SEC. 6. CAREER PATH PROGRAM.

(a) The Secretary, utilizing authority under other applicable law and the authority of this section, shall establish a career path program to recruit employees of the national laboratories to serve in positions in the Department.

(b) Section 207 of title 18, United States Code, is amended by inserting after subsection (j)(6) the following:

"(7) NATIONAL LABORATORIES.—(A) The restrictions contained in subsections (a), (b), (c), and (d) shall not apply to an appearance or communication made, or advice or aid rendered by a person employed at a facility described in subparagraph (B), if the appearance or communication is made on behalf of the facility or the advice or aid is provided to the contractor of the facility.

"(B) This paragraph applies to the following: Argonne National Laboratory, Brookhaven National Laboratory, Idaho National Engineering Laboratory, Lawrence Berkeley Laboratory, Lawrence Livermore National Laboratory, Los Alamos National Laboratory, National Renewable Energy Laboratory, Oak Ridge National Laboratory, Pacific Northwest Laboratory, and Sandia National Laboratories.".

(c) Section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. section 423) is amended by inserting the following new subsection:

"(q) NATIONAL LABORATORIES.—(1) The restrictions on obtaining a recusal contained in paragraphs (c)(2) and (c)(3) shall not apply to discussions of future employment or business opportunity between a procurement official and a competing contractor managing and operating a facility described in paragraph (3): *Provided*, That such discussions concern the employment of the procurement official at such facility.

"(2) The restrictions contained in paragraph (f)(1) shall not apply to activities per-

formed on behalf of a facility described in paragraph (3).

"(3) This subsection applies to the following: Argonne National Laboratory, Brookhaven National Laboratory, Idaho National Engineering Laboratory, Lawrence Berkeley Laboratory, Lawrence Livermore National Laboratory, Los Alamos National Laboratory, National Renewable Energy Laboratory, Oak Ridge National Laboratory, Pacific Northwest Laboratory, and Sandia National Laboratories.".

SEC. 7. STANDARDIZATION OF REQUIREMENTS AFFECTING DEPARTMENT OF ENERGY EMPLOYEES.

(a) Part A of title VI of the Department of Energy Organization Act (42 U.S.C. 7211 through 7218) is repealed.

(b) The table of contents for the Department of Energy Organization Act is amended by striking out the matter relating to part A of title VI.

SEC. 8. DOE MANAGEMENT.

(a) Section 202(a) of the Department of Energy Organization Act (42 U.S.C. 7132(a)) is amended by striking "Under Secretary" and inserting in its place "Under Secretaries".

(b) Section 202(b) of the Department of Energy Organization Act (42 U.S.C. 7132(b)) is amended to read as follows:

"(b) There shall be in the Department three Under Secretaries and a General Counsel, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall perform functions and duties the Secretary prescribes. The Under Secretaries shall be compensated at the rate for level III of the Executive Schedule under section 5314 of title 5, United States Code, and the General Counsel shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.".

SEC. 9. AMENDMENTS TO STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT.

(a) Section 12(a) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(a)) is amended by striking ", to the extent provided in any agency-approved joint work statement,".

(b) Section 12(b) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(b)) is amended by striking ", to the extent provided in any agency-approved joint work statement,".

(c) Section 12(c)(5) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(c)(5)) is amended—

(1) by amending subparagraph (C)(i) to read as follows:

"(C)(i) Any agency that has contracted with a non-Federal entity to operate a laboratory shall review and approve, request specific modifications to, or disapprove a cooperative research and development agreement that is submitted by the director of such laboratory within thirty days after such submission. If an agency has requested specific modifications to a cooperative research and development agreement, the agency shall approve or disapprove any resubmission of such cooperative research and development agreement within fifteen days after such resubmission. Except as provided in subparagraph (D), no agreement may be entered into by a Government-owned, contractor-operated laboratory under this section before approval of the cooperative research and development agreement.";

(2) by amending subparagraph (C)(ii) to read as follows:

"(ii) If an agency that has contracted with a non-Federal entity to operate a laboratory disapproves or requests the modification of a cooperative research and development agreement submitted under clause (i), the agency shall promptly transmit a written explanation of such disapproval or modification to the director of the laboratory concerned.";

(3) by amending subparagraph (C)(iii) to read as follows:

"(iii) Any agency that has contracted with a non-Federal entity to operate a laboratory shall develop and provide to such laboratory a model cooperative research and development agreement, and guidelines for using such an agreement, for the purposes of standardizing practices and procedures, resolving common legal issues, and enabling negotiation and review of a cooperative research and development agreement to be carried out in a routine and prompt manner.";

(4) by striking subparagraph (C)(iv);

(5) by amending subparagraph (C)(v) to read as follows:

"(iv) If an agency fails to complete a review under clause (i) within any of the specified time-periods, the agency shall submit to the Congress, within 10 days after the failure to complete the review, a report on the reasons for such failure. The agency shall, at the end of each successive 15-day period thereafter during which such failure continues, submit to Congress another report on the reasons for the continued failure.";

(6) by striking subparagraph (C)(vi); and

(7) by amending subparagraph (D) to read as follows:

"(D)(i) Any agency that has contracted with a non-Federal entity to operate a laboratory may permit the director of a laboratory to enter into a cooperative research and development agreement without the submission, review, and approval of the agreement under subparagraph (C)(i) if: the Federal share under the agreement does not exceed $500,000 per year, or any amount the head of the agency may prescribe; the text of the cooperative research and development agreement is consistent with a model agreement under subparagraph (C)(iii); the agreement is entered into in accord with the agency's guidelines under subparagraph (C)(iii); and the agreement is consistent with and furthers an assigned laboratory mission.

"(ii) The director of a laboratory shall notify the head of the agency of the purpose and scope of an agreement entered into under this subparagraph. The agency shall include in its annual report required by section 11(f) of this Act (15 U.S.C. 3710(f)) an assessment of the implementation of this subparagraph including a summary of agreements entered into by laboratory directors under this subparagraph.".

(d) Section 12(d) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)) is amended—

(1) in paragraph (1) by inserting "and" after the second semicolon;

(2) in paragraph (2)—

(A) by striking "substantial" before "purpose" in subparagraph (B);

(B) by striking "the primary purpose" and inserting "one of the purposes" in subparagraph (C); and

(C) by striking "; and" the second time it appears and inserting a period; and

(3) by striking paragraph (3).

SEC. 10. GUIDELINES.

The implementation of the provisions of this Act shall not be delayed pending the issuance of guidelines, policies or standards required by sections 1105, 1115 and 1116 of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.) as added by section 3 of this Act.

SEC. 11. AUTHORIZATION.

(a) In addition to funds made available for partnerships under section 1112 of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.) as added by section 3 of this Act, there is authorized to be appropriated from funds otherwise available to the Secretary—

(1) for partnership activities with industry in areas other than atomic energy defense activities $100,000,000 for fiscal year 1994, $140,000,000 for fiscal year 1995, $180,000,000 for fiscal year 1996 and $220,000,000 for fiscal year 1997; and

(2) for partnership activities with industry involving dual-use technologies within the Department's atomic energy defense activities $240,000,000 for fiscal year 1994, $290,000,000 for fiscal year 1995, $350,000,000 for fiscal year 1996 and $400,000,000 for fiscal year 1997.

(b) There is authorized to be appropriated to the Secretary for the Minority College and University Scholarship Program established in section 1119 of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.) as added by section 3 of this Act $1,000,000 for fiscal year 1994, $2,000,000 for fiscal year 1995 and $3,000,000 for fiscal year 1996.

(c) There is authorized to be appropriated to the Secretary for research or educational programs, carried out through partnerships or otherwise, and for related facilities and equipment that involve minority colleges or universities such sums as may be necessary.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

UNWARRANTED ACTION BY THE GOVERNMENT OF FRANCE

Mr. HOLLINGS. Madam President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of Senate Resolution 183, a resolution condemning the actions of the Government of France and their effect on United States seafood producers; that the Senate proceed to its immediate consideration, that the resolution and the preamble be agreed to; that the motions to reconsider be laid on the table en bloc and any statements thereon appear at the appropriate place in the RECORD as though read.

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

Mr. KENNEDY. Madam President, I join in expressing my strong disapproval of the continuing actions by the French Government against United States seafood imports. There is no justification for France's protectionist actions against these imports. The actions clearly violate the international trade agreements that we have negotiated in good faith with both France and the European Union.

The continued harassment by France has resulted in serious damage to American fishermen. The United States fishing industry exports thousands of dollars worth of fresh seafood each day to France. New England fisherman have already been hard hit by

the recent recession, and they certainly cannot afford to suffer further economic loss as a result of unjust French trade policies.

Although France recently added the United States to its list of countries from which seafood products can be imported, France continues to harass our products by requiring them to undergo rigorous and unwarranted inspections. In addition, certain ports of entry into France remain closed to our imports. These unnecessary obstructions, restrictions, and needless delays have resulted in the spoilage of many fresh seafood products.

The trade barriers that France continues to impose on these imports must be eliminated immediately. The Senate resolution that we are introducing today urges France to comply with international trade regulations and end its harassment of United States seafood imports. It also asks restitution to the American fishing industry for the damage that has been suffered, and it urges the President to identify appropriate countermeasures to be taken against France if this distressing situation is not resolved immediately.

GOVERNMENT OF FRANCE DISRUPTION OF SEAFOOD IMPORTS

Mr. KERRY. Madam President, I would like to report on the recent events in France where French fishermen strikes demanding higher prices for their products turned into angry riots. The Government of France, in an attempt to prevent its rebellious fishermen from taking further violent actions initiated a ban of United States Seafood Products on February 5, 1994, followed 4 days later by the lifting of the ban and the imposition of an arduous and unjustified 100-percent United States seafood inspection program. Accompanying these actions was the closure of the primary point of entry of fresh seafood products, Charles de Gaulle Airport, to U.S. products. These actions were in direct contravention of French and European international trade obligations.

The immediate effect of France's actions was striking. Approximately 25 to 30 tons of fresh fish, valued at $250,000, was stranded without refrigeration at the customs office at Charles de Gaulle Airport where began to rot and had to be destroyed. The long-term effects of these policies were just as significant since the United States fishing industry, especially the portion that deals in fresh products, expects to lose $200,000 per month as the actions of the French continue.

I applaud the swift and firm actions of U.S. Trade Representative Ambassador Michael Kantor, the State Department, the Department of Commerce, and the rest of the Federal agencies that are working to resolve this urgent problem. The administration quickly convened all the concerned agencies with the Trade Representative taking the lead. The Trade Representative began a series of communications with the Government of France in an effort to resolve the problems. This coordination and communication process with another country normally could take weeks or months. However, the Federal agencies involved have recognized the urgency of this problem and the process was completed in a few days. Most significantly, Ambassador Kantor's letter of March 3, 1994, advised the Government of France of the seriousness of its actions and the unacceptability of its responses and warned that retaliatory measures were imminent if it did not properly address the situation and restore free trade.

Up to this point things did not look good for those involved in the industry of exporting U.S. fish products. The main point of entry for fresh seafood products, Charles de Gaulle Airport, remained closed and all products were being subjected to 100 percent testing under obsolete standards that were established in 1979 and, until now, had not been recently enforced. This had disastrous affects on the seafood producers, especially in Massachusetts. I have heard from the owners of fresh fish processing and exporting companies in New England that have closed down operations, one employing 65 people, since their markets have been closed. Other exporters using alternate routes through other European Union countries have been operating at little or no profit in order to keep their customers in France supplied with products. Many companies are hurting badly since France is the only market for many so called underutilized species or alternate species, including dogfish, skate and monkfish. Other companies dealing in frozen products are taking a chance and continuing to ship their products by ships, hoping that these cargoes will pass the ambiguous inspection standards and will be allowed to enter, even though it may take weeks longer than before. But despite this severe damage already caused to the United States seafood industry, it is an uncertainty about what standards the Government of France is applying and what steps it is going to take next that is really worrying the industry.

The actions of France and uncertainty of the availability of markets are compounding the problems of the New England fishing industry that is bracing itself for the implementation of Commerce Department regulations that are reducing fishing of traditional groundfish species including cod and haddock by half over the next 5 years. The new regulations alone are expected to have disastrous effects on traditional fishing communities like New Bedford and Gloucester.

I have been in continuous contact with the Secretary of Commerce, the United States Trade Representative, the State Department, and the National Marine Fisheries Service and they have done a good job of briefing Congress and affected industry representatives, formally and informally, about the progress of negotiations with France. Senator KENNEDY, Congressman FRANK, and I have personally encouraged Secretary Brown to continue efforts to lift the de facto French embargo. I have continued to provide the Trade Representative and the State Department with examples of the impact these restrictions are having on the New England fishing industry. Senator KENNEDY and I, along with Senators PELL, MITCHELL, COHEN, STEVENS, and MURKOWSKI introduced the resolution now before the Senate to call upon the Government of France to stop its harassment of U.S. seafood imports and to ask for President Clinton to identify areas for retaliatory trade sanctions against France. In the House, Representatives FRANK, STUDDS, and TORKILDSEN introduced a resolution with a similar purpose. These resolutions send a message to the Government of France about the seriousness of its actions. Additionally, letters have been sent, signed by a number of Members of both houses, to the French Ambassador to the United States and the appropriate French Ministries urging the Government of France to take immediate action to end its harassment of United States seafood importers so that the need for such countermeasures is avoided.

I was encouraged by the recent developments on March 4, 1994 when Ambassador Kantor advised that he had reached preliminary understandings with French officials in order to resolve their differences and restore the normal flow of U.S. seafood exports to France. Ambassador Kantor also advises that the French authorities have reopened Charles de Gaulle Airport to fish trade and have resumed normal spot inspection procedures as of Monday, March 7, 1994. However, the reinstitution of normal inspection procedures applies only to those exporters whose prior shipments were found not to raise any concerns. I also am glad to hear that the French officials have advised that future seafood testing will be conducted in a manner that does not lead to any deterioration of the products tested nor cause commercial harm to the companies involved. I realize that there are several technical questions remaining and that to resolve these a team of United States health experts has flown to France and is meeting with the French to discuss the inspection standards and methodologies employed by the French. I look forward to their report.

Many of my congressional colleagues and I are not satisfied that the situation is resolved. For this reason we are continuing action on this resolution. Congressman STUDDS, who chairs the

House Merchant Marine and Fisheries Committee, has scheduled a hearing on the matter on Thursday, March 10, 1994, before the Subcommittee on Fisheries Management to be chaired by Congressman MANTON. I look forward to testifying at the hearing and listening to the agencies' up-to-date reports on the situation.

I join Ambassador Kantor in welcoming the commitments made by French authorities to remove the impediments to trade they imposed. However, in light of the comments by French Premier Edouard Balladur on March 5, 1994, that American threats to retaliate for French restrictions on fish imports amount to a breach of international trade rules, I will not be satisfied that this trade problem has been resolved until I confirm that the technical problems have been worked out, the United States fishing and exporting industry is back to normal, and the flow of free trade has been restored.

I hope that this problem is, indeed, moving to a quick conclusion. But if the Government of France reneges, I believe the United States will have no choice except to carry out the actions called for in the Senate and House resolutions and implement appropriate trade sanctions against France.

I want to thank the distinguished chairman of the Foreign Relations Committee and the ranking member, and the staff of the majority and the minority, for their assistance in moving this resolution to passage today. I also want to express special appreciation to Penny Dalton of the Commerce Committee's national ocean policy study staff, Steve Metruck, a fellow in my office, and Kate English and Sarah Woodhouse of my staff for their work on this issue and the resolution.

I yield the floor, and urge speedy adoption of the resolution.

So the resolution was agreed to.

The preamble was agreed to.

The resolution (S. Res. 183), with its preamble, is as follows:

S. RES. 183

Whereas the United States sells over $100 million of fresh and frozen seafood products to France annually;

Whereas the actions of the Government of France are adversely affecting the United States fishing industry;

Whereas this adverse effect is particularly severe on those parts of the industry that harvest, process, and market fresh "underutilized species" such as dogfish, monkfish and skate, and causes disruptions to the normal flow of commerce for developed United States fisheries such as salmon and groundish;

Whereas the French markets for these species and other species are important since Europeans, particularly the French, value fresh seafood products highly;

Whereas the Government of France is continuing to require inspections and testing, despite accepting the existing United States seafood certification programs of the National Marine Fisheries Service and the Food and Drug Administration;

Whereas the Government of France's additional inspections and testing are continuing without adequate justification or evidence of human health risks;

Whereas the unsubstantiated additional inspections and testing required by the Government of France, which can take up to four days, delay the delivery of fresh seafood products to the point where they begin to spoil and thus have effectively closed the French market to fresh United States seafood products; and

Whereas the harassment by the Government of France of seafood producers and products from the United States violates international agreements and raises serious questions about the usefulness of entering into agreements with the European Union and France: Now, therefore, be it

Resolved, That the Senate—

(a) calls upon the Government of France to stop immediately its harassment of United States seafood producers and products;

(b) demand that the Government of France compensate United States companies that have had seafood products damaged by its actions; and

(c) calls upon the President of the United States to identify appropriate forms of sanctions that can be taken against the Government of France for its egregious violation of international agreements.

AUTHORIZATION FOR TESTIMONY OF SENATE EMPLOYEES

Mr. HOLLINGS. Madam President, on behalf of the majority leader and the Republican leader, I send a resolution to the desk authorizing the testimony of Senate employees. I ask unanimous consent that the Senate proceed to its immediate consideration, the resolution be adopted, the preamble be agreed to, that the motion to reconsider be laid upon the table, and a statement by the majority leader be placed in the RECORD at the appropriate place.

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

Mr. MITCHELL. Madam President, in *Haywood Galbreath* v. *Associated Press*, case No. CV 933132 RJK, pending in the U.S. District Court for the Central District of California, the plaintiff seeks damages from the defendant Associated Press for, among other things, alleged interference with prospective economic advantage. The plaintiff contends that the actions of the Associated Press caused him to be denied press credentials for the 1993 Presidential inaugural ceremonies at the Capitol. This occurred, it is alleged, because the Standing Committee of Press Photographers, which issued the credentials, was chaired by an employee of Associated Press.

The defendant Associated Press has requested that Maurice Johnson, the superintendent of the Senate Press Photographers' Gallery, provide testimony concerning the process of granting press credentials for the inaugural ceremonies. The Joint Congressional Committee on Inaugural Ceremonies was responsible for making the necessary arrangements for the inaugural ceremonies. Mr. Johnson assisted in the task of allocating press credentials for the inaugural ceremonies.

This lawsuit involves a dispute solely between private parties. There is no claim that any committee or employee of the Congress acted improperly, nor is the Standing Committee of Press Photographers a defendant. The inaugural ceremony is a congressional function, and the courts have held, *Consumers Union of United States, Inc.* v. *Periodical Correspondents' Association*, 515 F.2d 1341, 1351 (D.C. Cir. 1975), cert. denied, 423 U.S. 1051 (1976), that the responsibility for press accreditation in the Congress is committed to the Congress and not subject to judicial review. Nevertheless, in the interests of justice, the Senate may provide evidence under its control to aid the court in evaluating the claims between private parties in this case.

The proposed resolution would authorize testimony by Maurice Johnson, as well as the production of documents and the testimony of any other Senate employee that may be required. It also would authorize the Senate legal counsel to represent any employees in connection with their testimony or the production of documents in this case.

So the resolution was agreed to.

The preamble was agreed to.

The resolution (S. Res. 186), with its preamble, is as follows:

S. RES. 186

Whereas, in the case of *Haywood Galbreath* v. *Associated Press*, Case No. CV 933132, pending in the United States District Court for the Central District of California, the defendant Associated Press seeks the testimony of Maurice Johnson, an employee of the Senate who is the Superintendent of the Press Photographers' Gallery of the Senate;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2) (1988), the Senate may direct its counsel to represent committees, Members, officers and employees of the Senate with respect to testimony and documents provided in their official capacity: Now, therefore, be it

Resolved, That Maurice Johnson, and any other employee of the Senate from whom testimony or the production of documents is required, are authorized to testify and to produce documents in the case of *Haywood Galbreath* v. *Associated Press*, except concerning matters for which a privilege should be asserted.

SEC. 2. That the Senate Legal Counsel is directed to represent Maurice Johnson, and any other employee of the Senate whose testimony is required, in connection with the

testimony and production of documents authorized under section 1.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

RETIREMENT OF GEORGE MITCHELL

Mr. PELL. Madam President, I wish to add my own expression of dismay and true regret at the announcement over the past weekend that our very wonderful colleague and highly respected leader, GEORGE MITCHELL, has decided to end his Senate career at the conclusion of this session.

This is hard news for the Senate, for New England, and indeed for the Nation. GEORGE MITCHELL has become an important part of the fabric which binds us all together.

The Senate in particular is a better place for having had the benefit of his steady leadership and his special gift for effective advocacy. He addresses the issues before this body with precision, clarity and, for most of us, great persuasiveness.

And he has run the cumbersome machinery of our Senate with real skill, while maintaining a solid base of good faith on both sides of the aisle.

His will be a hard act to follow and we will have to set high standards in choosing his successor.

I can fully appreciate the leader's desire to set aside the burden of his job and pursue other interests. I regret that he came to his decision at this particular time, but I wish him well and I pledge him my fullest support for the remainder of his tenure.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

NATIONAL FISH AND WILDLIFE FOUNDATION IMPROVEMENT ACT OF 1994

Mr. MITCHELL. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 368, S. 476, the National Fish and Wildlife Foundation Improvement Act of 1994; that the committee substitute amendment be agreed to, and the bill, as amended, be deemed read the third time, passed, and the motion to reconsider be laid upon the table, that any statements and colloquies appear in the RECORD as if read.

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

The Senate proceeded to consider the following bill (S. 476) to reauthorize and amend the National Fish and Wildlife Foundation Establishment Act, which had been reported from the Committee on Environment and Public Works with an amendment to strike out all after the enacting clause and inserting in lieu thereof the following:

TITLE I—AMENDMENTS TO NATIONAL FISH AND WILDLIFE FOUNDATION ESTABLISHMENT ACT

SEC. 101. SHORT TITLE.

This title may be cited as the "National Fish and Wildlife Foundation Improvement Act of 1994".

SEC. 102. COOPERATIVE PROGRAMS WITH NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.

Section 2(b)(1) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3701(b)(1)) is amended by inserting "and the National Oceanic and Atmospheric Administration" after "the United States Fish and Wildlife Service".

SEC. 103. MEMBERSHIP OF BOARD OF DIRECTORS OF FOUNDATION.

(a) CONSULTATIONS REGARDING APPOINTMENTS.—

(1) IN GENERAL.—Section 3(b) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3702(b)) is amended by adding at the end the following new sentence: "The Secretary of the Interior shall consult with the Under Secretary of Commerce for Oceans and Atmosphere before appointing any Director of the Board.".

(2) APPLICATION.—The amendment made by paragraph (1) shall apply to appointments of Directors of the Board of Directors of the National Fish and Wildlife Foundation made after the date of enactment of this Act.

(b) EXPANSION OF BOARD.—Section 3(a) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3702(a)) is amended—

(1) in the matter preceding paragraph (1), by striking "nine" and inserting "15"; and

(2) in paragraph (2), by striking "three" and inserting "4".

(c) INITIAL TERMS.—Of the Directors on the Board of Directors of the National Fish and Wildlife Foundation first appointed pursuant to the amendment made by subsection (b)(1), notwithstanding the second sentence of section 3(b) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3702(b))—

(1) 2 shall be appointed to a term of 2 years;

(2) 2 shall be appointed to a term of 4 years; and

(3) 2 shall be appointed to a term of 6 years;

as specified by the Secretary of the Interior at the time of appointment.

(d) COMPLETION OF APPOINTMENTS.—Not later than 60 days after the date of enactment of this Act, the Secretary of the Interior shall appoint the additional members of the Board of Directors of the National Fish and Wildlife Foundation referred to in subsection (c).

(e) AUTHORITY OF BOARD NOT AFFECTED.—The authority of the Board of Directors of the National Fish and Wildlife Foundation to take any action otherwise authorized by law shall not be affected by reason of the Secretary of the Interior not having completed the appointment of Directors of the Board of Directors of the National Fish and Wildlife Foundation pursuant to the amendment made by subsection (b)(1).

SEC. 104. REAUTHORIZATION OF NATIONAL FISH AND WILDLIFE FOUNDATION ESTABLISHMENT ACT.

(a) REAUTHORIZATION.—Section 10 of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3709) is amended—

(1) in subsection (a), by striking "not to exceed $15,000,000" and all that follows through the end of the sentence and inserting "$25,000,000 for each of fiscal years 1994, 1995, 1996, 1997, and 1998."; and

(2) by adding at the end the following new subsection:

"(c) ADDITIONAL AUTHORIZATION.—The amounts authorized to be appropriated under this section are in addition to any amounts provided or available to the Foundation under any other Federal law.".

(b) CLERICAL AMENDMENT.—Section 10(b)(1) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3709(b)(1)) is amended by striking "paragraphs (2) and (3)," and inserting "paragraph (2),".

SEC. 105. CONVEYANCE OF SENECAVILLE NATIONAL FISH HATCHERY.

(a) CONVEYANCE AUTHORIZED.—Notwithstanding any other provision of law and not later than 180 days after the date of enactment of this Act, the Secretary of the Interior shall convey to the State of Ohio without reimbursement all right, title, and interest of the United States in and to the property known as the Senecaville National Fish Hatchery, located in Senecaville, Ohio, including—

(1) all easements and water rights relating to that property; and

(2) all land, improvements, and related personal property comprising that hatchery.

(b) USE OF PROPERTY.—All property and interests conveyed under this section shall be used by the Ohio Department of Natural Resources for the Ohio fishery resources management program.

(c) REVERSIONARY INTEREST.—All right, title, and interest in and to all property and interests conveyed under this section shall revert to the United States on any date on which any of the property or interests are used other than for the Ohio fishery resources management program.

TITLE II—BROWNSVILLE WETLANDS POLICY CENTER

SEC. 201. SHORT TITLE.

This title may be cited as the "Brownsville Wetlands Policy Act of 1994".

SEC. 202. ESTABLISHMENT OF WETLANDS POLICY CENTER AT THE PORT OF BROWNSVILLE, TEXAS.

(a) ESTABLISHMENT OF CENTER.—For purposes of utilizing grants made by the United States Fish and Wildlife Service, there may be established in accordance with this title, on property owned or held in trust by the Brownsville Navigation District at the Port of Brownsville, Texas, a wetlands policy center which shall be known as the "Brownsville Wetlands Policy Center at the Port of Brownsville, Texas" (referred to in this title as the "Center"). The Center shall be operated and maintained by the Port of Brownsville with programs to be administered by the University of Texas at Brownsville.

(b) MISSION OF THE CENTER.—The primary mission of the Center shall be to utilize the

unique wetlands property at the Port of Brownsville and adjacent waters of South Texas to focus on wetland matters for the purposes of protecting, restoring, and maintaining the Lagoon Ecosystems of the Western Gulf of Mexico Region.

(c) BOARD OF DIRECTORS.—The Center shall be governed by a Board of Directors to oversee the management and financial affairs of the Center. The Board of Directors shall be cochaired by the Port of Brownsville, the University of Texas at Brownsville, and the designee of the Director of the Fish and Wildlife Service, and shall include as members other representatives considered appropriate by those cochairs.

(d) OVERSIGHT OF THE CENTER.—

(1) ANNUAL REPORT.—The Board of Directors of the Center shall prepare an annual report and submit the report through the Director of the United States Fish and Wildlife Service to Congress.

(2) CONTENTS.—Annual reports under this subsection shall cover the programs, projects, activities, and accomplishments of the Center. The reports shall include a review of the budget of the Center, including all sources of funding received to carry out Center operations.

(3) AVAILABILITY OF INFORMATION.—The Board of Directors of the Center shall make available all pertinent information and records to allow preparation of annual reports under this subsection.

(4) GENERAL ACCOUNTING OFFICE.—The Comptroller General of the United States shall periodically submit to Congress reports on the operations of the Center.

SEC. 203. GRANTS.

The Director of the United States Fish and Wildlife Service shall, subject to the availability of appropriations, make grants to the Center for use for carrying out activities of the Center.

SEC. 204. LEASE.

The Director of the United States Fish and Wildlife Service, subject to the availability of appropriations, may enter into a long-term lease with the Port of Brownsville for use by the Center of wetlands property owned by the Port of Brownsville. Terms of the lease shall be negotiated, and the lease shall be signed by both parties, prior to the disposal of any Federal funds pursuant to this title. The lease shall include a provision authorizing the Director to terminate the lease at any time.

SEC. 205. OTHER REQUIREMENTS.

(a) IN GENERAL.—As conditions of receiving assistance under this title—

(1) the University of Texas at Brownsville shall make available to the Center for fiscal years 1994, 1995, 1996, and 1997—

(A) administrative office space;

(B) classroom space; and

(C) other in-kind contributions for the Center, including overhead and personnel; and

(2) the Port of Brownsville shall make available up to 7,000 acres of Port Property for the programs, projects, and activities of the Center.

(b) ANNUAL REPORT.—The Board of Directors of the Center shall include in the annual report of the Board under section 202(d) a statement of whether the conditions referred to in subsection (a) have been met.

SEC. 206. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the United States Fish and Wildlife Service $5,000,000 for fiscal year 1994, $4,000,000 for fiscal year 1995, $4,000,000 for fiscal year 1996, and such sums as may be necessary for fiscal year 1997, for making grants to the Center under section 203, including for use for the establishment, operation, maintenance, and management of the Center.

SEC. 207. RELATIONSHIP OF CENTER WITH THE CENTER FOR ENVIRONMENTAL STUDIES AND SERVICES, CORPUS CHRISTI, TEXAS.

None of the funds appropriated pursuant to this title may be used to relocate any of the administrative operations of the United States Fish and Wildlife Service from the Center for Environmental Studies and Services Building on the campus of Corpus Christi State University, to the Brownsville Wetlands Policy Center at the Port of Brownsville, Texas, established pursuant to this title.

Mr. BAUCUS. Madam President, I am pleased to support S. 476, a bill introduced by my good friend Senator CHAFEE, the distinguished ranking member of the Environment and Public Works Committee. This bill will reauthorize the National Fish and Wildlife Foundation Establishment Act.

The Foundation is a federally chartered, charitable nonprofit corporation. Formed in 1984, the Foundation administers donations from the private sector to enhance the conservation work of the U.S. Fish and Wildlife Service. The Foundation matches these private donations with Federal appropriations, multiplying their effectiveness. Since its founding, the Foundation has funded over $108 million worth of fish and wildlife conservation projects, while using only $32 million in Federal appropriations.

The Foundation has funded over 870 conservation projects across the Nation and around the world. In my own State of Montana, the Foundation is providing a $12,000 grant for an 8-week environmental field study program for native American youth in Fort Belknap. It has awarded $25,000 to the Rock Creek Advisory Council, a Missoula group, to assist in the purchase of conservation easements which will benefit a blue ribbon trout stream and important bighorn sheep winter habitat. The Foundation is also making a $10,000 grant to the Montana Fish, Wildlife and Parks Department to help acquire 24-acre Eagle Island, located on the Missouri River, valued for its fisheries and wetlands resources.

Projects like these, in Montana and in every other State, are helping improve fish and wildlife conservation in the most cost-effective way possible. The Foundation's efforts are precisely the kind of public-private partnership for conservation that we need more of and that I am proud to support.

The bill before us, S. 476, will enable the Foundation to continue its important work. In addition, the bill authorizes the transfer of the Senecaville National Fish Hatchery to the State of Ohio for use by the Ohio Department of Natural Resources in its fishery management program. The bill also authorizes the establishment of the Brownsville Wetlands Policy Center at the Port of Brownsville, TX.

I urge my colleagues to support passage of S. 476.

Mr. CHAFEE. Madam President, I rise in support of S. 476, a bill I introduced 1 year ago, to reauthorize the National Fish and Wildlife Foundation Establishment Act. The Foundation has proven extremely effective. It advances the conservation of our natural resources through the formation of innovative partnerships between the public and private sectors. This is an organization that deserves our support.

The Foundation was established as a federally chartered but private and independent, nonprofit organization to serve as a link between Government and private efforts to conserve our fish and wildlife resources. It is authorized to receive private donations and matching Federal appropriations to benefit fish and wildlife conservation.

Since the Foundation was established in 1984, it has funded over 870 conservation projects all over the Nation and in 12 foreign countries. The Foundation has used the partnership approach to fund fish and wildlife projects valued at over $108 million—utilizing only $32 million in Federal appropriations. Dollar for dollar the Foundation is one of the most effective organizations for implementing conservation projects, matching every Federal dollar with $2 in nonfederal contributions.

As impressive as these numbers may be, the Foundation's role as a catalyst for conservation efforts goes beyond the specific projects funded. The Foundation has been at the forefront of the effort to form partnerships between Government agencies, conservation organizations, individuals, and corporations interested in conservation of our natural resources. Not only do these partnerships help to stretch scarce Federal dollars, but they encourage greater public participation in conservation programs, setting the stage for future initiatives.

The Foundation has also been instrumental in getting important projects off the ground by providing seed money and expertise, including the North American waterfowl management plan—an initiative to benefit declining populations of waterfowl; Partners in Flight—a program to conserve neotropical migratory birds, including songbirds; and conservation training and education programs.

The bill also authorizes the transfer of the Senecaville National Fish Hatchery to the State of Ohio, for use by the Ohio Department of Natural Resources for its fishery resources management program. In addition, the bill authorizes the U.S. Fish and Wildlife Service to make grants—subject to the availability of appropriations—to establish the Brownsville Wetlands Policy Center at the Port of Brownsville, TX. The center is to be operated and maintained by the Port of Brownsville and the University of Texas at Brownsville.

With our support, the Foundation will continue to be in the forefront of innovative and cost-effective methods to advance the conservation of our fish and wildlife. I urge my colleagues to support the passage of S. 476.

Mrs. HUTCHISON. Madam President, I rise in support of S. 476, legislation reauthorizing and amending the National Fish and Wildlife Foundation Establishment Act.

This legislation contains provisions of significant importance to my home State of Texas and the Nation—establishment of the Brownsville Wetlands Center. Under this bill, the Port of Brownsville, TX, would make available 7,000 acres of wetlands property for the establishment of a center to conduct wetlands research, educate minorities, and analyze current industrial policy as it affects protection of wetlands. This center will be a unique regional and national asset that will allow researchers and policymakers to examine an existing heavy industrial enterprise and how it coexists with wetland ecosystems in the western Gulf of Mexico area. With direct input from the U.S. Fish and Wildlife Service and local universities, the Wetlands Policy Center could soon evolve into a true center of excellence in this important area of wetlands policy research.

I am particularly enthusiastic about the prospects for the center to become a prototype for the development of graduate degree and career opportunities for minorities and women in the area of environmental sciences. The University of Texas at Brownsville, with a student population that is over 75 percent Hispanic, will serve as the anchor of this innovative program, providing unique educational opportunities for minorities and women throughout the Rio Grande Valley region in the areas of environmental protection, science, and engineering. This legislation will make it possible for minorities and women throughout the region to interface with Federal policymakers, agency officials, researchers, and the private sector to focus on new technologies and approaches on the issue of wetlands protection.

I would like to acknowledge my friend and colleague, Congressman SOLOMON ORTIZ, for his efforts in bringing this legislation through the House and into the Senate. I would also like to thank the Senate Environment and public Works Committee for its favorable consideration.

Madam President, I urge my colleagues to vote for passage of S. 476.

Mr. HOLLINGS. Madam President, as chairman of the Committee on Commerce, Science, and Transportation, I would like to discuss with the chairman of the Committee on Environment and Public Works S. 476, the National Fish and Wildlife Foundation Improvement Act of 1994, and the role of the National Oceanic and Atmospheric Administration [NOAA].

Mr. BAUCUS. I would be pleased to discuss S. 476 with the chairman of the Commerce Committee.

Mr. HOLLINGS. Under the Senate rules, the jurisdiction of the Commerce Committee includes such matters as coastal zone management, marine fisheries, and ocean and atmospheric activities. Stemming from that jurisdictional interest, the committee has exercised longstanding oversight over the programs and activities of NOAA.

S. 476 would authorize the National Fish and Wildlife Foundation to encourage, accept, and administer private gifts of property for the benefit of, or in connection with, NOAA activities and services. I understand that the Foundation currently is cooperating with NOAA on fisheries conservation, marine sanctuaries, and other projects. S. 476 would provide explicit authority and direction for these activities.

Given the longstanding jurisdictional interest of the Commerce Committee in NOAA, this committee will continue to exercise its oversight over NOAA activities, including those implemented pursuant to this legislation.

Mr. BAUCUS. Mr. President, I recognize the jurisdiction of the Commerce Committee over NOAA and its marine and estuarine programs. I assure the chairman of the Commerce Committee that nothing in this bill would affect the jurisdiction of the Commerce Committee over NOAA or those activities. Does the ranking Republican on the Environment Committee agree?

Mr. CHAFEE. I agree, Madam President.

Mr. STEVENS. Madam President, I share the concerns of the chairman of the Commerce Committee. My home State of Alaska has over one-half the coastline of the United States. NOAA's work is critical to Alaska, and the jurisdiction of the Commerce Committee over the Department of Commerce and NOAA is one of the main reasons I joined the committee. I would like to ask a question of the distinguished chairman of the Committee on Environment and Public Works regarding S. 476.

Mr. BAUCUS. I would be happy to answer a question from my colleague from Alaska.

Mr. STEVENS. I understand that the Secretary of Interior has the authority for board appointments. What is the understanding of my colleague from Montana about the duty of the Secretary of Interior to consult with the Secretary of Commerce in making these appointments?

Mr. BAUCUS. The Senator from Alaska is correct that the Secretary of Interior has the authority to make the board appointments. However, S. 476 directs the Secretary of Interior to consult with the Under Secretary of Commerce for Oceans and Atmosphere before appointing board members. The committee intends that the consultation of the Secretary of the Interior with the Department of Commerce be meaningful and that the Secretary of Interior give full consideration to the recommendations of the Department of Commerce.

Mr. HOLLINGS. Madam President, I thank the chairman of the Environment and Public Works Committee for addressing these concerns.

So the bill (S. 476), as amended, was deemed read the third time, and passed, as follows:

S. 476

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—AMENDMENTS TO NATIONAL FISH AND WILDLIFE FOUNDATION ESTABLISHMENT ACT

SEC. 101. SHORT TITLE.

This title may be cited as the "National Fish and Wildlife Foundation Improvement Act of 1994".

SEC. 102. COOPERATIVE PROGRAMS WITH NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.

Section 2(b)(1) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3701(b)(1)) is amended by inserting "and the National Oceanic and Atmospheric Administration" after "the United States Fish and Wildlife Service".

SEC. 103. MEMBERSHIP OF BOARD OF DIRECTORS OF FOUNDATION.

(a) CONSULTATIONS REGARDING APPOINTMENTS.—

(1) IN GENERAL.—Section 3(b) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3702(b)) is amended by adding at the end the following new sentence: "The Secretary of the Interior shall consult with the Under Secretary of Commerce for Oceans and Atmosphere before appointing any Director of the Board.".

(2) APPLICATION.—The amendment made by paragraph (1) shall apply to appointments of Directors of the Board of Directors of the National Fish and Wildlife Foundation made after the date of enactment of this Act.

(b) EXPANSION OF BOARD.—Section 3(a) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3702(a)) is amended—

(1) in the matter preceding paragraph (1), by striking "nine" and inserting "15"; and

(2) in paragraph (2), by striking "three" and inserting "4".

(c) INITIAL TERMS.—Of the Directors on the Board of Directors of the National Fish and Wildlife Foundation first appointed pursuant to the amendment made by subsection (b)(1), notwithstanding the second sentence of section 3(b) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3702(b))—

(1) 2 shall be appointed to a term of 2 years;

(2) 2 shall be appointed to a term of 4 years; and

(3) 2 shall be appointed to a term of 6 years;

as specified by the Secretary of the Interior at the time of appointment.

(d) COMPLETION OF APPOINTMENTS.—Not later than 60 days after the date of enactment of this Act, the Secretary of the Interior shall appoint the additional members of the Board of Directors of the National Fish and Wildlife Foundation referred to in subsection (c).

(e) AUTHORITY OF BOARD NOT AFFECTED.—The authority of the Board of Directors of the National Fish and Wildlife Foundation to take any action otherwise authorized by law shall not be affected by reason of the Secretary of the Interior not having completed the appointment of Directors of the Board of Directors of the National Fish and Wildlife Foundation pursuant to the amendment made by subsection (b)(1).

SEC. 104. REAUTHORIZATION OF NATIONAL FISH AND WILDLIFE FOUNDATION ESTABLISHMENT ACT.

(a) REAUTHORIZATION.—Section 10 of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3709) is amended—

(1) in subsection (a), by striking "not to exceed $15,000,000" and all that follows through the end of the sentence and inserting "$25,000,000 for each of fiscal years 1994, 1995, 1996, 1997, and 1998."; and

(2) by adding at the end the following new subsection:

"(c) ADDITIONAL AUTHORIZATION.—The amounts authorized to be appropriated under this section are in addition to any amounts provided or available to the Foundation under any other Federal law.".

(b) CLERICAL AMENDMENT.—Section 10(b)(1) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3709(b)(1)) is amended by striking "paragraphs (2) and (3)," and inserting "paragraph (2),".

SEC. 105. CONVEYANCE OF SENECAVILLE NATIONAL FISH HATCHERY.

(a) CONVEYANCE AUTHORIZED.—Notwithstanding any other provision of law and not later than 180 days after the date of enactment of this Act, the Secretary of the Interior shall convey to the State of Ohio without reimbursement all right, title, and interest of the United States in and to the property known as the Senecaville National Fish Hatchery, located in Senecaville, Ohio, including—

(1) all easements and water rights relating to that property; and

(2) all land, improvements, and related personal property comprising that hatchery.

(b) USE OF PROPERTY.—All property and interests conveyed under this section shall be used by the Ohio Department of Natural Resources for the Ohio fishery resources management program.

(c) REVERSIONARY INTEREST.—All right, title, and interest in and to all property and interests conveyed under this section shall revert to the United States on any date on which any of the property or interests are used other than for the Ohio fishery resources management program.

TITLE II—BROWNSVILLE WETLANDS POLICY CENTER

SEC. 201. SHORT TITLE.

This title may be cited as the "Brownsville Wetlands Policy Act of 1994".

SEC. 202. ESTABLISHMENT OF WETLANDS POLICY CENTER AT THE PORT OF BROWNSVILLE, TEXAS.

(a) ESTABLISHMENT OF CENTER.—For purposes of utilizing grants made by the United States Fish and Wildlife Service, there may be established in accordance with this title, on property owned or held in trust by the Brownsville Navigation District at the Port of Brownsville, Texas, a wetlands policy center which shall be known as the "Brownsville Wetlands Policy Center at the Port of Brownsville, Texas" (referred to in this title as the "Center"). The Center shall be operated and maintained by the Port of Brownsville with programs to be administered by the University of Texas at Brownsville.

(b) MISSION OF THE CENTER.—The primary mission of the Center shall be to utilize the unique wetlands property at the Port of Brownsville and adjacent waters of South Texas to focus on wetland matters for the purposes of protecting, restoring, and maintaining the Lagoon Ecosystems of the Western Gulf of Mexico Region.

(c) BOARD OF DIRECTORS.—The Center shall be governed by a Board of Directors to oversee the management and financial affairs of the Center. The Board of Directors shall be cochaired by the Port of Brownsville, the University of Texas at Brownsville, and the designee of the Director of the Fish and Wildlife Service, and shall include as members other representatives considered appropriate by those cochairs.

(d) OVERSIGHT OF THE CENTER.—

(1) ANNUAL REPORT.—The Board of Directors of the Center shall prepare an annual report and submit the report through the Director of the United States Fish and Wildlife Service to Congress.

(2) CONTENTS.—Annual reports under this subsection shall cover the programs, projects, activities, and accomplishments of the Center. The reports shall include a review of the budget of the Center, including all sources of funding received to carry out Center operations.

(3) AVAILABILITY OF INFORMATION.—The Board of Directors of the Center shall make available all pertinent information and records to allow preparation of annual reports under this subsection.

(4) GENERAL ACCOUNTING OFFICE.—The Comptroller General of the United States shall periodically submit to Congress reports on the operations of the Center.

SEC. 203. GRANTS.

The Director of the United States Fish and Wildlife Service shall, subject to the availability of appropriations, make grants to the Center for use for carrying out activities of the Center.

SEC. 204. LEASE.

The Director of the United States Fish and Wildlife Service, subject to the availability of appropriations, may enter into a long-term lease with the Port of Brownsville for use by the Center of wetlands property owned by the Port of Brownsville. Terms of the lease shall be negotiated, and the lease shall be signed by both parties, prior to the disposal of any Federal funds pursuant to this title. The lease shall include a provision authorizing the Director to terminate the lease at any time.

SEC. 205. OTHER REQUIREMENTS.

(a) IN GENERAL.—As conditions of receiving assistance under this title—

(1) the University of Texas at Brownsville shall make available to the Center for fiscal years 1994, 1995, 1996, and 1997—

(A) administrative office space;

(B) classroom space; and

(C) other in-kind contributions for the Center, including overhead and personnel; and

(2) the Port of Brownsville shall make available up to 7,000 acres of Port Property for the programs, projects, and activities of the Center.

(b) ANNUAL REPORT.—The Board of Directors of the Center shall include in the annual report of the Board under section 202(d) a statement of whether the conditions referred to in subsection (a) have been met.

SEC. 206. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the United States Fish and Wildlife Service $5,000,000 for fiscal year 1994, $4,000,000 for fiscal year 1995, $4,000,000 for fiscal year 1996, and such sums as may be necessary for fiscal year 1997, for making grants to the Center under section 203, including for use for the establishment, operation, maintenance, and management of the Center.

SEC. 207. RELATIONSHIP OF CENTER WITH THE CENTER FOR ENVIRONMENTAL STUDIES AND SERVICES, CORPUS CHRISTI, TEXAS.

None of the funds appropriated pursuant to this title may be used to relocate any of the administrative operations of the United States Fish and Wildlife Service from the Center for Environmental Studies and Services Building on the campus of Corpus Christi State University, to the Brownsville Wetlands Policy Center at the Port of Brownsville, Texas, established pursuant to this title.

AUTHORIZATION FOR THE PRODUCTION OF RECORDS

Mr. MITCHELL. On behalf of myself and the Republican leader, I send a resolution to the desk authorizing the production of a closed-session transcript.

I ask unanimous consent that the Senate proceed to its immediate consideration; that the resolution be deemed agreed to; that the preamble be agreed to, the motion to reconsider laid upon the table, and that a statement by myself explaining the resolution be placed in the RECORD at the appropriate location.

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

So the resolution (S. Res. 187) was deemed agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 187

Whereas, the United States District Court for the Eastern District of Pennsylvania has requested, through the United States Attorney, that the Select Committee on Intelligence make available to the Court for in camera inspection a transcript of testimony received by the Committee in closed session, to determine the relevance of the transcript to the case of United States v. Robert Clyde Ivy, Cr. No. 91-602-04, pending in that court;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that documents, papers, and records under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Resolved, That the Chairman and Vice Chairman of the Select Committee on Intelligence, acting jointly, are authorized to provide to the U.S. District Court for the eastern district of Pennsylvania, in accordance with appropriate security procedures, the closed session transcript which the court has requested.

Mr. MITCHELL. Madam President, the U.S. District Court for the Eastern District of Pennsylvania has requested, through the U.S. attorney, for in camera review by the court, a copy of a

transcript of testimony received by the Select Committee on Intelligence in closed session. The court has requested this document to determine whether it is relevant to issues in the trial of the case of United States versus Robert Clyde Ivy, pending in that court, in which the Government is alleging that the defendant violated the Arms Export Control Act, and committed other related offenses.

In accordance with the Senate's practice to make its records available to the courts when consistent with the interests of justice, this resolution would authorize the chairman and vice chairman of the Select Committee on Intelligence, acting jointly, to furnish a copy of this hearing transcript to the court, under appropriate security procedures.

Mr. MITCHELL. Madam President, we have now been on this important bill for 2 days. Progress has been slow, as is so often the case in the Senate when we start on a major bill. The chairman has been diligent in pursuing this bill, and I want to state now—and I ask the staff of each side to communicate this to their Members so that there can be no misunderstanding—Senators should expect a late session tomorrow and a late session on Thursday and a session all day Friday if we are going to complete action on this bill.

I have tried to be and have been accommodating to a very large number of Senators with respect to the Senate schedule. Last week, for example, we had no votes on Thursday or Friday, as I responded happily to a Republican request that there be no votes on that day. We had no votes on this Monday, by a prior scheduling arrangement.

I am perfectly willing to be accommodating to Senators, but that accommodation cannot come at the expense of not conducting our important public business. So I just want to say to Senators that we are going to be here tomorrow. We will have votes into the evening, and we are going to be here Thursday, late perhaps, if necessary, and if we have not finished this bill by then, all day Friday and through the day.

I thank my colleagues for their cooperation, and I know the chairman will be pursuing this matter very vigorously tomorrow.

Mr. HOLLINGS. Madam President, if the distinguished majority leader will yield, I want to thank him for keeping our feet to the fire.

Actually, this bill was passed not in 2 days, but in 2 minutes just 2 years ago, and last year reported unanimously out of the committee, Republicans and Democrats all agreeing to it.

What we are seeing are many extraneous matters coming, not germane in anywise to the subject at hand.

I think maybe as to the pending amendment by the distinguished Senator from Kansas, we may have gained some progress with respect to that particular amendment. I hesitate saying so affirmatively here now. But, in the morning as soon as we are ready to go, setting the discipline is just exactly what this chairman wants, because this is an important bill. So we are ready to go all day tomorrow, late tomorrow night, and late on Thursday and Friday, right on through, because that is the only way we are going to get something done.

My counterpart on the other side of the aisle with his eloquence was just on that score: "Get something done."

So the majority leader is setting the discipline, and I appreciate him doing that very much because it appears that is going to have to be done if we are going to really pass a bill that everyone agrees to. We have worked this out even on the House side, and everything of that kind. The President has been awaiting the bill.

It is a very important initiative with respect not just to competitiveness, not just to technology, not just to the commercialization of that technology, but then launching the superhighway on information that the Vice President has been so vitally interested in.

I thank the majority leader.

ORDERS FOR WEDNESDAY, MARCH 9, 1994

Mr. MITCHELL. Madam President, I now ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m. on Wednesday, March 9; that following the prayer, the Journal of proceedings be approved to date, and the time for the two leaders reserved for their use later in the day; that there then be a period for morning business not to extend beyond 10:15 a.m. with Senators permitted to speak therein for up to 5 minutes each, with Senator HATCH recognized for up to 10 minutes; that at 10:15 a.m., the Senate resume consideration of Calendar No. 165, S. 4, the National Competitiveness Act of 1993.

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

RECESS UNTIL TOMORROW AT 10 A.M.

Mr. MITCHELL. Madam President, if there is no further business to come before the Senate today, and if no other Senator is seeking recognition, I now ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 7:32 p.m., recessed until Wednesday, March 9, 1994, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate March 8, 1994:

DEPARTMENT OF JUSTICE

BARBARA C. JURKAS, OF MICHIGAN, TO BE U.S. MARSHAL FOR THE WESTERN DISTRICT OF MICHIGAN FOR THE TERM OF 4 YEARS, VICE JOHN R. KENDALL.

ERNESTINE ROWE, OF COLORADO, TO BE U.S. MARSHAL FOR THE DISTRICT OF COLORADO FOR THE TERM OF 4 YEARS, VICE JACK EGNOR.

LEONARD TRUPO, OF WEST VIRGINIA, TO BE U.S. MARSHAL FOR THE NORTHERN DISTRICT OF WEST VIRGINIA FOR THE TERM OF 4 YEARS, VICE RONALD A. DONELL.

IN THE NAVY

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be vice admiral

REAL ADM. JOHN H. FETTERMAN, JR., U.S. NAVY, 200-26-7724.

CONFIRMATIONS

Executive nominations confirmed by the Senate March 8, 1994:

CONSUMER PRODUCT SAFETY COMMISSION

ANN BROWN, OF FLORIDA, TO BE A COMMISSIONER OF THE CONSUMER PRODUCT SAFETY COMMISSION FOR A TERM OF 7 YEARS FROM OCTOBER 27, 1992.

ANN BROWN, OF FLORIDA, TO BE CHAIRMAN OF THE CONSUMER PRODUCT SAFETY COMMISSION.

DEPARTMENT OF THE INTERIOR

ROBERT JAY URAM, OF CALIFORNIA, TO BE DIRECTOR OF THE OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT.

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.