SENATE—*Wednesday, March 16, 1994*

(Legislative day of Tuesday, February 22, 1994)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable DIANNE FEINSTEIN, a Senator from the State of California.

PRAYER

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

Let us pray:

*Beware that thou forget not the Lord thy God * * * Lest when thou hast eaten and art full, and hast built goodly houses, and dwelt therein; And when thy herds and thy flocks multiply, and thy silver and thy gold is multiplied * * * thine heart be lifted up, and thou forget the Lord thy God * * * And thou say in thine heart, My power and the might of mine hand hath gotten me this wealth * * *.*—Deuteronomy 8:11–14; 17–18.

Lord God of Abraham, Isaac, and Israel, may we hear these sober warnings from Moses lest this Nation fail to fulfill its God-destined role. Heighten our gratitude for the blessings so lavishly bestowed upon us. Deepen our humility in recognition of the resources so uncommonly plentiful in our land. Broaden our sense of justice. Lengthen the outreach of our love to all who suffer, the homeless and the hungry, the persecuted and the oppressed. Sensitize us to the hurt and pain of all peoples, at home and abroad. Make us advocates of the voiceless, the weak, the poor, the elderly, the neglected.

We pray in the matchless name of Him who, in love, gave His life for all peoples. 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 16, 1994.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DIANNE FEINSTEIN, a Senator from the State of California, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mrs. FEINSTEIN 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.

GENERAL AVIATION REVITALIZATION ACT OF 1994

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of S. 1458, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1458) to amend the Federal Aviation Act of 1958 to establish time limitations on certain civil actions against aircraft manufacturers, and for other purposes.

The Senate proceeded to consider the bill.

The ACTING PRESIDENT pro tempore. There will be 60 minutes of debate, with the time to be equally divided between Senators KASSEBAUM and METZENBAUM.

Who yields time?

Mrs. KASSEBAUM addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Kansas.

Mrs. KASSEBAUM. Madam President, I first wish to express appreciation to some of my colleagues who have been involved in this discussion on general aviation product liability for some time. Certainly, there are many, and I do not want to leave anyone off the list, but just to express appreciation to a few.

One is certainly the Republican leader and the Senator from Kansas [Mr. DOLE]. But, also, I express appreciation to a number of Senators who, for a number of years, have spoken to this issue with great compassion and great concern about it. They are Senators MCCAIN, GORTON, DANFORTH, HATCH, MURKOWSKI, PRESSLER, INOUYE, GLENN, ROCKEFELLER, and others who have cared a great deal about this issue. But one in particular is a former colleague and pilot extraordinaire, Jake Garn. It was his wish that we would pass this before he retired from the Senate. Now this will come to fruition, and I hope brighten his flying days.

There were a number of questions asked about this issue, and I wish to respond to just a few. One of them is why is this important? General aviation is the backbone of our aviation industry. Approximately 80 percent of all airplanes in the United States are general aviation planes, and more than 5,000 airports and communities they serve rely exclusively on general aviation for air transportation.

General aviation aircraft are the small airplanes that are used by flight training schools, by local flying clubs, by agricultural pilots, and by recreational pilots. In most cases, these users cannot afford the substantial price increases that have occurred since the middle 1980's, largely due to the effects of the product liability costs.

The National Transportation Safety Board investigates all general aviation accidents. Some have asked why we can be so sure that there are precautions that are being taken that will ensure safety in the industry, and by providing now an 18-year statute of repose are we disregarding safety precautions?

I just would like to go through that a minute, because if the NTSB determines that the accident was caused by design or manufacturing defects, the NTSB will make an emergency recommendation to the FAA, the Federal Aviation Authority, that an airworthiness directive must be issued. An airworthiness directive requires that a plane be modified to make it safe before it can be flown.

If a manufacturer discovers a possible problem with any of its planes it is required by law to send out a service bulletin to owners, explaining what the problem is and how it should be remedied. In addition, that information is sent to the FAA, which will determine whether or not to issue an airworthiness directive.

By way of background, a service bulletin is sent by the manufacturer to the owner and it states what should voluntarily be done to make the plane safe. An airworthiness directive is sent by the FAA to the owner, and it states what must be done to make the plane safe. Planes which do not charge per flight are required to undergo an annual inspection. Maintenance must be done by a FAA-certified mechanic, and then it must be inspected by an FAA-certified inspector. Planes which sell tickets must be inspected after every 100 hours of use.

Madam President, this is just to show that there is a precaution every step of the way in the manufacture and maintenance of the plane. If there is a manufacturing defect, manufacturers should be held responsible; if not, we should be able to resolve this in a way that will put the light plane industry back on its feet.

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

I also express appreciation to the chairman of the Commerce Committee, the Senator from South Carolina [Mr. HOLLINGS]. While he has not supported this legislation, he has, as well as the Senator from Kentucky [Mr. FORD] been responsible for helping us at least report it out of the Commerce Committee, and I am appreciative of that.

I also say to Senator METZENBAUM of Ohio that I appreciated his efforts in helping us work out some language that, while he does not support it, has made it agreeable on both sides and helped us reach this point after almost 10 years of discussion, and I am very appreciative.

I yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. GORTON. Madam President, will the Senator yield?

Mrs. KASSEBAUM. I am happy to yield a few minutes to the Senator from Washington.

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

Mr. GORTON. Madam President, before the morning is out, this proposal, S. 1458, will have been adopted by the Senate by a vote which this Senator suspects will be overwhelming. It will be a first and dramatic step toward reforming the product liability laws of the United States.

The specific subject of this legislation offers perhaps the most dramatic single illustration of the adverse impact of product liability litigation on a particular and important American business and set of manufacturing entities, any of which are covered by product liability legislation. The general aviation industry in the United States has effectively been destroyed over the course of the last two decades by product liability litigation.

In the case of the Beech Aircraft Co., which kept a tally for 3 or 4 years of litigation involving its products, it found itself involved in 203 lawsuits, in every one of which the National Transportation Safety Board found that the cause of the accident was something other than a design or manufacturing error. But the average of those 203 cases cost that company over a half a million dollars to defend.

This crushing burden has driven at least one major general aviation manufacturer out of the piston aircraft business entirely and has literally decimated the business of others. It is to the good of no one. It has cost jobs. It has cost American competitiveness. It has cost those who wish to purchase new aircraft the degree of choice which they have had in the past.

Finally, after more than 10 years of effort, the Senate of the United States is about to do something to restore that industry in a manner which is fair, not only to the manufacturers and to their employees, not only to the pilots who will fly these new aircraft, but to the entire population of the United States.

The distinguished junior Senator from Kansas has a high degree of hope that this bill will then pass the House of Representatives and become law. It will, if it becomes law, become a striking testament to the ability of the Congress of United States to do something finally for American manufacturing and American competitiveness.

But its passage will be a tribute most particularly to the persistence of my friend and colleague, the junior Senator from Kansas [Mrs. KASSEBAUM] who has had this as a cause which has motivated and driven her for longer than this Senator has been a Member of the U.S. Senate. That persistence, that drive, that devotion to her cause is about to be rewarded, and I think the Nation will owe a great debt of gratitude to the junior Senator from Kansas when S. 1458 becomes the law of the land.

The ACTING PRESIDENT pro tempore. Who yields time?

Mrs. KASSEBAUM. Madam President, I yield 5 minutes, or whatever time he would like, to the Senator from Arizona.

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

Mr. MCCAIN. Thank you, Madam President.

I would also like to begin by adding my words of praise to the Senator from Kansas [Mrs. KASSEBAUM] who has fought this issue for 10 years. Time after time, she has attempted to get a vote on this issue. It was clear to all of us that, if we could have gotten it for a vote on the floor of the Senate, it would have been overwhelmingly supported, as it will a short time from now.

I remind my colleagues that we still have a major hurdle to overcome in the form of getting this legislation up for a vote in the other body. I am told that there are 255 cosponsors of legislation which is almost exactly the same as this in the other body. So we have reason to have some confidence, but at the same time we must see it through and hopefully that will happen in the next few weeks.

I do not think there is any doubt that without the tenacity and hard work of Senator KASSEBAUM, we would not be where we are today. I want to thank her not only on behalf of her colleagues here in the Senate, but for providing the opportunity for thousands of young men and women who will, as a result of this legislation, be able to find jobs in the industry, thousands of young men and women throughout the Nation who will have the opportunity again to learn to fly at reasonable costs, because the cost of general aviation has literally gone out of sight in the past 15 to 20 years as a result of product liability costs; and, frankly, for the ability to restore jobs.

I would like to thank Mrs. KASSEBAUM for restoring an industry to the United States of America which generally overwhelmingly had fled overseas. All of these will be very beneficial and nearly immediate results of the passage of this legislation.

As we know, an estimated 100,000 jobs have been lost. While demand for these products remains high, most production has moved overseas to foreign competitors.

Madam President, I think it is well to review that 93 percent of all light aircraft accidents are pilot error, 99 percent of aircraft accidents have nothing to do with manufacturing defects, and less than one-half of 1 percent of the accidents are related to manufacturers' design or poor repairs. In every case, plaintiff's attorney claimed that a crash was the fault of the manufacturer.

Beech Aircraft analyzed more than 200 crashes that had occurred in the mid-1980's. In every case, Federal investigators blamed weather, faulty maintenance, and air-control errors. In not a single case was Beech's design or manufacturing identified as the cause of the crash—however, suits cost Beech an average of $550,000 apiece.

From 1978 to 1992, American general aviation manufacturers spent as much to defend product liability suits as they had spent for the prior 30 years in developing new aircraft.

Some have suggested that product liability laws are the reason for general aviation's improving safety record. I do not believe that is an adequate representation of the facts. The facts are aircraft operations and pilot training are federally regulated, and pilot training practices and standards have been continually improved for over 40 years; many general aviation airports were paved and lighted for the first time; many airports have added instrument approach procedures; and a record proportion of active pilots hold instrument ratings. Because of these factors, I believe general aviation attained a record low number of accidents in 1993.

I would just like to also pay tribute in this process to the President's National Airline Commission to Ensure a Strong Competitive Airline Industry, which played, I believe, a key and vital role in bringing greater visibility to this issue.

As we all know, this Commission strongly recommended this kind of legislation. They believed that it was a principal way to revitalize our ailing aviation industry and create jobs immediately. This 26-member, bipartisan Commission consisted of appointees of the President and leadership of the House and Senate. They made a number of recommendations. The chairman, Gov. Gerald Baliles, told me that no other recommendation received

stronger support from the Commission than the emphatic unanimous decision to reform aviation product liability.

This recommendation was supported by numerous labor groups, most notably by the International Association of Machinists.

However, this legislation is strongly supported by the aircraft manufacturers, and they will back their words with actions.

Madam President, I think we are at a watershed point here in the future of general aviation in America. I believe that we can look forward with some optimism to the restoration of 100,000 jobs, recapturing the market for general aviation, which has been taken overseas, and to a more fair and level playing field for those Americans who need to bring suit in case of product liability.

Again, I thank the Senator from Kansas [Mrs. KASSEBAUM] for her long dedicated effort on what now appears to be the dawning of a new day for general aviation.

I yield back the remainder of my time.

Mrs. KASSEBAUM. Madam President, I would just like to express my appreciation to the Senator from Arizona [Mr. MCCAIN] who has been stalwart in his efforts on this issue. It has meant a great deal to him. He has been a distinguished pilot and he knows very well how important this is to aviation in general and to certainly pilots in particular. I am very appreciative.

Madam President, I could talk further, but I do not want to use up more time because I know there are others who wish to speak.

I suggest the absence of a quorum, and ask unanimous consent that the time be equally divided against both sides.

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

The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. Who yields time?

Mrs. KASSEBAUM. Madam President, I yield the Senator from South Dakota 3 minutes.

The ACTING PRESIDENT pro tempore. Without objection, the Senator from South Dakota is recognized for 3 minutes.

Mr. PRESSLER. Madam President, I rise today in strong support of Senator KASSEBAUM's general aviation reform bill, as modified. Senator KASSEBAUM has long been a champion of this necessary liability reform and I commend her for her tenacious efforts.

I believe this will be the first piece of tort reform legislation to pass the Senate since I was elected to serve in this body in 1979, even though this issue has been debated for many years. I want to congratulate Senator KASSEBAUM. It has been a long fight.

Yesterday, in the Judiciary Committee, we held a hearing on the general issue of product liability reform. This is a very tricky issue. We must protect the ability of the little guy to be able to hire a law firm on a contingency basis and sue the big guy, otherwise the little guy will not have a chance. At the same time, we must ensure that all of our products and services are not being priced out of the market.

The point is, under this piece of legislation the little guy can still sue when it is appropriate. We must always protect the right of people to receive justice under our legal system. On the other hand, I believe things have gone too far in one direction. Today, products and goods have become prohibitively expensive as a result of the high cost of liability insurance.

Today, we are building only a very limited number of general aviation aircraft in this country because of our product liability rules and laws. As a result, our foreign competitors are reaping the benefits.

For example, recently I rode from Denver, CO, to Rapid City, SD, in a plane produced in Brazil called the Brasilia. The owners told me they can buy smaller aircraft such as the Brasilia at a less costly price abroad than similar aircraft could be purchased from our own manufacturers here in the United States. We can no longer ignore the liability laws that are forcing our general aviation industry into extinction.

As ranking member of the Senate Aviation Subcommittee, I am well aware of the important role the general aviation industry plays in our Nation's air transportation system. General aviation aircraft allows smaller cities and rural areas across the Nation to receive needed air service. For example, in rural States like South Dakota, many of us rely on general aviation aircraft to travel from one city or town to another. In short, our general aviation industry enables more isolated areas to be linked to the rest of the world.

Despite the continuing demand for general aviation aircraft, a once prosperous domestic industry has experienced a dramatic decline in production since 1978 when 17,000 piston-engine aircraft were produced. Last year, only 555 of these aircraft were manufactured. Why?

This drastic decrease in production is due largely to our laws which allow the doctrine of strict liability to be applied in product liability cases. Current product liability law allows manufacturers to be held liable for defective design or manufacture decades after the aircraft is produced. Given the fact that the average piston-engine airplane is over 28 years old and that one-third of the fleet is over 33 years old, manufacturers continue to be susceptible to a lawsuit for an inordinate amount of time.

This long tail of current liability law allows manufacturers to be sued for defective design or manufacture decades after the aircraft was built. Such liability exposure has imposed prohibitively high insurance and legal costs, regardless of fault. As a result, general aviation companies have stopped making all but a few twin engine and virtually no single engine aircraft.

The problem of legal liability cannot be solved by simply discontinuing production of light aircraft. In my judgment, legislation to bring under control the legal burden on aviation manufacturers must be enacted. We have the opportunity to approve such legislation today.

As the primary sponsor of the legislation explained, this is a modified bill. It would limit the liability of general aviation manufacturers to 18 years from the date of manufacture, except on those parts of the plane that are replaced. In addition, provisions have been incorporated that would provide exemptions to the statute's application under certain limited conditions, such as failure by the manufacturer to be forthright with the FAA during the certification process. I believe even with the exemptions, the overall goal of this liability reform initiative is reached. That is, to give those negligently injured by an airplane manufacturer legal recourse commensurate with a level more appropriate to the industry.

This issue, quite simply, is about jobs. In fact, Russ Meyer, President of Cessna Aircraft, testified before the Senate Aviation Subcommittee on October 27, 1993, that his company will immediately restart production of piston-engine aircraft should this legislation become law. Furthermore, he stated that "within 5 years, more than 25,000 jobs would be created at no cost to the Government." In addition, the International Association of Machinists strongly supports this legislation.

Some believe that we should wait for the Clinton administration's promised review of tort reform before acting on this initiative. I disagree. In fact, the President's own Airline Commission strongly supports general aviation liability reform. In response to the administration's proposal to study the issue, the Commission stated in a November 2, 1993 letter to Department of Transportation Secretary Federico Peña, the following:

> 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

competitiveness issues in our report. It is a limited and targeted response to a demonstrated problem.

The Commission added, "This time is right, right now."

I urge my colleagues to take this opportunity to breathe new life into a once strong, vibrant industry. This is an industry that has lost 100,000 jobs in little over a decade and whose product, while produced in the thousands by foreign competitors, has ceased to be made in the country which is the birthplace of flight and the stronghold of the international aviation industry.

I urge my colleagues to support the bill.

The ACTING PRESIDENT pro tempore. Who yields time?

Mrs. KASSEBAUM. Madam President, I suggest the absence of a quorum, the time to be equally divided.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. PRESSLER. Madam President, I ask unanimous consent to proceed as if in morning business until any Senator arrives who wishes to speak on the general aviation liability reform bill.

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

SUBSIDIZED RESEARCH

Mr. PRESSLER. Madam President, before the Senate decides to pass S. 4, let's take a look at what Europe and Japan have undertaken in the area of subsidizing so-called critical technologies.

The European Community has undertaken an ambitious program to fund precompetitive research, a mission very similar to the Advanced Technology Program in the National Institute of Standards and Technology. Over $7 billion is being spent on the three EC consortia—RACE, ESPRIT, and JESSI. RACE supports research in broadband technologies; ESPRIT focuses on information technology and JESSI funds semiconductor research. Have these consortia been a resounding success? No. In fact, a review of the programs by a group of European industrialists recommended that all three efforts should be scrapped. Like most government-supported programs, however, all are still in existence.

The criticisms of these EC-subsidized programs are that they favor specific technologies, and more importantly, that they are run by government bureaucrats for big companies. The assumption inherent in all of this is that government bureaucrats and large companies can make better decisions about what is a critical technology than the marketplace can.

There are other examples of European subsidies that flopped. Notable among these is the British Government's attempt to subsidize telecommunications. John Browning, formerly with the Economist magazine wrote:

> Until British Telecom was privatized in 1984, its budget was continually raided by ministers looking for cash to pay for their favorite social programs. Investment in digital switches lagged—though since privatization, British Telecom has regained a lot of ground. Meanwhile, managerial and technical problems plagued the development of the British digital switch, called System X. So far, System X has won only one export order, to a Caribbean island.

European aviation subsidies have irritated the United States for years, as the ranking member of the Commerce Committee, Senator DANFORTH, has outlined. But it did not start with Airbus. The first effort at European aviation subsidy was the Concorde. But let us also look at the return European taxpayers have received on their investment. Neither aviation subsidy has turned into a moneymaker for the European Community.

Let us also examine the example of Japan's so-called fifth generation computer project. The Japanese spent a half-billion dollars on the so-called fifth generation computer, and they are currently following this failure with the real world computing project at a projected cost of another half-billion dollars. The fifth generation computer was declared dead by Japan's MITI and the Japanese offered to give away the software developed by the project. But they still continue with the new real world computing project, which once again will attempt to create a computer that thinks using artificial intelligence, and is massively paralleled. There are those who believe this new effort may not succeed, either, and it is generally believed that United States technology is ahead of the Japanese in both fields.

Technology subsidies for critical technologies are supported by the administration. Of course the industries in these critical technologies like this idea, since no one thinks they are as important to the competitiveness of the United States than those receiving the benefits of these Federal dollars. Has Sematech been a success? I think we need to revisit whether, indeed, this has been the case. Sematech has lost a significant number of its members in the past year, and there are many skeptics. Are semiconductors, flat panel displays, artificial intelligence and other critical technologies more important than those sectors of our economy that are not considered critical technologies and yet are world leaders? I think not. Yet, this is the philosophy we are being asked to accept as the underlying premise of S. 4.

We are being asked to approve a bill that dramatically expands funding for the Advanced Technology Program. This program targets funding to critical technologies. Many of the recipients of ATP grants to date have been large industries fully capable of funding their own research and development. The presumption is that the government and big industries are fully capable of determining what the marketplace demands. This sounds suspiciously similar to the failed policies our European colleagues have implemented. Why should the U.S. Government make the same mistakes as our European colleagues? Why do we think we will have better results?

One program which has had success is the German Fraunhofer Institutes, which are similar to the manufacturing extension partnerships authorized under S. 4. These institutes establish partnerships with the government, universities and businesses. The research is conducted primarily by universities, and is not targeted to specific critical technologies. Many of the businesses benefiting from the Fraunhofer Institutes are not semiconductor, electronic or other high technology industries. Many of them are traditional machinery and metalworking industries. They tend to be small to medium-sized businesses.

I have no doubt that the manufacturing extension partnerships, under which the State Technology Extension Program is funded, would benefit my state. We have an existing model that demonstrates that this concept can work in the German Fraunhofer Institutes, and the little funding my State universities—the South Dakota School of Mines and Technology, South Dakota State University, and the University of South Dakota—have received has benefited several businesses looking for technical assistance to get a product developed for market.

If this bill merely increased funding for the manufacturing extension partnerships, I would not object to it. But the majority of the funds in this bill are targeted to the Advanced Technology Program, and the authorization in S. 4 as it came to the floor is $668 million over 2 years. Remember that this program only had an appropriation of $10 million in 1990. The ATP program has not demonstrated the track record to justify such a dramatic increase in funds, and I am pleased the authorization level has been reduced significantly. It is patterned after several programs that have failed in other countries, and I cannot foresee that we will have any more success than the European Community with this flawed model.

GENERAL AVIATION REVITALIZATION ACT OF 1994

The Senate continued with the consideration of the bill.

The ACTING PRESIDENT pro tempore. Who yields time?

The Senator from Ohio. The Senator controls 27 minutes.

Mr. METZENBAUM. Madam President, although I still have fundamental problems with the bill offered by the Senator from Kansas, we have indeed reached an agreement—in the form of a modification to the original bill, S. 1458—that addresses some of the concerns with the statute of repose bill.

For example, I and many of my colleagues feel that the arbitrary cut off of 15 years in Senator KASSEBAUM's original bill is too short. This modified bill would extend the statute of repose to 18 years. In my view, that is still inadequate because the average age of general aviation aircraft is 26 years.

In addition, I believe that many dangerous, possibly unintended, consequences could result from a flat immunity from liability in all cases. As the bill of the Senator from Kansas was drafted, the statute of repose provision would provide an incentive for aircraft or parts manufacturers to misrepresent to the FAA or conceal or withhold from the FAA critical information about known defects.

Because there would be complete immunity from private suits after the statutory period, if a manufacturer learned of a defect or other problem, it could simply sit on the information and hope that an accident does not occur within the timeframe.

Frankly, in my view, that is not enough. It is not enough that if a manufacturer were to engage in such unscrupulous conduct, it would be subject to regulatory penalties. History shows that while regulatory penalties help, they are quite inadequate as far as deterring fraudulent conduct. Private actions are necessary to create truly strong incentives for manufacturers to be forthcoming about safety information.

We are talking about the lives of individuals. When you have airplane crashes, people lose their lives. Regulatory agencies simply lack the resources to ferret out all cases of concealed fraud.

If private suits are barred, manufacturers would be tempted to conceal information concerning defects in the hope that such defects would not manifest themselves within the statutory period and regulatory agencies usually would have no way of independently uncovering concealed information.

It is unfair to allow manufacturers of general aviation aircraft or parts to escape liability for a defect if that manufacturer had knowledge or information of the defect that caused the accident in advance, yet failed to come forward with the information. I do not believe we should grant total immunity to manufacturers for such highly egregious conduct, regardless of the age of the aircraft.

I do not think we should leave victims uncompensated and insulate manufacturers where the manufacturer engaged in any kind of intentional or truly outrageous fraudulent conduct. The only real form of protection that consumers currently have against dangerous aircraft is the ability to file a lawsuit against the manufacturer. The threat of a product liability suit plays a crucial role in deterring manufacturers from marketing defective aircraft. Take away this protection for consumers and there will be little incentive for manufacturers to think about protecting consumers instead of protecting their balance sheets.

Now, the modified bill that I have worked out with the distinguished Senator from Kansas does not completely address this concern, but I am frank to say that we have worked cooperatively and she has made a very strong effort, as have I, to bring about the result that we have before us today. That result addresses the problem in part by creating a limited exception to the statute of repose in some cases in which the manufacturer knowingly misrepresented to the Government, or concealed or withheld from the Government, information concerning the performance, maintenance, or operation of an aircraft.

This exception contains certain procedural and substantive hurdles that will be difficult for victims to overcome in many, if not most, cases.

So this modified bill is a compromise on the issue of fraud. The modified bill also partially addresses a concern that innocent victims who, unlike pilots, know nothing about the age or condition of the aircraft they happen to fly in should not be deprived of just compensation for damages suffered as a result of defective aircraft. Unfortunately, the bill only addresses this concern with respect to one limited category of passengers: Passengers who must be airlifted to receive treatment for a medical or other emergency.

In my view, this is not enough. All passengers who have no basis to know or evaluate the condition of the aircraft they ride in—those who cannot be presumed to make an informed decision on whether an aircraft is safe to fly, or who have no choice but to travel on a particular aircraft—these passengers should not be deprived of their legal rights.

Another concern I had with the original bill was that it ignored innocent victims on the ground who are injured or killed when a defective aircraft crashes, when the plane drops out of the sky, an innocent victim is on the ground, not a party to any action at all, and suddenly that individual is very seriously injured or loses his or her life.

What if a plane crashes into a school or a residential area? Innocent bystanders should not be left uncompensated when they are injured or killed by defective aircraft that just fall out of the sky.

This modified bill remedies that inequity and preserves the legal rights of innocent bystanders.

So this modified bill fills in some of the gaps concerning unintended and unfair consequences that would result from Senator KASSEBAUM's original bill.

This modified bill still is far from being an ideal piece of legislation in my view, but it would be an improvement on the original Kassebaum bill. I appreciate the Senator from Kansas' responsiveness to my concerns and her willingness to make a few modifications to her legislation.

But all things considered, I believe it to be bad legislation and hope the House will see fit to make needed changes.

As a matter of fact, I pose a question to the Chair. Has a rollcall been ordered in connection with passage of this measure?

The ACTING PRESIDENT pro tempore. The yeas and nays have not been ordered.

Mr. METZENBAUM. It is my understanding that the Senator from Kansas intends to ask for a rollcall.

Mrs. KASSEBAUM. Madam President, the Senator from Ohio is correct. Perhaps now is the time to ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. METZENBAUM. Under those circumstances, Madam President, I am going to vote for it, not because I think it is the right bill, but because I think it is just as well to pass it, I assume unanimously, in this body, send it over to the House where they can give it more attention and look at it more fully than we have on the floor of the Senate.

I still do not believe it to be good legislation. I do indeed hope that the House will see fit to provide the necessary protection for those who might be adversely affected by the impact of this legislation. But notwithstanding that, by reason of the understanding and cooperation of the Senator from Kansas, I will not stand in the way of its passage and will vote for it with tongue in cheek and with the strong hope that the House will do that which the Senate should have done.

I yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. METZENBAUM. Madam President, how much time does the Senator from Ohio have left?

The ACTING PRESIDENT pro tempore. Eighteen minutes 16 seconds.

Mr. METZENBAUM. And the Senator from Kansas?

The ACTING PRESIDENT pro tempore. Seven minutes 30 seconds.

Mr. METZENBAUM. I yield 10 minutes to the Senator from North Dakota.

The ACTING PRESIDENT pro tempore. I have recognized Mrs. KASSEBAUM, the Senator from Kansas. Could you perhaps withhold for a moment?

The Senator from Kansas.

Mrs. KASSEBAUM. I will be happy to yield. I was going to yield time to the Senator from Texas [Mrs. HUTCHISON] but she is happy to wait. We will proceed.

The ACTING PRESIDENT pro tempore. The Senator from Ohio.

Mr. METZENBAUM. Madam President, it is my understanding that the Senator from North Dakota does not intend to address himself to the issues of this bill. So I suggest that the Senator from Kansas proceed, and we will conclude our remarks on the bill, and then the Senator from North Dakota could proceed.

The ACTING PRESIDENT pro tempore. The Senator from Kansas.

Mrs. KASSEBAUM. I yield 3 minutes to the Senator from Texas [Mrs. HUTCHISON], but also to add that Mrs. HUTCHISON, while being the junior Senator from Texas now, was once a very important member of the National Transportation Safety Board and knows well the issues affecting aviation and the importance of safety.

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

Mrs. HUTCHISON. Thank you, Madam President. I thank the Senator from Ohio and the Senator from North Dakota, and most especially I thank the Senator from Kansas for working very hard for this important legislation.

Indeed, I do understand this industry, and I do understand how very important it is to America that we have a strong general aviation manufacturing base. In fact, the average piston engine aircraft made in America is over 28 years old, and one-third of our fleet is 33 years old. Yet, U.S. airplane manufacturers still face exorbitant design and manufacture product liability costs for these planes. So these manufacturers are, in effect, being penalized for having a durable product.

Madam President, I would like to add my support to the General Aviation Revitalization Act offered by my distinguished colleague from Kansas, Senator KASSEBAUM. This bill has 50 cosponsors, and I am proud to be one of them.

The concept of this legislation is quite simple: rescue the U.S. general aviation industry from the escalating product liability costs—which are killing what used to be one of the most thriving industries in America.

The average piston-engine aircraft is over 28 years old and one-third of the fleet is over 33 years old. Yet U.S. airplane manufacturers still face exorbitant design and manufacture product liability costs for these planes. In effect, these manufacturers have been penalized for the durability of their product.

A brief review of the statistical history of this industry is startling. In 1978, 6,000 American workers were involved in the manufacture of 18,000 general aviation airplanes. In 1992, the industry manufactured only 900 general aviation aircraft and employed only 1,000 workers. Over this same period of time, thousands of jobs in aircraft sales and service have been lost.

What happened? The application of strict liability doctrine in product liability cases arising out of aircraft accidents. The cost of legal claims and defense for light aircraft airframe and component manufacturers went from about $24 million in the 1970's to over $200 million during the 1980's—a sevenfold increase. This cost is directly reflected in the price of the product; Beech Aircraft estimates that the costs of litigation added $70,000 to the cost of each new aircraft. That is more than the market will bear, and the three largest manufacturers of piston-engine aircraft virtually have abandoned that line of business.

That is hard on the general aviation manufacturers and their employees, but it is also a disaster for the U.S. balance of trade. In 1978, the light aircraft industry ran a trade surplus of $340 million. In 1981, the industry experienced a balance of trade deficit of $200 million, in 1992 this industry's trade deficit is $800 million. American-made general aviation aircraft are of the highest quality in the world and the most in-demand, but our manufacturers cannot afford to stay in this business to satisfy this demand at home or abroad. So, foreign competitors now have the business.

By enacting the 15 year statute of repose contained in Senator KASSEBAUM's bill, we level the playing field for U.S. manufacturers of light airplanes versus their foreign competition—without changing the product liability laws related to the rules of evidence, punitive damages, standards of care, or comparative fault.

Let me say, however, that I strongly support pending product liability legislation that does address these issues, and I look forward to debating that measure on the floor of the Senate at another time in the very near future. I have talked to leaders of major American corporations which do business all over the world—and they say litigation costs are many times higher for the American operations than their foreign operations—and this is one more incentive for them to move jobs overseas. Senator KASSEBAUM's bill gives me and the many other supporters of broad product liability reform in the Senate much hope for restoring rationality to free-wheeling product liability litigation.

Senator KASSEBAUM's bill will create thousands of new high-paying private sector jobs in general aviation, the kind of jobs for which the members of our armed services who are transitioning out of active duty are highly qualified. These jobs do not come with a Federal price tag, and they do not require the involvement of a Federal agency. They are generated by giving this important industry only what it needs—relief from litigation.

In its recent report, the National Commission to Ensure a Strong Competitive Airline Industry strongly supported this measure, and called it an important jobs and international competitiveness issue. Senator KASSEBAUM's amendment also has the support of labor and every aviation consumer group. I join my colleagues, the aviation industry, its workers, and consumers in calling for passage of this important measure—and I commend my colleague for working very hard to keep this bill alive and pushing for its passage. It has been a struggle and she has done a commendable job.

Thank you, Madam President.

Madam President, let me reiterate that in 1978, 6,000 American workers were involved in the manufacture of 18,000 general aviation airplanes. In 1992, however, Madam President, this industry only made 900 general aviation aircraft and employed only 1,000 workers. What happened? The strict liability doctrine in product liability cases that can go on for years and years and years has crippled this very important industry for America. In fact, Beech Aircraft estimates that the cost of litigation has added $700,000 to the cost of each new aircraft. This bill will help that situation.

We have seen the U.S. balance of trade from 1978, when the light aircraft industry ran a trade surplus of $340 million for our country, to 1981 when the industry experienced a balance of trade deficit of $200 million, and in 1992, Madam President, this industry's trade deficit was $800 million.

By enacting this 15-year statute of repose that Senator KASSEBAUM has put forward, we are going to level the playing field between U.S. manufacturers of light aircraft planes versus our foreign competition. Senator KASSEBAUM's bill will create thousands of new private sector jobs, not with Government programs, not with taxpayer dollars, but by relief from litigation.

Madam President, I have talked to several leaders of companies that do worldwide business. They tell me that litigation is so much more a problem in America than anywhere else they do business. It is an issue we are going to have to address in all industries. But

today we are going to be able to take one very small step toward helping the general aviation manufacturing business, and I hope it is a step that we can take toward really reforming all of the product liability laws for the future of our country.

I want to commend the Senator from Kansas for working very hard in keeping this bill alive.

I yield the floor, Madam President.

Thank you very much.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. METZENBAUM. Madam President, I yield the remainder of time the Senator from Ohio has but not to go beyond 10 o'clock, it being my understanding that there is a general agreement that there will be a vote at 10 o'clock. In fact, I ask unanimous consent that the vote be ordered at 10 o'clock.

The ACTING PRESIDENT pro tempore. Is there objection?

Mrs. KASSEBAUM. Madam President, reserving the right to object, I will not, but just to clarify, we have 7 more minutes on this side. I have a few more minutes that I would like to use, and there are others who would like to speak or said they would like to speak. How will this interact with supposedly a vote at 10?

The ACTING PRESIDENT pro tempore. The Senator still has 4 minutes of her time, if she wishes to use those minutes.

Mrs. KASSEBAUM. If we go back to morning business time, will we have time past 10 o'clock? That is my question.

Mr. METZENBAUM. Madam President, I withdraw my request and would like to suggest that the Senator from Kansas go forward and use her 4 minutes, and then we yield the remainder of the time to Senator DORGAN, who wishes to speak on another subject.

The ACTING PRESIDENT pro tempore. Is there objection?

Mrs. KASSEBAUM. I thank the Senator from Ohio, Madam President.

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

The Senator from Kansas.

Mrs. KASSEBAUM. Madam President, I would like to make a few additional comments, one being in response to the Senator from Ohio [Mr. METZENBAUM] saying he hopes that when this comes to the House of Representatives more attention could be focused on the general aviation product liability bill and ways that perhaps it could be further amended.

I would just like to suggest that the 15-year statute of repose which was introduced last fall represented only about 20 percent of the general aviation product liability legislation that I originally introduced in 1986.

We have already compromised and moved along. We have gone through a number of changes, and I have been very appreciative of Senator METZENBAUM's efforts to help work out some compromises. But we had numerous hearings in the Commerce Committee, and it has been reported out three times over the years. It has also been reported out of the Judiciary Committee.

So it is my hope that this latest compromise will be the last and that the bill will pass in the House of Representatives. I have great confidence that it will since there are 275 cosponsors now over in the House of Representatives. If further modifications are made, we will remove all the teeth that we have believed were important to revitalize the general aviation industry.

I also want to express my particular appreciation to Ed Bolen of my staff; Guy Clough, Tiger Joyce, and Alan Maness with the Commerce Committee; Chris Paul and Brad Belt with Senator MCCAIN; Gene Kimmelman with Senator METZENBAUM, Brett Francis with Senator HATCH; and Greg Schacke with Senator DOLE.

I yield the floor, and I yield my remaining time to the Senator from Montana.

Mr. BURNS. I thank my friend from Kansas.

Madam President, I rise today to voice my support for one of the most important issues facing our aviation industry, product liability reform. The general aviation community in the United States is struggling, and for years Washington has ignored the needs of this vital link in our Nation's transportation infrastructure.

Just over a decade ago, U.S. manufacturers were the world leaders in general aviation—selling an average of 13,000 light airplanes per year. Today, annual sales have decreased to barely 500, and tens of thousands of workers have lost their jobs. This decline is the result of laws which hold manufacturers liable for planes that were built years, even decades ago.

Even though the industry's safety record has improved steadily for four decades and all 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.

Today, the typical domestic plane manufacturer faces product liability costs that are 20 to 50 times higher than its foreign competitors. This additional cost demands that the manufacturers increase their prices, and consequently, manufacturers lose market shares to foreign competition and lay off American workers. This is a competitiveness issue and a jobs issue.

I support Senator KASSEBAUM in her efforts to revitalize the all-but-dead general aviation industry in the United States, and I am an original cosponsor of her legislation to amend the Federal Aviation Act of 1958 to impose an 18-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 18 years after the aircraft was manufactured.

United States airplane manufacturers should not be held responsible, indefinitely, for products that are operated, repaired, serviced, and modified by others. 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 those of us who have to travel across long distances to conduct our business. The aviation industry needs our help, and I am pleased to see the time has come for these important changes.

Madam President, I want to congratulate the Senator from Kansas, who has been on this issue ever since I came to the U.S. Senate. She is a great champion of it. When you look at where our aircraft manufacturing industry has gone in the last 10 years, it does not take a rocket scientist to figure out that we have a problem and this is one of the problem areas.

Domestic plane manufacturers face product liability costs that are 20 to 50 times higher than our foreign competitors'. If you want to call this bill, S. 4, that we have been talking about, a competitiveness issue, this really is. The additional cost demands that manufacturers increase their prices, and consequently, manufacturers lose market shares to foreign competition and lay off American workers; this is really a competitiveness and jobs issue.

I want to remind the American people how important this is. We can draw two conclusions about not only airplane liability and manufacturers' liability, but also the quality of work of the American worker, because we have lost some awfully good friends to foreign aircraft in the last 2 years—and I mean close friends. One is a very close friend to the Senator from Kansas. So this is how important this issue really is when you boil it down to: Can we make airplanes, and do we have the ability to market those airplanes in a world that is very competitive?

I thank the Chair, and I yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. DORGAN. Madam President, it is my understanding that the Senator from Ohio had indicated to the Chair, previous to recognizing the Senator from Kansas, that I was allowed to speak as in morning business.

The ACTING PRESIDENT pro tempore. The Senator is recognized.

THE BALANCE OF TRADE

Mr. DORGAN. Madam President, I would like to follow up on something that was said briefly with respect to the amendment we were discussing. Somebody talked about the balance of trade. I decided to take the floor today to say a good word about the Clinton administration. I suppose they could use a good word these days, because most of the floor time on issues affecting this administration is taken up with negative comments.

Let me, for a moment, talk about something this administration is doing that is new and fresh and exciting, something that should have been done a long time ago, which is starting to deal with our vexing and troublesome trade deficit. This administration has stood up and said: We are not going to put up with this. We want trade policies that resolve the unfair trade circumstances that exist between us and some of our trading partners. We must resolve this burgeoning trade deficit.

I want to speak about that for a couple of minutes and about why I am excited about what the Clinton administration is doing.

First, let me say the G–7 meeting in Detroit this week, in which the leaders of the industrial countries get together to talk about jobs, ought to be a time in which the industrialized countries should understand that we may well be witnessing an apparent economic recovery without jobs. I have said before that that is like having a meal without food.

Why do we not have jobs or at least the kind of jobs we would expect in economic recovery? Because we have seen a great shift of resources and production in the last couple of decades in which our major producers, the large manufacturing corporations, decided they want to continue to sell in the U.S. market, but they want to produce elsewhere. They want to sell in our industrial countries, but they want to produce where they can pay $1 hour for wages and no benefits.

That is a mismatch, a disconnect in the apparatus between production and consumption. Inevitably, it leads to shrinkage of our economy, to a loss of jobs here. We had part of this discussion on NAFTA, but that is only a small part of it.

I would like the leaders of the G–7 countries to understand that at some point in the longer term there is a responsibility to produce where your market access is; where you decide you are going to sell, you must have a responsibility to produce. Otherwise, we are not going to long remain the industrial countries of the world.

Let me talk briefly about our U.S. trade policy. We have a new Trade Ambassador, Mickey Kantor. We have had some differences on trade issues, I might say, but he is doing what should have been done for the last 20 years as a Trade Ambassador. Also, President Clinton, in support of the Trade Ambassador, and this administration has said we are not going to put up with unfair trade anymore. We are going to take action against trading partners who are racking up very large trade surpluses with us, or having us incur large trade deficits with them, often as a result of unfair trade. We are going to do something about it.

Well, that is a refreshing change in U.S. policy. The major problems we face are bilateral trade deficits of enormous proportions with both Japan and China. There are other problems, of course. One of the more significant problems for those of us in grain country is the problem with Canadian grain exports, which we are trying to address.

Let me speak a minute about the bilateral problems we have with Japan and China—a $59 billion trade deficit with Japan; a $24 billion trade deficit with China. That is an $84 billion aggregate trade deficit with Japan and China, which is two-thirds of our total trade deficit with just two countries.

What does that mean? When you have a $59 billion trade deficit with Japan, it means we are buying $59 billion more from them than we are selling to them. It means instead of jobs being here, they are there. It means instead of profits vesting here, it is profits vesting there; new investment there rather than here. The huge deficits weaken our country.

Should we always have a zero trade balance? No, not at all. Should we allow this to happen? Let me refer to this chart. This represents the trade deficits going back to 1960 with Japan. Take a look at it. You can see all along the line through the administrations—Kennedy, Johnson, Johnson, Nixon, Ford, Carter, Reagan—the trade deficit gets worse and worse and worse. Throughout all of these trade deficits, we have new 5-year plans. The new 5-year plan in Japan is: Yes, we are sorry, we will open our markets and let more American goods into Japan.

The fact is that it has not happened. We went back and took a look at what the administrations were saying through a 30-year period, and at each one of these deficit levels, people were talking about their great determination to change trade policy, but that is all. Our mistaken trade policies are going to ruin our country, wreck our economy.

Yet nothing was done, except the public lamenting about the circumstance. There was no real change in public policy.

For 30 years, we had a parade of administrations concerned about trade policy with Japan. In fact, as this chart shows, the problem has gotten much worse rather than better. We have the same circumstance with China, except in the more recent years. Exploding trade deficit, but no decisive action by the United States.

The Clinton administration says let us take some action. President Clinton announced he will revive our use of the so-called Super 301 law. Super 301 provides that if a country is guilty of unfair trade practices and exhibits enormous trade surplus with us, then we should take some action.

Lord, you would think that President Clinton, in that decision, had taken a wrecking ball to our economy. All the institutional thinkers, the muscle-bound thinkers of trade, wring their hands and almost cut their throats over this. They say: This is just awful. The administration is going to start a trade war. These people are not thinking. This is irresponsible, they say.

It is not irresponsible. It is the first sober thought on trade for a long, long time in which people in this country in charge of trade policy see what is hurting our country. We should not be victims of unfair trade, and we should not find closed markets to our goods, and we should not have these kinds of trade deficits with countries like Japan.

(Mr. CAMPBELL assumed the chair.)

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

Mr. DORGAN. I am happy to yield to the Senator from Ohio.

Mr. METZENBAUM. I would just inquire. Though there was not a formalized agreement we vote at 10 a.m., there was a full understanding.

I was very pleased to yield my time to the Senator from North Dakota.

Could the Senator from North Dakota summarize promptly so we could proceed on to the vote?

Mr. DORGAN. I am happy to.

Mr. METZENBAUM. I thank the Senator.

Mr. DORGAN. Mr. President, let me finally say that the trade problem we have with Japan, China, and other countries is a merchandise trade balance that, on this chart, is a frightening picture in red. But the trade disaster in our overall trade that you see scored on this chart is offset, at least with respect to some good news in the agricultural sector of trade, which is shown in green. Agriculture records a net trade surplus for the United States.

We have serious problems with Canada, which I have discussed on the floor before and which I will discuss again. We have serious problems in other areas, as well. But I just wanted to come to the floor to say, at a time when the White House is under siege, criticized by virtually everyone, we ought to take a look at some of these policies that are fresh, new, and exciting and that represent economic policies this country has needed for a long, long time.

The trade policy pursued by the President and the Trade Ambassador with respect to Japan and others is not a policy designed to hurt our country.

It is designed to help our country. It is not designed to confront Japan in an unfair way. It is designed to say to Japan and others that we expect from you reciprocal trade; we expect from you fair trade. When we have that kind of trade relationship with you, we will be satisfied. Until we have that kind of trade relationship with you, it drains jobs and economic strength from our country in an unfair way, and we will not be satisfied.

That is the message. Those of us who support this kind of change in trade policy should continue to support this administration vocally and as strongly as possible until we straighten out a problem that has languished now for three decades.

I again say to this President and to this Trade Ambassador, "Good job, and many of us in Congress support you and want to work with you as we pursue these trade goals."

Mr. President, I wish to speak about the need for an aggressive U.S. trade policy, especially in the area of agricultural trade. Also, I want to urge an appointment in the administration to help make our agricultural trade policy more aggressive.

First of all, I want to recognize the long-needed and refreshing change in course that our U.S. Trade Representative Mickey Kantor is trying to chart for U.S. trade policy. In his first year in office, Mr. Kantor has demonstrated he is willing to fight for American producers and workers. He appears to be a trade ambassador who puts American interests ahead of "free trade" chants; who puts opportunities for American businesses and farmers first; and who puts jobs for American workers first.

Our trade policies have been sorely in need of leaders like President Clinton and Mr. Kantor for a long time, and I want to give him a vote of confidence.

Mr. Kantor is fighting to correct a worsening trade problem that is bleeding U.S. economic strength by the buckets. That problem is our spiraling bilateral trade deficits with two big economic powers—Japan and China.

BILATERAL TRADE DEFICITS BLEED U.S. ECONOMY

Our 1993 merchandize trade deficit with Japan was $59 billion; with China, $24 billion. The total of those two deficits, $84 billion, represents two-thirds of the entire U.S. trade deficit with the world—$125 billion. Our imbalance with just two nations is most of the problem.

Why are these trade deficits a problem? Why does it matter?

It matters because large trade deficits are scorecards marking the strangulation of our economy. Here is why.

A trade deficit means we in the United States are importing more than we are exporting. When U.S. dollars are spent on imports, the profits go to foreign companies in other nations. There, the dollars go to the producers and workers of those nations.

When we import more than we export, it means more U.S. dollars go to produce food, or cars, or computer chips, or other products in other nations, and fewer are used to buy what we produce in the United States. That means less production in America, less work, and fewer jobs.

Trade deficits represent a withering of U.S. productive capacity. They mean we are exporting our production to other nations—exporting the very base of our economy, our jobs, our wealth.

That is why we cannot afford the $59 billion trade deficit we just recorded with Japan for 1993. That $59 billion was $59 billion fewer dollars in sales our own producers did not make in 1993.

The trade deficit was $59 billion more dollars that Japan got to either invest in new production at home, or to invest in production in the United States and other nations, and then pull the profits back to Japan. Inasmuch as this occurs, the United States serves as an economic colony.

UNITED STATES-JAPAN TRADE: WHAT WENT AWRY?

What has brought our trade relationship with Japan so far astray that we would record a $59 billion deficit in 1 year? What went awry?

The problem did not arrive full-blown in 1994. It has a history.

In 1965, nearly 30 years ago, we began recording trade deficits with Japan. Japan rebuilt its economy after World War II, using economic policies directed at high production and exports, but freezing out virtually all imports not needed for its own factories. After some years those policies started to take their toll in United States-Japan trade, and in 1965 we saw the balance tip against the United States: a $359 million deficit.

It was a great concern at the time. A recent Los Angeles Times article quotes then—Commerce Secretary John Connor: "We are determined to uphold the principles of equity and reciprocity—positively or negatively—whichever is called for." Our Government leaders were talking tough.

President Nixon was alarmed, too, when the deficit with Japan climbed to $4.1 billion in 1972. So alarmed that he said our disputes on trade access and so forth could "tear the fabric of our alliance."

We have watched a 30-year parade of Presidents and administration official disturbed about our unequal trade relationship with Japan. Leaders wrung their hands about the problem, and even talked tough at times, but didn't make serious changes in the way we buy Japan's products while Japan blocks ours from its market.

The merchandise trade deficit was $1.1 billion in the final year of the Johnson administration. It was $4.1 billion at the end of President Nixon's first term, and $5.5 billion when President Ford left the White House. It was $10.1 billion in the last year of the Carter administration.

By the 1980's, the disparity between an accessible United States market, on the one hand, and a trade sanctuary in Japan on the other, had become economically intolerable. President Reagan responded to Japan's violation of a trade agreement on semiconductors, and he imposed some sanctions. But, the deficit in President Reagan's last year had climbed to $52 billion. It's worth noting that this deficit shot past $50 billion despite the efforts by the U.S. Federal Reserve Board to cut the exchange value to the dollar, a means of boosting U.S. exports and discouraging imports.

For the past 5 years our trade negotiators have been negotiating with Japan, and the United States has been recording $40-50 billion deficits each year. And, for 1993, the trade deficit with Japan was $59.3 billion.

THE SOLUTION: "RECIPROCAL TRADE," NOT "FREE TRADE"

The United States has drifted into a deeper and deeper deficit with Japan because our trade negotiators have not understood the meaning of "reciprocal." In the trade arena, it simply means that we will treat other nations as they treat us. Period.

Let me give you an example of our failure to demand reciprocity. In 1988 our trade negotiators secured a trade agreement with Japan on beef. U.S. negotiators and our meat exporters celebrated the great victory. You would have thought they won the Olympic gold medal for trade negotiations.

In the beef agreement, Japan agreed, basically, to discontinue requirements for import licenses on beef, and to about 75 percent of the product value to 50 percent. A 50 percent tariff and we thought we had pulled off a coup.

Certainly, we are now exporting more beef to Japan than we did before 1988. That is wonderful for our ranchers and our meat processors, and I certainly support the progress we achieved.

However, the point is this: we settled for grossly unequal trade.

Fortunately, Mr. Kantor seems to know the meaning of the word "reciprocal." For example, our Trade Representative will renew our use of the so-called "Super 301" procedures to deal with nations that do not open their markets to our products as we open our market to them. He has been criticized from some quarters for being too narrow in fighting for American interests. In fact, it is his job to represent the industries and businesses and farmers of America, and I applaud him.

After nearly 5 years of fighting with administration officials to correct the very unfair trade agreement with Canada concerning Canadian grain exports, we from grain-producing States finally found in Mr. Kantor someone who is

willing to stand up for American farmers. He and Secretary of Agriculture Mike Espy are working to correct the problem, and are trying to gain the support of the rest of the administration in their efforts.

So, as a Senator from an agricultural State, I have to say that Mr. Kantor's record so far has been encouraging.

AN ADVOCATE FOR FARMERS AT USTR

I did, however, send our Trade Ambassador a letter this week asking that he appoint an advocate for American farmers and ranchers to a very high position in his office. Eighteen other Members of Congress signed this letter with me, asking that Mr. Kantor find an adviser who is very knowledgeable in agriculture, and who will stand up for our farm producers in the trade arena.

I made this request because of the great importance of agricultural trade to the economic success of family farmers and our rural communities, but also to the success of our entire national trade performance.

Unlike our unfortunate performance in trade across many economic sectors, agricultural trade has been a consistent success, recording a huge trade surplus each year. For example, while the United States recorded an overall merchandise trade deficit of $126 billion for 1993, this Nation will enjoy an $18 billion surplus in trade of farm and ranch products.

If you look at the chart I brought here today, you can see that since the 1970's the United States has drifted from a near-balance of trade with the world to a staggering deficit. Meanwhile, our agriculture exports total about $42 billion annually, scoring a positive balance of about $18 billion annually in that sector.

The United States remains very competitive in the agricultural trade sector, and we must build on that strength. That is why I have called for a trade tiger at USTR to speak for farmers.

We will face many critical junctures in agriculture trade in the years ahead. Here are a few examples of immediate concern:

We are trying to resolve some extremely difficult trade conflicts with Canada on trade of wheat, barley, sugar, dairy products, potatoes, peanuts and other products. The results of negotiations will be critical to thousands of American farmers.

We will submit our tariff schedules to the proposed new World Trade Organization later this month, and the way those tariffs are constructed will affect U.S. farmers for generations.

We have begun the implementation of the North American Free Trade Agreement, and it will be the responsibility of USTR to represent American farmers, to ensure they can, in fact, pursue the trade opportunities in Mexico and Canada that the trade agreement allows.

The U.S. Department of Agriculture will send a trade delegation in 2 weeks to China, Thailand, Indonesia and Singapore, to seek new trade opportunities and to reduce barriers to those Far East markets.

In all these cases, and in dozens more, we, as a Nation, must assume an attitude about trade that is better for our economic interests. We have to believe that we deserve reciprocity—that we deserve to be treated as well as we treat others. And, then we must solidly reflect that belief in our foreign trade dealings. It appears President Clinton and Mr. Kantor are trying to move toward a policy of trade reciprocity, and I hope the Members of this body will support them.

In the area of agricultural trade, however, I have asked for a special help for Mr. Kantor to pursue a more aggressive trade policy. I want to see a top-level official at USTR who understands agriculture and can weigh in with authority on behalf of American farm producers. I hope that others in this body will also join me in my request to Ambassador Kantor.

Mr. President, I yield the floor.

NATIONAL COMPETITIVENESS ACT

The PRESIDING OFFICER. If all time is yielded back, under the previous order, S. 1458 is temporarily laid aside, and the Senate will resume consideration of S. 4, which the clerk will report.

The assistant 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 of the Department of Commerce, amending the Stevenson-Wydler Technology Innovation Act of 1980 to enhanced 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 and Technology, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Danforth amendment No. 1522, to strike section 306, technology financing pilot program.

Ms. MOSELEY-BRAUN. Mr. President, I rise today as an original cosponsor of the National Competitiveness Act, legislation designed to create jobs, revitalize our manufacturing base, and ensure American competitiveness in the global economy.

I support this legislation because it makes necessary changes in the Federal Government's research and development priorities to meet the new challenges facing the United States in the post-cold war era.

The U.S. Federal Government devoted other two-thirds of its R&D budget to military endeavors throughout the cold war.

However, the cold war is over and our future national security does not rest solely on our military strength.

Instead, it is increasingly dependent on our ability to compete in the emerging global economy.

The Federal Government must, therefore, begin to redirect some of its limited resources to civilian research and development.

Currently, however, both the U.S. Federal Government and the U.S. manufacturing industry are failing to invest enough in civilian research and development—particularly in advanced manufacturing technology.

Although the U.S. manufacturing industry has consistently generated about one-fifth of our Nation's gross national product, a study conducted by the Industrial Research Institute found that it invests only 3.1 percent of its total sales on research and development, and only one quarter of that amount on new or improved manufacturing processes or equipment.

In short, this study concluded that the U.S. manufacturing industry has not done as well as it should in manufacturing new products based on technological innovations.

Mr. President, the Clinton administration has developed a technology policy that would begin to redirect part of the Federal R&D budget to civilian research and technology, by making small yet important investments in areas where returns on private investments are too distant or uncertain for private firms to bear.

In its report, "Technology for America's Economic Growth, a New Direction To Build Economic Strength," the Clinton administration states that, while the private sector must take the lead in the development, application, and manufacture of new technologies, the Federal Government must:

Increase its commitment to fundamental science, the foundation upon which all technical progress is built; forge closer working partnerships among industry, Federal and State governments, workers, and universities; and coordinate federally supported science and technology investments across the Federal Government.

The National Competitiveness Act, which is the cornerstone of President Clinton's technology policy takes a modest and much needed step in reallocating our post-cold war Federal R&D budget to help small and medium-sized manufacturing companies with technical advice and product development.

Under this legislation, the National Institute of Standards and Technology at the Department of Commerce would pay 50 percent of each joint Government project selected by industry representatives and conducted by small and medium-sized manufacturing companies—which represent approximately 98 percent of our Nation's manufacturing firms.

These important investments would help American manufacturing companies improve product quality, modernize manufacturing processes, and facilitate the rapid commericalization of products based on new scientific discoveries.

More specifically, these investments would help the National Institute of Standards and Technology establish additional active cooperative R&D agreements like the one it has nurtured with the American Dental Association in Chicago, IL, since 1928.

Under this agreement, the Institute and the American Dental Association have joined together to study the performance of dental equipment and supplies which represented $1.4 billion of U.S. exports in 1990.

This very successful cooperative agreement has led to the development of composite resins for aesthetic tooth restorations, 50 dental material and equipment specifications, and the water-turbine handpiece that was later refined to today's air-driven handpiece.

Mr. President, the National Competitiveness Act would also establish a new manufacturing infrastructure program. This program would include:

An advanced technology development program to support industry-led efforts to develop and improve advanced computer-controlled manufacturing systems; and

A manufacturing extension partnership to offer outreach and technical assistance to small- and medium-sized manufacturing companies.

Finally, this legislation would create a coordinated, interagency program to help meet President Clinton's important goal of linking every school, library, hospital, and office in the United States to the National information infrastructure, also known as the information superhighway.

Mr. President, I would like to conclude my remarks by urging my colleagues to support the National Competitiveness Act which will help our Nation compete in the emerging global economy.

Mr. BURNS. Mr. President, I rise on passage of S. 4, the National Competitiveness Act.

The National Competitiveness Act is legislation I have cosponsored since it was introduced on the first day of this Congress, January 21, 1993. This bill is one of the top five priorities for Senate Democrats and I am the only Republican cosponsor. My support for this measure has not been overlooked by my colleagues on this side of the aisle.

I worked closely with the distinguished chairman of the Senate Commerce, Science, and Transportation Committee, Senator HOLLINGS, to improve this bill as it moved through the committee. Senator HOLLINGS indicated a willingness to work with all the members of the Commerce Committee—both Democrats and Republicans on this bill.

I also worked with Republicans on this side of the aisle to cut the authorization level in this bill by over $900 million over 2 years from the $2.8 billion in the committee passed version. In order to get enough Republican support for Senate passage the concerns about the spending levels had to be addressed.

Because Democrats and Republicans came together in a bipartisan fashion we have saved this important legislation that moves Montana and our Nation forward in the high-technology world in which we live and compete with other nations.

I think it is vital for our Nation to be the world's leader in advanced technologies such as information, computers, electronics, and new materials. This bill helps us accomplish that goal. It contains provisions for research and development companies, universities and tribal colleges in my State. It has a provision for needed research on so-called green buildings for environmental sensitive construction technologies to be developed.

For these reasons and many more I am pleased the National Competitiveness Act passed the Senate. But I want to expand on an area I have been working on since joining the Senate just 5 years ago.

With S. 4, the National Competitiveness Act, we are taking two critically important steps in creating an advanced, state-of-the-art national information infrastructure which will substantially improve our economic and social welfare over the remainder of this decade and on into the next century.

If, after reading or watching stories about the so-called information superhighway over the last few months, the public is confused about the Government's role in promoting a ubiquitous, state-of-the-art, feature-rich, high-speed national telecommunications network, one should not be surprised. I included in this bill a number of answers to the Government's role in the national information infrastructure.

With the assistance of Chairman HOLLINGS, I was able to substantially modify title VI of S. 4 when it passed the Commerce Committee. This bill limits the role of the Government to three areas in building the national information infrastructure:

First, funding basic research and development for high speed networks;

Second, funding leading-edge applications in education, digital libraries, health care, manufacturing, and government information; and

Third, implementing interconnection standards and interoperability protocols to ensure a seamless, ubiquitous network of networks.

I also included the addition of a NASA kindergarten through 12th grade education program, funding for training and access to network capabilities, digital libraries, and government information applications, and other changes.

But most importantly and significantly, the new title VI contains language I requested which states unequivocally a new policy that the Government cannot expend funds to build, own, or operate networks in competition with those networks available in the commercial, private sector. This has been a serious concern to all segments of the telecommunications and information industries. This bill directly and specifically addresses those concerns with a clear delineation and demarcation of the respective roles of the Government and private sectors in the building of America's national information infrastructure.

I think we must now move forward with the next critical step in developing a national information infrastructure—the creation of a rational, procompetitive, proinvestment national telecommunications and information policy.

I believe that there is a consensus developing that Government has become a problem and obstacle in completing a national information infrastructure due to the morass of regulatory and legal restrictions and barriers that segment and balkanize the information and telecommunications industries into protective enclaves created for the old world order in which we had one monopoly telephone company and three broadcast networks. That system is under tremendous pressure and it is time to change our national telecommunications policy in a comprehensive, wholistic way.

I want to say to this body and our Nation passage of this bill is vital to Montana and our Nation's schools, hospitals, libraries, and small companies to hook up to a national information infrastructure. It is also vital to my small businesses in Montana and small business throughout the United States ability to do research and development in the high-technology area.

I want to salute my good friend Senator DANFORTH, the ranking member of the Commerce Committee, for his excellent debate and good faith effort to resolve his differences on this bill with his colleagues on the other side of the aisle. Thanks to his tenacity this bill has been improved a great deal on the Senate floor and is at an authorization level more in line with our need to carefully watch how the Federal Government spends taxpayers' hard-earned dollars.

Passage of this high-technology competitiveness legislation makes my State, our Nation, and this body all winners.

Mr. DURENBERGER. Mr. President, since the beginning of the 103rd Congress last year, S. 4 has been portrayed as a major effort that would improve the competitiveness of U.S. industries.

A PR campaign was designed to make it difficult to oppose allegedly noncontroversial legislation to help our industries compete.

It is evident to me that S. 4 as amended falls short of the mark. It is not a bill that would give the private sector the tools it needs to improve its competitiveness. Instead, it promotes greater Government involvement in the marketplace at a time when we are attempting to lower regulatory burdens on the private sector and to achieve improvements in our economy that would foster a better climate for business expansion.

S. 4 gets right to the heart of the issue of Government involvement in the private sector. While I support more cooperation between the Government and the private sector, I question this kind of direct intervention in the private sector. In my judgment, individual companies can best decide how and when to dedicate resources to research and development needs to respond to increasing competitive pressures in the global marketplace. The Government just does not have the same ability to know where research subsidies should be channeled and the result is usually a serious distortion in the marketplace.

The Republican substitute of regulatory reforms is a far better way to improve the competitive position of U.S. industries. The Republican substitute would substantially reduce Government regulation which seriously impacts the competitiveness of U.S. industries. These reforms can greatly curb administrative costs of companies which must comply with these regulations, thereby creating savings which can be used far more effectively on research and development needs.

Mr. President, one title of the Republican substitute incorporates bill language I will shortly introduce that would permit the export of medical devices to any country which can certify the safety of the product. This would eliminate the current need to obtain the costly and lengthy FDA approval process for a product that may never be used in the United States. The U.S. medical device industry is the most competitive in the world. We should not allow the FDA to block exports of products that can save lives abroad and are deemed safe by other countries.

I would urge my colleagues to support the Republican substitute.

Mr. President, I reluctantly oppose S. 4 because there are companies and interests in my State which support these new subsidies. However, I cannot support the direction this bill takes us toward increased Government involvement.

The relationship of this bill and the subsidies agreement we just agreed to at the GATT is also a central issue to this debate. I would like to salute the effective work of Senator DANFORTH on this issue. He correctly points out how this legislation is a product of a failed strategy to curb Government subsidies at the GATT. At some point a strategy to eliminate Government subsidies turned into one which permits (or greenlights) far more subsidies than appear to be warranted. Senator DANFORTH rightly questions an agreement that would appear to justify a subsidy war.

S. 4 seems to be the first shot in the subsidy war. It will certainly spur our trading partners to increase their own subsidies. Are we then prepared to up the ante? Senator DANFORTH had intended to offer an amendment, which I have cosponsored, that would have placed this whole issue in perspective. While the amendment was not offered, Senator DANFORTH did discuss the issue during the debate. He made the point that we can either ignore the expected new subsidies of our trading partners and lose important markets for U.S. products as a result—or we can engage in a war of subsidies—which we have started with this bill—and which we can hardly afford—or win.

The Danforth amendment would have sought the renegotiation of the subsidy agreement at the GATT in an attempt to restrict the use of Government subsidies. The other option called for the administration to submit a proposal that would ensure that foreign subsidies will be matched.

In my judgment, S. 4 is contrary to the GATT subsidies agreement. While the administration will say that it sought to protect current U.S. research subsidies in the negotiations, and that our trading partners agreed, I'm not sure our trading partners were prepared for this kind of early significant expansion of our subsidies. Obviously they are hard at work crafting their own new subsidies, thus containing the battle we will have started by passing S. 4—the battle Senator DANFORTH so wisely warns us to oppose.

Mr. President, I urge my colleagues to support the Republican substitute and to oppose S. 4 as reported by the Commerce Committee.

SMALL MANUFACTURERS' RENEWAL AND TRAINING PROGRAM

Mr. CONRAD. Mr. President, today I would like to discuss the Small Manufacturers' Renewal and Training [SMaRT] Program, which is incorporated in section 221(f) of the floor manager's substitute amendment. This program is based on legislation that I introduced earlier this year. I want to thank the distinguished chairman, Senator HOLLINGS, for working with me on this proposal.

Senator HOLLINGS has long been a leader in the area of technology transfer. Moreover, we now have a President who advocates the development of a coherent technology policy to enhance America's economic competitiveness. I am proud to be a cosponsor of the legislation that is now before the Senate. Senator HOLLINGS' National Competitiveness Act will strengthen American manufacturing.

A key element of the competitiveness strategy is the Manufacturing Extension Partnership at the National Institute of Standards and Technology. This partnership will bring information and technical assistance on the best manufacturing processes and technologies directly to small manufacturers.

SMART PROGRAM

The SMaRT Program will be an experimental pilot program of internships for senior and graduate engineering students to work with small manufacturing companies. The goal of the SMaRT program is to expose small manufacturers to modern manufacturing technologies through personal contact with young scientists and engineers. Undergraduate and graduate science students cannot be experts in all aspects of modern manufacturing technology, but they will have access to the technical resources of their colleges and universities and the manufacturing outreach center.

The SMaRT program will give young engineers and scientists experience in working in small companies where they will develop many of the skills necessary to become successful entrepreneurs. Many of these young people will then seek careers with small entrepreneurial companies. Over the long-term, this legislation will produce a larger community of entrepreneurs with technological expertise.

The SMaRT program will also build stronger ties between the scientists and engineers in our colleges and universities and the small manufacturing sector. Companies will benefit by increased exposure to new technological ideas.

The SMaRT Program has a number of purposes, but the primary purpose is to encourage and assist small manufacturing companies to adopt modern engineering practices. Engineering internships provide a cost-effective way to promote the person-to-person interactions that make the process of technology adoption work.

The SMaRT Program will also provide interns with unique educational opportunities and ease their transition to the work place. The long-term goal of this program is to promote the development of a community of technological entrepreneurs in a revitalized small manufacturing sector.

The SMaRT Program will be administered by the National Science Foundation in cooperation with the National Institute of Standards and Technology. The NSF and NIST will have great flexibility in carrying out this program. The Senate expects that NSF and NIST will build on the cooperative relationship established through the Technology Reinvestment Project of

the Advanced Research Projects Agency.

Using funds appropriated to NSF for the SMaRT Program, NSF and NIST will make grants to local partnerships between engineering colleges and manufacturing extension centers, called SMaRT partnerships, which will use those grant funds to sponsor engineering students to work with small manufacturers. NSF and NIST are directed to establish eligibility requirements for such partnerships.

NSF and NIST are also directed to develop requirements for grant proposals and for activities undertaken by SMaRT partnerships with those funds. Among those activities, each SMaRT partnership should undertake outreach activities to recruit and identify eligible small manufacturers and engineering students; should facilitate the placement of engineering students as interns with host companies; should provide technical orientation, training, and technical support to interns before and during their internships; and should report on these activities to NSF and NIST. Proposals should clearly specify how these and other required activities will be carried out.

In sponsoring an engineering student to work as an intern, a SMaRT partnership may use funds provided under the SMaRT Program to subsidize the wages of the intern. This subsidy, the Federal share of wages, may not exceed the Federal minimum wage. The host company must match this by providing its share of the intern's wage, which may not be less than the Federal minimum wage. At most, the Federal Government will provide 50 percent of the intern's wages, in which case the intern will earn no less than twice the Federal minimum wage, which is a competitive wage for such employment. This provides an incentive for companies to host interns and gives them a stake in those interns. The Senate expects that after hosting several interns, a company will see the benefits of having interns and be willing to pay their full wages without subsidy. For this reason, this section imposes a limit that the total Federal subsidy for all interns at any one company may not exceed 2 years wages at the Federal minimum wage.

The Senate believes that engineering students working as interns under the SMaRT Program should receive basic benefits including health insurance. The simplest approach is for colleges to maintain the student status and health coverage of interns, perhaps by designating the internship as an independent study course.

The SMaRT Program has much in common with the cooperative education tradition. Students enrolled in cooperative education programs alternate periods of study with periods of work for private companies. This serves to enhance the education of those students and to smooth the transition from college to work. The SMaRT Program is not meant to compete with cooperative education but to serve a complementary purpose. Its primary emphasis is on meeting the immediate technological needs of the small manufacturers.

The SMaRT Program has the flexibility to be compatible with cooperative education programs. Internships under the SMaRT Program could form a part of the work experience of cooperative education students. The Senate encourages those submitting proposals under this program to develop programs that integrate internships under the SMaRT Program into their cooperative education programs, recognizing that these proposals must not compromise the purposes of the SMaRT Program.

The SMaRT Program meets the needs for technological renewal in the small manufacturing sector of the U.S. economy, and will serve regions of greatest economic need. Those include regions of slow or negative economic growth, regions where the manufacturing sector is weak or constitutes a disproportionately small portion of the overall economy, and regions of outmigration that reflect limited economic opportunities.

Companies are eligible to host interns under the SMaRT Program only for manufacturing operations in the United States. Only small manufacturers—those with 500 or fewer employees—may host interns under the SMaRT Program. Especially in rural regions, many manufacturers are very small, having 100 or fewer employees. SMaRT partnerships are directed to give special attention to recruiting and assisting these very small manufacturers.

The SMaRT Program will complement the activities of the manufacturing extension partnership at NIST that provide technological assistance to small manufacturing companies. Because these companies often have great technological needs, the Senate believes that only the most experienced students, normally seniors and graduate students, should be eligible. This experience is especially important to very small companies.

As an experimental pilot program, the SMaRT Program requires a well thought-out reporting system to provide the information necessary to evaluate and learn from its experiences. But reporting requirements should not impose major burdens on those participating in the SMaRT Program. NIST and NSF should take care to develop reporting requirements that produce useful information on whether the activities undertaken by SMaRT partnerships meet the purposes of the SMaRT Program. To collect this information, SMaRT partnerships should require brief reports from the intern and the host company for each internship. NSF and NIST should examine the reports they receive to evaluate what factors lead to greatest success in meeting the objectives of the SMaRT Program.

Many groups of individuals are under-represented in the engineering professions, including women, blacks, Hispanics, and native Americans. The Senate urges NSF and NIST to develop criteria for encouraging the participation of students from under-represented groups as interns in the SMaRT Program.

TECHNOLOGY AND COMPETITIVENESS

Our international competitors have had technology policies in place for years, and it shows. In technology after technology, commanding U.S. leads have evaporated and, in too many cases, we are now playing catch-up.

With a basic research engine that is the envy of the world, there is no excuse for the United States to fall behind in critical commercial technologies. We have been very effective at expanding frontiers of human knowledge and understanding, but have often failed to move technological innovations to the market.

We need to take steps to build on our strong foundation of basic research by developing low-cost mechanisms to transfer modern and advanced technology to the private sector. This is the key to President's Clinton's technology program and the key to increasing economic growth in America.

AMERICAN INDUSTRY

Large companies like IBM and General Motors have been shrinking and splitting apart. Once the mainstay of the American economy, they are losing jobs and investing less in research and development. Small companies must take up the slack.

However, small companies face particularly difficult obstacles in adopting modern technology. Many small firms simply cannot afford to have full time engineers and scientists on staff. As a consequence, many small firms have a difficult time selecting and adopting modern technology to stay competitive. Even high technology companies often lack the expertise in efficient manufacturing processes that is essential to commercial success.

That need not be the case. In Fargo, ND, Gary Zespy runs a small manufacturing company. Last year, he wanted to improve his quality control systems. Fortunately, Gary could turn to the Institute for Business and Industrial Development at North Dakota State University, which helped him develop a quality control system.

Gary Zespy is lucky because his factory is near a manufacturing outreach center at North Dakota State University. Manufacturing outreach programs including the SMaRT internship program can bring that luck to other firms—breaking the barriers of time and information.

By placing interns directly with small companies, the SMaRT Program helps overcome this knowledge barrier and multiplies the ability of manufacturing outreach centers to do their job.

RURAL AREAS

The SMaRT Program provides a way to help keep young scientists and engineers in rural areas by creating opportunities for them to demonstrate their value to local, small manufacturers. It will contribute to the long-term economic revitalization of these areas by combatting head-on the problem of rural outmigration.

The SMaRT Program is based on successful experiences in a pilot program at Iowa State University. Cooperative education requires a major commitment from an employer to hire a student—or, more often, two students who alternate in and out of a single position—for 2 or 3 years. This requirement poses a significant cost obstacle for many small companies.

A pilot program at the Iowa State University Extension Service's Center for Industrial Research and Service is helping to eliminate that obstacle. This program has placed a handful of engineering students each summer with small manufacturing companies across the State of Iowa. One student helped a small manufacturer design a new, more efficient popcorn machine. The president of another company described working with another student as "a win-win situation for both of us." Demand for interns has far outstripped the budget of this small program.

I am pleased that my legislation has been incorporated into the National Competitiveness Act, and that it will help bring small manufacturers together with engineering students to improve the technological performance of the manufacturing sector of the U.S. economy.

TITLE II

Mr. KERRY. Mr. President, I would like to ask the distinguished chairman of the Commerce, Science, and Transportation Committee to draw his attention to one aspect of S. 4 in order to emphasize its importance to the purposes of this bill and to clarify its interpretation.

Mr. HOLLINGS. I would be happy to discuss the provision with the Senator from Massachusetts.

Mr. KERRY. One of the functions of the manufacturing extension centers is to increase the efficiency of our manufacturing industries through the use of environmentally sound manufacturing. It would accomplish this by informing manufacturers about the techniques and technologies that would reduce their waste and increase their energy efficiency, and it would help them adopt these techniques and technologies.

Both the Regional Centers for the Transfer of Manufacturing Technology and Manufacturing Outreach Centers will provide source reduction and energy conservation assessments to interested manufacturers. The clearinghouse will have information on manufacturing processes that minimize waste and negative environmental impact.

Mr. HOLLINGS. I agree with the Senator.

Mr. KERRY. These functions will increase competitiveness because environmentally friendly manufacturing techniques are, in many cases, also more efficient. Our companies will increase their international competitiveness by adopting these techniques.

In addition, this legislation will increase the market for environmental technology which is a high growth, $200 billion a year industry.

Mr. HOLLINGS. The Senator makes a good point.

Mr. KERRY. Extension agents from the Regional Centers for the Transfer of Manufacturing Technology and the Manufacturing Outreach Centers will be trained in disseminating information on modern manufacturing technologies, including those for source reduction. In order to train extension workers about environmentally sound techniques and technologies, the Commerce Department will cooperate with other appropriate agencies. Furthermore, the Regional Centers for the Transfer of Manufacturing Technology and the appropriate Manufacturing Outreach Centers should include at least one person from each center who specializes in collecting and disseminating information concerning environmentally sound techniques and technologies.

Mr. HOLLINGS. I agree with the Senator's interpretation.

Mr. KERRY. I thank the distinguished chairman for that clarification.

FASTENER INDUSTRY AMENDMENTS

Mr. SIMON. Mr. Chairman, Senator BURNS has proposed three fastener industry-related amendments to S. 4. The first amendment addresses "minor nonconformance"; the second addresses steel testing requirements; and the third deals with the issue of "commingling." These two amendments were included in the House-passed version of this bill. These two amendments are fairly noncontroversial, and I strongly support their inclusion in S. 4.

Mr. HOLLINGS. My colleague from Illinois is correct on this point. Those two amendments are included in both the House and the Senate versions of the bill, and I would not expect that they would be controversial in conference.

Mr. SIMON. I thank the chairman. These amendments are very important to the fastener industry in my State and across the Nation.

Mr. WALLOP. Mr. President, for the purpose of establishing the intent of Congress with respect to S. 4, I would like to direct two questions to the chairman of the Committee on Commerce, Science, and Transportation, Mr. HOLLINGS.

First, am I not correct that the provisions of section 207(a) of the High Performance Computing Act of 1991, Public Law 102-194—which is redesignated section 209(a) by title VI of S. 4—will continue to apply to the entire High Performance Computing Act as amended by title VI of S. 4?

Mr. HOLLINGS. Yes, the Senator is correct.

Mr. WALLOP. Second, am I not correct that the reference to law enforcement in section 203(f)(1)(F) of the High Performance Computing Act of 1991, as amended by title VI of S. 4, does not create any new mission authority, and it only directs the Department to engage in activities pursuant to its existing mission authority.

Mr. HOLLINGS. Yes, the Senator is correct.

Mr. WALLOP. I thank the chairman of the committee, Mr. HOLLINGS.

Mr. HATCH. Mr. President, section 306 of the National Competitiveness Act establishes at the Commerce Department's Technology Administration a new Office of Technology Monitoring and Competitiveness Assessment. The purpose of this new office is to collect, evaluate, assess, and disseminate information on a range of activities designed to help the United States improve its competitive position with respect to our foreign trading partners.

May I ask the distinguished chairman of the Committee on Commerce, Science, and Transportation a question about the mission of this new office?

Mr. HOLLINGS. I would be glad to respond to the Senator.

Mr. HATCH. I thank the distinguished chairman. Would the chairman agree that the responsibilities of the new office would include analysis of the degree to which foreign programs and policies may provide a climate which is more attractive to technology innovation than those in the United States? In addition, would the chairman not agree that it would be useful for the office to obtain data on how foreign countries may attract U.S. industries to relocate overseas?

Mr. HOLLINGS. I thank the Senator from Utah for his remarks. One mission of the new Office of Technology Monitoring and Competitiveness Assessment is to assess the extent to which there are barriers to global competitiveness, and certainly actions by foreign governments to attract companies to relocate overseas are a tremendous barrier which the new office should examine.

Mr. HATCH. I thank the chairman for his assurances. Increasingly, American industry is seeking to move overseas to find a climate which may be more favorable to producing the goods and services which traditionally have been America's hallmark.

One example which readily comes to mind is the medical device industry, a strong, viable industry which is one of the United States most competitive in the international marketplace. It is comprised of a range of manufacturers, small to large, many of whom are located in Utah and all of whom are contributing to a positive trade balance in devices. This is something of which the United States can be proud. I hope the new office can look at this.

Mr. HOLLINGS. I appreciate the comments of the distinguished Senator, and do agree that this is something they should look at.

Mr. LAUTENBERG. I would like to express my concern over the deletion of certain provisions from S. 4, the National Competitiveness Act of 1993. The stricken sections of the House-passed version of this bill would have provided for the establishment at the National Institute of Standards and Technology [NIST] of prototypes for advanced computer-integrated manufacturing systems and electronic networks linking manufacturing systems. In addition to these programs, I would like to have seen the inclusion of prototypes for clean manufacturing systems. The United States, and New Jersey in particular, is at the forefront of promoting green technology that could someday be exported throughout the world.

Federal support for clean manufacturing, as was included in S. 4's counterpart in the House, will significantly advance research initiatives at our universities, who are working in partnership with industry and Government. I hope that when this bill goes to conference, the relevant sections of H.R. 840 addressing advanced manufacturing technology programs will be retained.

Mr. HOLLINGS. I thank the Senator for his interest in the development of technology that would contribute significantly to our long-term economic growth and employment. I will be discussing this matter with my colleagues in the conference.

Mr. LEAHY. The Senator from South Carolina and I have discussed the FBI's digital telephone proposal when it surfaced in 1992. We both recognize that the digital telephony proposal is controversial. Am I correct that nothing in this bill promotes or has anything to do with that digital telephony proposal?

Mr. HOLLINGS. That is correct.

Mr. LEAHY. The administration recently announced that it is moving forward with its Clipper Chip or Key Escrow Encryption Program. Am I correct that nothing in this bill promotes or has anything to do with that Key Escrow Encryption Program?

Mr. HOLLINGS. That is correct.

Mr. KOHL. Mr. President, I will be voting for the Danforth amendment to eliminate funding for the Civilian Technology Investment Program. I fully agree that we need to see more investment in small high-technology firms. In the past, many of these firms have been denied access to risk capital for critical technology development projects, especially during their early stages of development.

However, I am concerned about proceeding too rapidly in creating programs which involve Government financing for these high-risk ventures. The Civilian Technology Investment Program may well be a useful idea, and I certainly support SBA's Small Business Investment Company Program upon which this new venture capital program is based. However, I believe we should give the market and existing initiatives a chance before we embark on this expensive and risky partnership, or in some cases competition, with the private sector.

This program was crafted in response to a problem that emerged because of the recession of the last few years. When the economy is sour, venture capital for the most risky of ventures dries up. But as we move out of what has been a difficult economic time, there is and there will be more venture capital available across the private sector.

In addition, Congress only last year passed major new tax incentives that should go far to revitalize the flagging venture capital market. Primarily because of the work of my friend Senator BUMPERS, last year's budget bill contained tax breaks that would encourage capital to move into risky, startup businesses. The new law allows a taxpayer who holds certain types of stock in small businesses to exclude 50 percent of any taxable gain on the stock. In addition, any individual or C corporation can elect not to recognize gain on the sale of publicly traded securities if the proceeds from such sale are rolled over into stock or a partnership interest in a small business investment company.

These provisions were designed to—and should—push more private money toward investments in small, startup companies. I prefer to see what effect these incentives have on the availability of venture capital before we resort to allowing the Federal Government to throw public money into the venture capital pool.

Finally, Mr. President, although I support the overall goals of S. 4, the National Competitiveness Act, I am compelled to vote for the Danforth amendment on the grounds that it places some check on the overall spending levels in this bill. I voted against tabling the Brown amendment last week which would have reduced the amount authorized in this bill from $2.8 billion to $1.5 billion. The Danforth amendment would bring the amount authorized in the bill down to $1.8 billion. The best thing we can do to help small firms looking for venture capital is to ensure that we have a robust economy. And the best way to do that is to reduce the deficit. This amendment helps us move one step closer to that goal.

Mr. McCAIN. Mr. President, I strongly oppose the bill before the Senate. This bill is nothing more than the Senate's attempt to micromanage industrial policy by passing out pork to select industries. This is bad policy and it is not in the best interest of our Nation.

Why are we creating this new layer of Government involvement with industry? Private enterprise, not Government, is best able to respond to the marketplace and conduct the research and development from which new products will emerge.

The purpose of this bill, S. 4, is expressed in its long title:

> A bill to promote the industrial competitiveness and economic growth of the United States by strengthening and expanding the civilian technology program 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 and Technology, and for other purposes.

Mr. President, instead of doing all that the bill's title says, wouldn't it be easier and more effective to encourage competitiveness, promote research and development, and spur economic growth by lowering the capital gains tax, and remove other impediments to creativity and investment?

Wouldn't such an across-the-board incentive allow American industry as a whole?

The answer is "yes."

So why does the bill before us authorize a $2.8 billion grant program that will favor only certain companies and universities that are grant recipients? The answer is pork.

The National Competitiveness Act is said to be designed to encourage the growth of the information superhighway. Well, if we pass this bill, the only thing the highway will carry is pork.

The country indeed needs policy that will encourage manufacturing growth and the development and deployment of advanced technology. Those are noble goals. But I do not believe they will be accomplished by passing out the taxpayers' money.

The committee report notes:

> Of the approximately 360,000 smaller American manufacturers those who employ 500 or fewer workers) most have not advanced in adoption of modern manufacturing technology and methods from where they were a generation ago. Only 6 in 10 of them employ advanced technology, compared with 9 out of 10 plants with more than 500 employees. . . . Clearly, if we are to reshape American's manufacturing outlook, we must recognize that it is these smaller companies which most need the efficiency and flexibility in-

herent in modern advanced manufacturing. And then having recognized the challenge, we must meet it.

I agree 100 percent. It appears we don't disagree with the problem or the goals. We disagree with the remedy.

I do not believe that creating 100 manufacturing extension centers funded by the Government will solve the problem. That money could be put to much better use by private industry itself. I have full faith and confidence that the spirit of inventiveness that has characterized generations of Americans could be fostered without 100 extension centers.

Mr. President, this bill uses impressive and high-sounding terms such as technology grants, extension centers, and manufacturing advisory committees. The fact of the matter is all those terms are just a synonym for pork.

If we are serious about encouraging industrial development, we may have the tools to accomplish that goal. But this bill does not do that. It creates a new gravy train with the Secretary of Commerce in the engine car to deliver pork to select industries.

Mr. President, we can't buy competitiveness. We have tried to buy our way out of every domestic problem we have faced. We have failed miserably in almost every area. It appears that competitiveness and industrial research and development have become the newest frontier for the failed impresarios of the money game.

Unfortunately, this bill does little more than start the pork train on its way, and I have no choice but to oppose its passage.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that it be in order to request the yeas and nays en bloc on the Danforth amendment and the final passage of H.R. 820 with one show of hands serving as a sufficient second.

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

Mr. HOLLINGS. Now I ask for the yeas and nays en bloc.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HOLLINGS. We are checking with the leadership. Do they want a quorum call for a few minutes?

Mr. METZENBAUM. I do not want a delay.

I ask for the regular order to proceed to the vote.

MEASURE PLACED ON THE CALENDAR

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the House Concurrent Budget Resolution (H. Con. Res. 218), be referred to the Budget Committee and that the resolution be immediately discharged from the committee and placed on the calendar.

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

THE NATIONAL COMPETITIVENESS ACT

The Senate continued with the consideration of the bill.

Mr. METZENBAUM. Regular order.

Mr. HOLLINGS. On behalf of the leaders on both sides, I suggest the absence of a quorum for a few minutes.

Mr. METZENBAUM. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. METZENBAUM. I acceded to the 10 o'clock vote with the understanding that I had a commitment to which I would be late, but I was willing to go along with that. I believe that we ought to proceed to the vote.

Go ahead.

The PRESIDING OFFICER. Does the Senator withhold the suggestion for the absence of a quorum?

Mr. HOLLINGS. I withhold.

Mr. METZENBAUM. Mr. President, regular order.

VOTE ON AMENDMENT NO. 1522

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the amendment No. 1522 of the Senator from Missouri [Mr. DANFORTH].

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Oklahoma [Mr. BOREN] is necessarily absent.

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

The result was announced—yeas 44, nays 55, as follows:

[Rollcall Vote No. 59 Leg.]

YEAS—44

Bennett	Faircloth	Mack
Bond	Gorton	McCain
Bradley	Gramm	McConnell
Brown	Grassley	Murkowski
Chafee	Hatch	Nickles
Coats	Hatfield	Packwood
Cochran	Heflin	Pressler
Cohen	Helms	Roth
Coverdell	Hutchison	Simpson
Craig	Jeffords	Smith
D'Amato	Kassebaum	Specter
Danforth	Kempthorne	Thurmond
Dole	Kohl	Wallop
Domenici	Lott	Warner
Durenberger	Lugar	

NAYS—55

Akaka	Dodd	Kerrey
Baucus	Dorgan	Kerry
Biden	Exon	Lautenberg
Bingaman	Feingold	Leahy
Boxer	Feinstein	Levin
Breaux	Ford	Lieberman
Bryan	Glenn	Mathews
Bumpers	Graham	Metzenbaum
Burns	Gregg	Mikulski
Byrd	Harkin	Mitchell
Campbell	Hollings	Moseley-Braun
Conrad	Inouye	Moynihan
Daschle	Johnston	Murray
DeConcini	Kennedy	Nunn
Pell	Rockefeller	Stevens
Pryor	Sarbanes	Wellstone
Reid	Sasser	Wofford
Riegle	Shelby	
Robb	Simon	

NOT VOTING—1

Boren

So the amendment (No. 1522) was rejected.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senate will come to order.

Under the previous order, the committee substitute, as amended, is agreed to.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The clerk will read S. 4 for the third time.

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

The PRESIDING OFFICER. Under the previous order, the Commerce Committee is discharged from further consideration of H.R. 820, and the Senate will proceed to its immediate consideration.

The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 820) to amend the Stevenson-Wydler Technology Innovation Act of 1980.

The PRESIDING OFFICER. Under the previous order, all after the enacting clause of H.R. 820 is stricken and the text of S. 4, as amended, is inserted in lieu thereof.

The clerk will read H.R. 820 for the third time.

The bill was read the third time.

The PRESIDING OFFICER. The question is on the passage of H.R. 820, as amended. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Oklahoma [Mr. BOREN] is necessarily absent.

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

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

The result was announced—yeas 59, nays 40, as follows:

[Rollcall Vote No. 60 Leg.]

YEAS—59

Akaka	Cohen	Harkin
Baucus	Conrad	Hatfield
Biden	Daschle	Heflin
Bingaman	DeConcini	Hollings
Boxer	Dodd	Inouye
Breaux	Dorgan	Jeffords
Bryan	Exon	Johnston
Bumpers	Feinstein	Kassebaum
Burns	Ford	Kennedy
Byrd	Glenn	Kerrey
Campbell	Graham	Kerry

Kohl	Moseley-Braun	Rockefeller
Lautenberg	Moynihan	Sarbanes
Leahy	Murray	Sasser
Levin	Nunn	Shelby
Lieberman	Pell	Simon
Mathews	Pryor	Stevens
Metzenbaum	Reid	Wellstone
Mikulski	Riegle	Wofford
Mitchell	Robb	

NAYS—40

Bennett	Faircloth	McConnell
Bond	Feingold	Murkowski
Bradley	Gorton	Nickles
Brown	Gramm	Packwood
Chafee	Grassley	Pressler
Coats	Gregg	Roth
Cochran	Hatch	Simpson
Coverdell	Helms	Smith
Craig	Hutchison	Specter
D'Amato	Kempthorne	Thurmond
Danforth	Lott	Wallop
Dole	Lugar	Warner
Domenici	Mack	
Durenberger	McCain	

NOT VOTING—1

Boren

The bill (H.R. 820), as amended, was passed.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senate insists on its amendment, requests a conference with the House on the disagreeing votes of the two Houses on H.R. 820, and the Chair is authorized to appoint conferees.

Thereupon, the Presiding Officer (Mr. CAMPBELL) appointed Mr. HOLLINGS, Mr. ROCKEFELLER, and Mr. DANFORTH conferees on the part of the Senate.

The PRESIDING OFFICER. Under the order of March 15, 1994, S. 4 is returned to the calendar.

GENERAL AVIATION REVITALIZATION ACT OF 1994

The PRESIDING OFFICER. Under the previous order, upon disposition of H.R. 820, the Senate resumes consideration of S. 1458, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1458) to amend the Federal Aviation Act of 1958 to establish time limitations on certain civil actions against aircraft manufacturers, and for other purposes.

The Senate continued with the consideration of the bill.

Mr. DANFORTH. Mr. President, I am pleased to support S. 1458, the General Aviation Revitalization Act of 1993. This legislation will help to lift the weight of product liability lawsuits that has almost crushed our light aircraft manufacturing industry. I commend Senator KASSEBAUM for her leadership on this issue, which culminates with today's vote on this legislation.

The general aviation industry has experienced a dramatic decline in production since 1978. In that year, the industry produced 18,000 aircraft, of which 17,000 were piston-engine aircraft. Last year, the industry manufactured only 900 aircraft, including only 555 piston-engine aircraft. According to the General Aviation Manufacturers Association [GAMA], a major reason for the dramatic decline in the light aircraft industry is the application of the doctrine of strict liability in product liability cases arising out of aircraft accidents. GAMA statistics indicate that claim and defense costs for light aircraft airframe and component manufacturers have risen from $24 million in 1976 to $210 million in 1986. The three largest manufacturers of piston-engine aircraft are virtually out of that line of business. By 1986, Cessna, which has been the largest manufacturer of piston-engine models, had dropped completely out of that business. Last year, Beech manufactured only 18 percent of the piston aircraft they made in 1978, and Piper's production of piston aircraft has dropped to 2 percent of the 1978 level. Piper has been in bankruptcy since 1991.

Beech compiled statistics on all product liability litigation it defended between 1983 and 1986. During that time, Beech was named in 203 suits. The National Transportation Safety Board determined that a factor other than design or manufacturing error was the cause in each accident. Nevertheless, the average cost of each lawsuit, including defense costs and verdicts, was $530,000. Beech estimated that the costs of litigation added $70,000 to the price of each new aircraft.

The industry's decline has led to severe job losses and a balance of trade deficit. According to Russell Meyer, president of Cessna, this decline has led to the loss of 100,000 jobs. Moreover, in 1978, the light aircraft industry ran a balance of trade surplus of $340 million. In 1981, the industry experienced a balance of trade deficit of $200 million. That was the first deficit ever in the history of the industry. Last year, the balance of trade deficit reached $800 million.

Current product liability law allows manufacturers to be held liable for defective design or manufacture decades after the aircraft is manufactured. The average piston-engine aircraft is over 27 years old and one-third of the fleet is over 32 years old and manufacturers continue to be held liable for the design and manufacture of these aircraft. This "long tail" of liability will destroy what little remains of the light aircraft industry unless the problem is addressed immediately.

Unlike many problems, this one has a consensus solution—enactment of legislation limiting the liability of general aviation manufacturers. This legislation enjoys such strong support because it will create jobs.

The International Association of Machinists strongly supports this legislation. Russell Meyer has said that his company will restart production of piston-engine aircraft if this legislation is enacted and, "within 5 years, more than 25,000 jobs would be created at no cost to the Government." In addition to light aircraft manufacturers, the Aircraft Owners and Pilots Association, representing those who purchase and use general aviation, support this initiative. Thus, this legislation is supported by manufacturers, labor, and the primary organization representing the users and consumers of general aviation.

The members of President Clinton's Airline Commission unanimously supported enactment of a 15-year statute of repose in their August 19 report to the President and the Congress. The report states:

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 create thousands of jobs.

The Commission reiterated its staunch support for this legislation in a November 2 letter to Transportation Secretary Federico Peña. The letter was commenting on a staff draft prepared by bureaucrats at the Department of Transportation that called for more study of the statute of repose issue. It started:

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. This is a limited and targeted response to a demonstrated problem.

The Commission went on to say, "The time is right, right now."

Mr. President, I agree with the Commission. The time to act is now. Passage of this legislation will restore fairness to product liability cases involving general aviation aircraft, and it will revitalize an important industry while creating tens of thousands of new jobs. I urge my colleagues to support S. 1458.

Mr. CHAFEE. Mr. President, I applaud my colleague from Kansas for her tenacity, perseverance, and great patience in bringing once again the issue of general aviation liability reform before this body.

By granting an 18-year statute of repose, the Kassebaum legislation addresses one of the most important factors that have brought about the decline of the general aviation industry: increased product liability exposure, and its staggering cost to aircraft manufacturers.

General aviation manufacturers are spending a huge amount of time and resources on defending lawsuits instead of developing or perfecting products and manufacturing technology. That burden is having an extremely detrimental effect on the health of the general aviation industry in this country. Sales of domestic aircraft have dropped sharply since the late 1970's.

Cessna, Piper, and Beech aircraft among others have cut back production dramatically. Listen to this: In 1979, U.S. companies turned out 17,000 general aviation aircraft; in 1992, our companies made 400. The loss in this particular manufacturing sector has in turn had a ripple effect on the overall economy, with an estimated 100,000 jobs lost in general aviation manufacturing and those industries who supply general aviation parts and service. And U.S. manufacturers, who used to produce more than 95 percent of the world's general aviation aircraft, no longer have that leadership. The world leaders now are France, Germany, and Italy.

Let me share one example with my colleagues. I have a letter here from Cessna. Cessna is a subsidiary of Textron, which is headquartered in my State of Rhode Island and which is an important employer there. Cessna has quit the business of piston aircraft completely, even though those sales were going quite well for them. Indeed, between 1965 and 1982, Cessna sold 6,500 piston aircraft annually, and was investing $20 to $25 million in research and development annually—15,000 men and women were employed by Cessna back then.

But in 1986, with just 3,000 employees, they quit the piston aircraft business altogether. Why? Because of the phenomenal liability costs. Coincidentally, these costs amounted to $20 to $25 million each year—the same amount previously spent on R&D.

If the Kassebaum legislation is enacted into law, the president of Cessna, Russ Meyer, said publicly last fall that Cessna will restart production as soon as possible. And the entire general aviation industry predicts that if this legislation is enacted into law, employment in that industry will increase by 25,000 within 5 years. What a boost that would be in these difficult economic times.

Last August, the President's National Commission to Ensure a Strong Competitive Airline Industry came out with 61 recommendations. The single policy recommendation that the Commission believed would create the most jobs was to establish a statute of repose for the general aviation industry. No wonder the International Association of Machinists joins in support of this bill.

Now I want to reiterate a point made previously in debate on this bill about public safety: As my colleague from Kansas has so ably pointed out, this issue is not—I repeat not—a question of whether or not consumers are protected when they buy this aircraft. There are strict regulations placed on the general aviation industry for their manufacturing processes. Stringent Federal guidelines ensure that planes are built according to exacting criteria, and Federal approval and certification is required along the way. We have ensured that passengers in these aircraft are not placed in danger because of shoddy design or manufacturing, or any shortcuts taken by the manufacturer.

Indeed, I might point out that the bill is supported by virtually every aviation consumer organization.

When accidents do happen, virtually all—99 percent—occur not due to a manufacturing or design defect, but to other causes. Yet the liability costs for general aviation have skyrocketed.

I would argue strongly to my colleagues that a great part of our role in Congress is to protect the public's welfare and encourage economic development. The current liability system for general aviation adds nothing to public welfare, and enormously harms economic development.

If we do not adopt this measure, we will continue to see a decline in the general aviation industry—and equally important, a decline in U.S. jobs and trade. Are we ready to see the United States not only lose global leadership in this industry but to allow the general aviation industry to disappear altogether in this country?

In one stroke, we can improve substantially the situation—and therefore the fate—of this important industry. For Congress not to act is madness. I for one am not ready to see this industry, with all its technology and jobs, disappear from the face of this country.

I urge the adoption of this very simple but wise measure, and again extend my compliments to the Senator from Kansas.

Mr. DOLE. Mr. President, I rise in support of my distinguished Kansas colleague, NANCY KASSEBAUM, as an original cosponsor of this important legislation that is designed to revitalize the general aviation industry. Since the 99th Congress, we have been attempting to obtain some form of relief that addresses a serious problem confronting this important national industry.

Mr. President, the general aviation industry has paid the price in recent years because of the dramatic increased costs associated with product liability. This legislation is a commonsense approach. It makes no sense for the general aviation industry to be penalized by these outrageous increases since they have occurred during a period where the safety record of general aviation has greatly improved.

In Kansas, especially in Wichita, where Beech, Cessna, and Learjet companies manufacture aircraft, the effect of congressional inaction has been dramatic. In 1992, a total of 899 general aviation aircraft were delivered—representing a decline of 6.7 percent from 1991. Of those aircraft deliveries, the world export market also showed a 5-percent decline. Contrast that to 17,000 general aviation aircraft sold in 1979. Although 1993 aircraft delivery figures edged up slightly, it is clear to me that the industry is not experiencing new and robust health in the current environment.

Liability payments by manufacturers, on the other hand, rose from $24 million in 1979 to approximately $240 million in 1990. U.S. airplane manufacturing employment has declined since 1980 by 46 percent—from 40,000 workers to approximately 21,500 today.

The result is lost jobs, lost aircraft sales, and lost export markets. In addition, these losses also create adverse affects on other industries that rely on a healthy aircraft manufacturing market.

Mr. President, this approach, the creation of an 18 year statute of repose on civil actions brought against aircraft manufacturers or producers of general aviation parts is different from our previous efforts and represents a reasonable, sensible and fair solution for all concerned. This legislation is supported by manufacturers, consumers and labor. It was recommended by the President's Commission to Ensure a Strong Competitive Airline Industry. In fact, Cessna Aircraft Co. in Wichita has made no secret of the fact that it will immediately hire workers to begin production of piston-powered aircraft as soon as this legislation is passed.

In fact, Mr. President, this approach will create thousands of high wage jobs immediately simply by bringing common sense to the product liability laws affecting general aviation. Not one Federal dollar is needed to get this result. And most importantly, this is not a blank check for relief Mr. President.

I want to congratulate Senator KASSEBAUM on her efforts to bring this important issue to the floor for a vote today. Enactment of this legislation is long overdue, and her efforts have been tireless and commendable.

Mr. DURENBERGER. Mr. President, I rise today in strong support of S. 1458, the General Aviation Revitalization Act of 1993.

Under this bill, as amended, no civil action can be brought for damages arising out of a general aviation accident if the accident occurred more than 18 years after the aircraft was delivered to its first purchaser. In the case of component parts, no civil action may be brought more than 18 years after the date of the replacement or addition.

I am told that most planes by that time have had several owners, at least three major overhauls and on average accumulated 6,000 hours of flying time.

I became a cosponsor of S. 1458 because I believe that unreasonable product liability costs associated with the domestic manufacturing of general aviation aircraft have been the single most important factor contributing to the decline in U.S. production of light airplanes. From 1978 to 1992, American general aviation manufacturers spent

as much to defend product liability suits as they had spent to develop new aircraft from 1945 to 1978. As a result, American production of private airplanes declined from 17,000 in 1979 to less than 1,700 in 1989. Over 100,000 industry and related jobs were lost during that same period.

S. 1458 has the strong support of both manufacturers and organized labor. The International Association of Machinists and Aerospace Workers, the Aircraft Owners and Pilots Association, the Aircraft Electronics Association, the General Aviation Manufacturers Association, the Minnesota Department of Transportation, and Minnesota manufacturer Honeywell, Inc. have all written to me in support of the General Aviation Revitalization Act.

I urge my colleagues to join me in voting for this important measure.

Mr. LEVIN. Mr. President, my vote for this narrowly targeted and industry-specific legislation should not be construed to indicate my general view on issues dealing with Federal involvement in product liability issues.

There is already significant Federal involvement in aviation. The Federal Aviation Administration, governed by laws passed by Congress, has detailed regulatory oversight over general aviation. The FAA must certify each aircraft design before manufacture. Each individual plane must be certified before it is allowed to fly. And, each general aviation plane not in commercial use must pass an annual FAA certification.

The Federal involvement also goes beyond the machinery; the FAA regulates air routes and regulates and certifies the pilots. Thus this industry is in many ways unique, which is appropriate, in its degree of Federal involvement in regulation and certification.

I also want to commend Senator KASSEBAUM for her effort on behalf of this legislation and on her willingness to consider modifications to it. She is a model of tenacity, patience, and fairness.

Mr. DODD. Mr. President, I rise today in strong support of the General Aviation Revitalization Act. This legislation, which I am cosponsoring, should improve the American general aviation industry for manufacturers, employees, and consumers.

The American general aviation industry, which produces small planes designed for private use, has suffered a dramatic downturn in recent years. Deliveries of this type of aircraft dropped from nearly 18,000 in 1978 to less than 900 last year. Because of this decline, more than 100,000 jobs have been lost in manufacturing, sales, service, and related industries.

Much of the problem stems from laws which hold manufacturers liable for planes that were built decades ago. This open-ended liability has driven up the cost of insurance and made it increasingly expensive for American manufacturers. Not surprisingly, foreign manufacturers who are not constrained by these product liability laws have captured a growing share of the market.

This legislation should help restore the competitive balance and provide new opportunities for American workers. Generally, the bill provides that no civil action for damages arising out of a general aviation accident may be brought against the aircraft manufacturer if the accident occurs more than 18 years after delivery of the aircraft to the first purchaser. It also provides a similar, 18-year statute of repose for manufacturers of general aviation component parts.

In the past, I have opposed various measures that Senator KASSEBAUM has introduced on this subject. In my view, those efforts struck the balance too much toward manufacturers. But this most recent version, which has been modified after bipartisan negotiations, is a narrow measure that protects the interests of consumers and employees as well as manufacturers. Indeed, a wide range of constituents in my home State of Connecticut—machinists, airline pilots, and employers—have urged me to support this bill.

In closing, Mr. President, I urge my colleagues to vote in favor of this vital piece of legislation. I commend Senator KASSEBAUM for her hard work on this measure, and I look forward to the opportunity it presents for a revitalized general aviation industry.

The PRESIDING OFFICER. Under the previous order, the question now occurs on final passage of the bill. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senate from Oklahoma [Mr. BOREN] is necessarily absent.

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

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

The result was announced—yeas 91, nays 8, as follows:

[Rollcall Vote No. 61 Leg.]

YEAS—91

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

NAYS—8

Biden	Shelby	Wellstone
Bradley	Simon	Wofford
Heflin	Specter	

NOT VOTING—1

Boren

So the bill (S. 1458) was passed, as follows:

S. 1458

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 "General Aviation Revitalization Act of 1994".

SEC. 2. 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.—Except as provided in subsection (b) of this section, 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 18 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 18 years after the date of the replacement or addition.

"(b) EXCEPTIONS.—Subsection (a) of this section does not apply—

"(1) if the claimant pleads with specificity the facts necessary to prove, and proves by clear and convincing evidence that the manufacturer with respect to certification or obligations with respect to continuing airworthiness of an aircraft or aircraft component knowingly misrepresented to the FAA, or concealed or withheld from the FAA, required information that is material and relevant to the performance or the maintenance or operation of such aircraft or component that is causally related to the harm which the claimant allegedly suffered;

"(2) if the person for whose injury or death the claim is being made is a passenger for purposes of receiving treatment for a medical or other emergency; or

"(3) if the person for whose injury or death the claim is being made was not aboard the aircraft at the time of the accident.

"(c) 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.

"(d) 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).".

SEC. 3. CONFORMING AMENDMENT.

The table of contents contained in the first section of the Federal Aviation Act of 1958 is amended by adding at the end of the matter relating to title XI of such Act the following:

"Sec. 1119. Time Limitation on Civil Actions Against Aircraft Manufacturers.

"(a) In general.

"(b) Exceptions.

"(c) General aviation aircraft defined.

"(d) Relationship to other laws.".

Mr. SPECTER. Mr. President, when I voted in the rollcall, the tally was 91 in favor of Senator KASSEBAUM'S bill and 6 opposed with one additional Senator voting no after I did, so I cast this protest vote knowing that the bill would be overwhelmingly approved by the Senate. I did so with substantial reservations because of a strong Pennsylvania constituent interest on general aviation aircraft and a boyhood of growing up in Wichita, KS, where Steerman, Cessna, and Beechcraft were very prominent companies.

I voted against the 18-year statute of repose because of a fundamental view that the courts should be open and my abiding confidence in the jury system notwithstanding its lapses on excessive verdicts which can be dealt with in other ways. Simply stated, I believe that an injured person should not be barred from court by a statute of repose where the airplane is represented by its manufacturer to have a useful life in excess of 18 years and the statistics show such planes are operated for a much longer period of time.

In casting this vote, I am mindful of the arguments in favor of the bill that the number of planes produced by the industry has declined from 18,000 annually to just over 900 in the last 20 years with over 100,000 jobs having been lost. While there is significant disagreement, many industry experts attribute much of that decline to cost increases including defense and liability exposure for aircraft manufactured long ago.

In disagreeing with all 43 of my Republican colleagues and 48 Democrat Senators, I do so having just completed extensive research on keeping the courts open in preparation for an argument in the Supreme Court of the United States involving the Philadelphia Naval Shipyard. My extensive review of the cases has convinced me, more than ever, the courts should exercise judicial review in cases like the Philadelphia Navy Yard and courts should not be closed to injured parties by a statute of repose. While the statute of repose closes the courts in a somewhat different fashion from rejecting judicial review, there are substantial similarities.

From my own litigation experience in the product liability area, I believe that juries will give appropriate deference to defendants where liability allegations are made on general aviation aircraft more than 18 years old. If manufacturers represent that a given product will last only a specific length of time, then I would agree to limiting their liability through a statute of repose to that timeframe.

Statistics represent that the average general aviation aircraft is in service 25.6 years so it is obvious that some planes are in service for a much longer period of time, and there is evidence that planes can and do fly for more than 18 years with latent design defects.

But beyond my own personal concerns about flying in many general aviation planes, I think that public policy is best served by deciding these close questions in favor of safety over profits.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be a period for morning business, during which time Senators may be recognized to speak for up to 10 minutes each; that the period for morning business extend until 12:30 p.m. today, and that at 12:30 p.m., the Senate proceed to the consideration of Calendar Order No. 259, S. 1275, a bill to facilitate the establishment of community development financial institutions.

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

WORKERS' COMPENSATION

Mr. THURMOND. Mr. President, I rise today because this body stands on the threshold of what promises to be a historic debate concerning health care. While it is generally recognized that our health care system is in need of reform, we are nevertheless a long way from consensus as to what to do. The public will be watching Congress closely; therefore, we must make sure that whatever changes occur in our health care system are for the better. Our constituents expect a lot.

In that regard, Mr. President, I want to take a few minutes to focus this body on one critical aspect of health care: Workers' compensation. As a member of the Committee on Labor and Human Resources, this topic will be of prime importance to me and, I hope, to many of you as health care reform proceeds.

Workers' compensation was created over 80 years ago and is the result of a commonsense compact between business and labor. If a worker is injured on the job, all of his or her medical expenses are covered, and disability payments, in lieu of paychecks, are made until the worker returns to the job. In return, the injured worker agrees not to sue his or her employer to receive compensation for the injury. Thus, both business and labor have the certainty that an injured worker will not suffer financially and, equally important, will be given medical care. The goal of workers' compensation is simple: Get an injured worker back to work and normalcy as soon as possible.

Mr. President, workers' compensation has always been a State-managed system, and various States have operated their systems differently. Private insurance companies provide converge in many States, while other States operate their own workers' compensation funds. While the financial condition of workers' compensation programs has varied and continues to vary widely, States have always had the freedom and flexibility to experiment with new ideas and approaches to improve the system. In the last few years, several States, such as California and Florida, have reformed their workers' compensation programs. Currently, dozens of workers compensation legislative proposals are pending in various State legislatures.

Of all the various health care proposals now under consideration, only the President's plan addresses workers' compensation. The remaining proposals—be they Democratic, Republican, or both—do not address workers' compensation and, therefore, leave the present system unaffected. While I understand the President's desire to include as many of our health care delivery systems under the umbrella of reform, I am hesitant to support the inclusion of this traditionally State-controlled system in any Federal legislation. If workers' compensation is included, however, there are several key principles against which any proposal must be judged.

First, workers' compensation must remain a State, rather than a Federal, system. In that regard, various State reforms should not be disturbed. Second, insurers or employers who foot the bill for medical care should continue to have significant decisionmaking authority. Third, experience rating—which encourages a safe workplace—should be maintained; and lastly, workers' compensation, as the exclusive remedy for an injury, must be preserved.6

While there are many things we should not change, let me add how

health care reform could improve workers compensation. Simply put, health care reform must help end the massive cost shifting onto workers' compensation that currently occurs. This could be accomplished by legislatively prohibiting workers' compensation programs from being charged more for medical services than other programs. Combined with new access to all types of benefits and delivery systems, this cost-shifting prohibition could be of significant benefit to workers' compensation programs in every State.

Mr. President, workers' compensation has been the subject of great attention not only by those who administer workers compensation programs, but also by numerous business and insurance groups who are greatly concerned that health reform causes no harm to this program. In that regard, I would like unanimous consent to include, after my remarks, statements by the International Association of Industrial Accident Boards and Commissions, the National Association of Manufacturers, the U.S. Chamber of Commerce, the National Federation of Independent Business, and the Alliance of American Insurers, which address workers compensation.

Mr. President, as the debate over health care proceeds, I urge my colleagues to be mindful of workers' compensation and to judge any proposal to change this program by the principles I have just outlined. Any changes to workers' compensation at the Federal level must not harm this vital program.

I ask unanimous consent that material pertaining to this subject be printed in the RECORD.

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

INTERNATIONAL ASSOCIATION OF INDUSTRIAL ACCIDENT BOARDS AND COMMISSIONS—RESOLUTION REGARDING NATIONAL HEALTH CARE REFORM

Whereas the President of the United States is committed to providing every American access to quality health care; and

Whereas the Administration has proposed to integrate workers' compensation medical coverage into the health care package provided to Americans; and

Whereas the International Association of Industrial Accident Boards and Commissions (IAIABC) is an organization of workers' compensation Administrators and Commissioners; and

Whereas the primary interest of the IAIABC is to improve the effectiveness and efficiency of workers' compensation systems; and

Whereas state workers' compensation laws already provide universal health care for occupational injuries and diseases for all workers covered by workers' compensation laws; and

Whereas many states are already involved in health care reform efforts to assure quality health care for injured workers at a fair and reasonable cost to employers; and

Whereas state managed care initiatives and other medical cost containment reforms directed toward improving quality care at a reasonable cost should not be preempted by any of the current federal health care proposals; and

Whereas due to the long pay out pattern of existing workers' compensation medical liability, under the Administration's health care reform proposal a dual payment system would be created resulting in extreme confusion, indeterminable liabilities and administrative inefficiencies: Therefore be it

Resolved, That the IAIABC opposes integration or merger of workers' compensation medical care and financing into a national health care system at this time. The IAIABC believes that the proposed system would reduce safety incentives, delay return to work, increase costs and destroy the many innovative existing state programs as well as those presently being put in place, without proof that integration or merger would improve the quality of care to injured workers and control or reduce costs to employers while safeguarding the many beneficial elements of the existing workers' compensation system; and be it further

Resolved, That the IAIABC continues to support all sincere and legitimate efforts to improve the workers' compensation systems. The IAIABC supports creation of a task force or commission, which includes state Administrators and Commissioners, to study the feasibility and appropriateness of coordinating workers' compensation with a restructured health care system. Such task force or commission should not be charged to mandate a federal system, preempt state laws or preserve the existing state programs but, rather should be a reasoned effort to improve the systems, lower the costs and assure quality health care and indemnity benefits to injured workers.

Adopted by the Executive Committee of the IAIABC this 15th day of November, 1993, Pittsburgh, Pennsylvania.

STATEMENT BY THE NATIONAL FEDERATION OF INDEPENDENT BUSINESS ON WORKERS' COMPENSATION AND NATIONAL HEALTH CARE

Title X of the Administration's Health Security Act requires each health plan to provide enrollees, or arrange for the provision of, workers' compensation services—defined as medical benefits, rehabilitation, long-term care, and other services commonly used for treatment of work-related injuries and illnesses. This concept has come to be known as a coordination between workers' compensation and national health care, as opposed to a full merger approach which would entail actually separating the medical component of workers' compensation from the disability (or wage loss component and transferring it to a new national health system. Under the coordinated approach the current workers' compensation medical and disability would be maintained, but insurers would contract with approved health plans for the treatment of workers' compensation medical claims.

Many in the Administration seem to favor the idea of separating the medical portion of workers' compensation from the disability component. Under this kind of proposal, medical would become part of the new national health care structure and disability would remain under the purview of existing workers' compensation carriers. Indeed, Title X contains a provision to create a Commission on Integration of Health Benefits to study the feasibility and appropriateness of transferring financial responsibility for all medical benefits, including workers' compensation and automobile insurance, to the health plans. In anticipation of such a proposal, NFIB recently polled its members on this concept (Mandate 501, June 1993). The following question was posed: "Should the Medical Portion of Workers' Compensation be Moved Into a New Standard Health Plan?" Appropriate background information was provided to the membership, including pro and con arguments. The results were 19 percent voting in the affirmative, 63 percent voting in the negative, with 18 percent undecided.

Considering the fact that workers' compensation is mandatory for most employers and that the costs for this insurance are rising faster than general health insurance, one might think that employers would opt for any kind of change that offered some hope of reducing costs. Indeed, the Administration has put forth its proposed merger of health insurance and workers' compensation medical as a cost containment measure. Clearly, NFIB members did not view it as such. Since workers' compensation medical expenditures are less than 2 percent of all health care expenditures, it is hard to conceive of the merger approach as a major cost containment mechanism. Under either the merger approach or the coordinated approach, any cost savings are likely to occur as a result of getting workers' compensation medical claimants into a managed care environment. This can be achieved without dismembering the current workers' compensation program. A recent study by the Workers Compensation Research Institute (WCRI) of Cambridge, Massachusetts on the cost implications of the coordinated approach under Title X presents some disturbing findings. The WCRI report concluded that:

"On balance, the Clinton plan is likely to increase costs for workers' compensation—the effects of features that increase costs are likely to outweigh effects of features that reduce them. The possible exception is the corporate alliances which could provide a vehicle for large employers to counter some of the cost-increasing incentives created by the Clinton plan."

The WCRI study identified seven components of Title X which could be cost-drivers with respect to workers' compensation—driving costs either up or down. Among those factors which would tend to increase costs:

Mixing fee-for-service and capitated payment would create an incentive to shift costs from general health care to workers' compensation.

Disconnecting responsibility for managing medical treatment from the responsibility for paying indemnity benefits may increase these wage-loss payments.

Allowing employees to choose specialized workers' compensation providers may offer incentives for doctor shopping and excessive service provision by providers, as well as delay return to work efforts.

WCRI identified other components of the Clinton plan that would create incentive to promote cost savings. These include:

Medical fee schedule, depending on the level that the rates are set, could drive costs down.

Managed care treatment of workers' compensation medical claims could lead to lower medical costs and possibly lower indemnity costs.

The development of promised medical treatment protocols for work-related injuries and illnesses could lead to lower costs, depending on the enforcement mechanisms in place.

Selective contracting with the most cost-effective health care plans by corporate alli-

ances could offset the effects of the fee-for-service/capitation mix and the medical-indemnity disconnect, but only for large corporations.

The Administration has repeatedly touted Title X as a way of bringing down the costs of workers' compensation, and has argued that business should support the adoption of the Health Care Security Act, in part, because of this promised cost savings. The WCRI findings gives us great cause for concern over the Administration's claims.

There are also several technical problems in merging workers' compensation and health insurance. These revolve around the difference between health and comp in such areas as experience rating, scope of coverage, extent of coverage, benefit levels, cost sharing, and so forth. In addition, splitting the system into two parts means that employers/insurers would essentially lose control over the disability case management aspect of workers' comp. Eliminating the rehabilitation and return to work supervision of employees could seriously inhibit the ability to control costs on the disability side. Administration officials have come to recognize that these problems are significant and are beginning to give serious thought to how they might be resolved.

Since most employers are required to carry workers' compensation, they have some understanding of the program, and they understand that workers' compensation reform is absolutely essential. It will be difficult, however, to convince them that a merger of the health and comp systems represents the road to reform if the technical problems outlined above cannot be resolved.

NFIB appreciates efforts by the Administration and others to mitigate the workers' compensation burden on small business. In testimony delivered before the House Small Business Committee in September of last year, NFIB stated its belief however, that a full integration policy, untested in the United States, is unworkable and may not effectively slow down cost increases. In that same testimony, we noted that a "coordination" policy, that allows cost-saving managed care programs to be applied to workers' comp cases would be far preferable and, we believed, more palatable to both employers and insurers. Now, however, considering the findings of the Workers Compensation Research Institute with respect to the workers' compensation cost impacts of Title X of the Clinton legislation, NFIB believes that it is time to simply drop Title X altogether from the Health Security Act. No other health plan before the Congress deals with the workers' compensation issue. We believe it is time to get on with the business of fashioning a health care reform bill. Once we have some idea of what the health care reform will look like, then we can determine how workers' compensation may, or may not, fit into a new national health care plan.

[From the NAM Board of Directors, Naples, FL, Feb. 5, 1994]

NAM RESOLUTION ON HEALTH CARE REFORM AS IT RELATES TO WORKERS' COMPENSATION

The members of the National Association of Manufacturers (NAM) have previously expressed concern with the rising costs of health care and the high numbers of uninsured Americans. We are also concerned about the cost impact that changes to the health care system would have on the workers' compensation system. After careful study of the President's reform proposal as it affects workers' compensation (Title X), we have come to the conclusion that this complex issue deserves separate attention from that of the health care system.

Title X would jeopardize successful workers' compensation reform efforts at the state level, particularly as they relate to cost control mechanisms. The proposal would, among other things, eliminate employer choice of provider and diminish employer input and control of case management. Of greatest concern is the Federal Commission called for in Title X which apparently is intended to federalize the entire workers' compensation system. The members of the NAM believe that any federalization of these programs would be a serious error. At the state level, the benefits can best be tailored to fit local socio-economic conditions and such situations as may arise as the result of the introduction of new industries and technologies. Therefore, workers' compensation should continue to be regulated and administered by the states without intervention by the federal government.

For the reasons listed above, the workers' compensation provisions of Title X should be removed from the Administration's Health Security Act. If a Federal health care reform plan is enacted, specific statutory language must be included to prohibit cost-shifting to workers' compensation.

BACKGROUND

Outlined below in greater detail are our concerns.

Choice of physician: The value of allowing the free selection of physician is debatable. We have seen no evidence to support that this is preferable in workers' compensation cases. Most employees do not have the training, knowledge or information necessary to make these decisions, particularly in instances requiring specialists and rehabilitation. The proposal allowing states to certify specialists available to injured workers outside their basic Alliance Health Plan would facilitate doctor shopping and create additional disputes over medical treatment. Currently, roughly half the states are split between employee and employer choice of physician. Under Title X, the employer would have no control and in some cases no input in that decision.

We believe that there is value to employer input into the choice of physician and that the employee is better served if he/she makes this decision with the advice of the employer. If the system allows the employee to switch doctors, this is likely to result in the unnecessary lengthening of the disability period and/or the impairment rating, which will increase costs.

The bill as substantially written reduces the ability of the employer to control treatment. This, coupled with the free choice of physician by the employee, could result in treatment by inappropriate provider or providers lacking appropriate training for the injury involved. In any case, it does nothing to enhance or maintain the quality of treatment available to the injured workers.

Case management: Case management is critical to the successful treatment of serious injuries. To speed recovery and allow a timely return to work for injured workers, the case manager needs a thorough understanding of the specific jobs and workplace. This is most effectively accomplished by employer or carrier case managers. Case managers working for the alliances or AHP's (as structured under the Health Security Act) will be subject to internal financial pressures which are not conducive to the goal of high-quality, cost-effective care aimed at a prompt return to productivity. Additionally, dual case managers create further opportunity for additional strife within the system.

Cost Shifting: We are fearful that there are incentives in this bill for employees to shift cases to workers' compensation in order to receive first dollar coverage. While Title X does contain language calling for the development of treatment protocols and fee schedules to address all medical services, until these are fully operational, health plans may still employ differential pricing to the detriment of workers' compensation.

Proposed Workers' Compensation Commission: The NAM questions whether federal commissions produce value commensurate with their costs. In this case, we do not feel the commission should be charged with completing a study for further integration of the workers' compensation system into the general health care program before the reform program goes into effect. If the commission is required, it should not issue any recommendation until it has had time to evaluate the effectiveness of the reforms. In addition, we are concerned that the commission may expand its scope into issues concerning coverage and benefits, areas which fall under the jurisdiction of the states. The NAM believes these issues should remain with the states.

[U.S. Chamber of Commerce position on workers' compensation legislation]

STATEMENT ON WORKERS' COMPENSATION AND HEALTH CARE REFORM

As the country reviews proposals that will fundamentally alter the U.S. health care system and its impact on the states' workers' compensation systems, the U.S. Chamber of Commerce seeks to play a constructive role in helping to form a national consensus on this issue. Accordingly, the Chamber offers the following guidelines as a basis upon which we will assess the viability of any plan. There are two underlying principles, recognized in the first three guidelines below, that are central to the policy of the Chamber. First, we remain steadfastly opposed to the federalization of state workers' compensation systems. Second, the medical component of workers' compensation must be able to effectively benefit from any medical cost saving mechanisms instituted under a reformed health care system.

Workers' compensation must remain within the exclusive domain of state laws. A reform effort should not operate to expand any existing federal mandates or create any new ones, or to otherwise affect benefit levels established by the states.

Direct and total integration of the medical component of workers' compensation into nonoccupational health care reform is unacceptable. An employer's current ability to engage in overall disability management to ensure maximum rehabilitation in the earliest time frame with an eye toward controlling indemnity costs is essential to a workable, cost-effective workers compensation system. The Chamber will strongly and actively oppose any provision aimed at total integration.

The health care portion of workers' compensation must be allowed to take advantage of any medical cost savings that national health care reform would produce. Non-discrimination in the pricing of medical care between occupational and non-occupational injuries or diseases should be established. Health care reform should not leave workers compensation more vulnerable to cost shifting.

The current safety incentives, including experience rating based on both medical and

indemnity costs, should be maintained. Employers with good safety programs should continue to benefit from their efforts and should not be required to subsidize unsafe employers.

The current development and implementation of managed care and effective cost containment in workers' compensation should be permitted to continue.

The exclusive remedy principle of workers' compensation should be retained. This principle embodies the practice of employees giving up their right to sue the employer for a work-related injury or illness in exchange for reasonable and necessary medical care and cash benefits replacing a portion of lost income on a no-fault basis. Relaxing or eliminating this practice would needlessly expose employers to expensive and damaging tort litigation and would undermine support for no-fault benefits for workers.

The ability of employers to select medical care providers, where such ability exists under state workers compensation jurisdictions, should be preserved.

Employers' right to direct return-to-work efforts, including rehabilitation and associated medical care, should be allowed to continue. Sole control by providers is unacceptable.

The determination of work-relatedness and other medical-legal issues should continue to be governed by state workers' compensation statutes.

The right to self-insure in accordance with state workers' compensation laws should be preserved. Self-insurance permits employers to elect to bear their own risk if they are financially qualified to guarantee delivery of required benefits.

The role of federal workers' compensation programs (e.g., Longshore Act, Federal Employees Compensation Act, Black Lung program, etc.) within a reformed system must be considered. The effect of allowing any of these programs to opt out of the reformed system should be explored.

Workers' compensation premiums should remain fully tax deductible and benefit payments should remain excludable.

The current paperwork requirements should not be increased.

State law should continue to govern the definition of coverage (and obligation to cover). Specifically, coverage should be based on date of injury, not date of medical service.

Any reform effort should not impede states' efforts to effectively deal with fraud.

[From the Alliance of American Insurers, Washington, DC]

ALLIANCE OF AMERICAN INSURERS POSITION PAPER—WORKERS COMPENSATION AND TITLE X OF THE HEALTH SECURITY ACT

The Alliance of American Insurers is committed to achieving medical cost containment within the state-based workers compensation system. We are equally committed to opposing any plan that would sacrifice the high quality medical care and rehabilitation which victims of occupational accidents now receive through workers compensation programs.

A key workers compensation element which must be preserved in any reformed system is the ability of the employer and insurer to manage recovery from disabling work-related injuries. Effective medical treatment can reduce disability, but disability management speeds the worker's return to employment and often can reduce the amount of medical care which must be provided. The Alliance believes that any workers compensation reform proposal should embody the following principles:

1. Workers compensation providers should be allowed access to all health care delivery systems in use;
2. Unfair discrimination resulting in cost shifting should be eliminated;
3. States should continue to regulate workers compensation;
4. Insurers/employers who are responsible for medical care and disability payments should have substantial control over decisions related to that care;
5. Experience rating should be maintained; and,
6. The exclusive remedy doctrine should be preserved.

Title X of the Health Security Act clearly would undermine the first, second, third, and fourth principles listed above. Title X also would create an unworkable system of regulation and administration, including health alliances engaged in price-setting (fee schedules), and unnamed state agencies controlling access to expert workers compensation medical care. Furthermore, if the medical care component of workers compensation were to be merged into the proposed health insurance system (and this is virtually a preordained result flowing from Subtitle C), the fifth goal would be lost and the sixth would be at risk.

The Clinton Administration's "coordinated" approach to workers compensation outlined in Title X is flawed because it would require, rather than allow, medical treatment for occupational injuries to be delivered through the employee's health insurance plan, leaving employers with no meaningful input into the choice of medical provider. Title X would shift case management of an injury away from the employer/insurer—who has expertise in the management and treatment of occupational injuries—to the health insurance plan, where expertise would have to be developed. The requirement that each health plan provide a workers compensation case manager simply duplicates services presently provided by the payers for that care and moves this management function to the health plan, which bears no financial risk for medical care or disability.

In addition, Title X arguably would prevent the employer and the state workers compensation agency from questioning whether appropriate medical treatment is being received by an injured employee. This would establish a prohibition that presently does not exist even in states where the employee has the right to initial selection of a physician.

Shifting medical management of an occupational injury from the employer/insurer to the health insurance plan is likely to increase the length of disability (lost productivity) and drive up disability costs. The parties paying for disability, who have a financial stake in an employee's swift return to work, would be restricted in directing treatment toward that optimal outcome. In contrast, a health plan, its providers, and its case manager would have no financial incentive to speed recovery and return to work. This would work to the detriment of both workers and employers.

Unfortunately, Title X's pre-emption of state workers compensation laws dealing with medical treatment would wipe out much of the improvement already achieved in several states through reform. This is especially true with respect to the application of managed care to occupational injury and disease.

Title X also would create a commission appointed from within the Departments of Labor and Health and Human Services to "study the feasibility and appropriateness of transferring financial responsibility for all medical benefits (including those currently covered under workers compensation) to health plans." From statements made by Administration officials, it is clear that this commission is expected to recommend total integration of the workers compensation health benefits financing system into the national health insurance system. Such integration would seriously and adversely affect employer safety incentives by moving workers compensation from an experienced-rated to a community-rated system. The public at large would then have to bear the cost of an employer's unsafe workplace.

This would be a giant step in the wrong direction. Integration would create the wrong financial incentives for health plans to provide the intense and special treatment intended to quickly return an injured employee to work. Also, integration would likely erode the exclusive remedy doctrine, thus flooding the courts with litigation, increasing delivery costs to employers and delaying payment of compensation to injured workers.

Overall, Title X would impose an entirely new, unworkable operating structure on state workers compensation systems. Title X also would increase workers compensation costs. In addition, Title X fails to address many state-specific workers compensation problems. For all of the reasons cited above, the Alliance of American Insurers and our 214 member companies believe that Title X would be bad public policy for both employers and American workers.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Connecticut is recognized.

UNIVERSITY OF CONNECTICUT NCAA BASKETBALL

Mr. LIEBERMAN. Mr. President, it has been a tough winter of 1994 in the State of Connecticut. The weather has been brutal, too much snow, too much cold. The economy continues not to show as much strength and recovery as we would like, with too many people still out of work.

Mr. President, in the midst of this very difficult winter of 1994, the good Lord has sent the people of Connecticut reason for hope and something to cheer, and I speak of the UCONN Huskies basketball teams. The University of Connecticut women's basketball team is ranked No. 3 in the Nation, and the men's team is ranked No. 4. In the minds and hearts of the people of Connecticut, Mr. President, as you can imagine, these teams are No. 1.

They turned in exemplary performances during the regular season and are now poised to begin pursuing national championships in their respective NCAA tournaments. The women's team begins playing Brown tonight in Storrs, CT. The men's team plays tomorrow at the Nassau Coliseum against Rider.

So the late winter blues have been replaced in Connecticut by the blue-and-

white colors of Huskymania. The UCONN men's team compiled a 27–4 winning record, and the women's team went 27–2. Without a doubt—and I will not require the Presiding Officer to nod or show approval of the statement I am about to make—in my mind, the State of Connecticut has the best one-two basketball combination of any State in the country.

The men's team, in fact, began the season unranked. Yet, they rose quickly, attaining a position of No. 2 in the country at one point. Longstanding records fell in the wake of this powerful team as the regular season drew to a close: They won 16 Big East games. Our great forward Donyell Marshall captured the single-season Big East scoring mark. And the Huskies won the conference by three games, more than any previous Big East champion.

The Huskies also swept the major Big East awards. Coach Jim Calhoun, who is an inspiration as a leader, was voted Big East Coach of the Year and is in serious contention for National Coach of the Year, and he should win it. Doron Sheffer was named Rookie of the Year. All-American Donyell Marshall took home awards for Player of the Year and Defensive Player of the Year and is currently in contention for the Wooden Award and Naismith Award, which goes to the top male player in college basketball. He was also selected for the First Team by the U.S. Basketball Writers Association and, this morning, the Associated Press First Team All-American Team.

The UCONN women's basketball team was ranked No. 3 in the final women's top AP poll.

Led by coach Jeno Auriemma and Big East player of the year, Rebecca Lobo, the champion Huskies parlayed a record of 27 and 2 with no losses, no losses at home, and a No. 1 seed in the east region and in the NCAA tournament.

For the sixth year in a row, the Connecticut women's team earned a birth in the championship tournament, and riding a crest of 18 consecutive victories, they are favorites to bring home a national championship.

Mr. President, these two teams, as so often happened with sports teams, united Connecticut like few events in recent history in our "land of steady habits." Watching the Huskies has become a steady habit we hope we never break.

I wanted today to rise on the floor of the Senate as these two teams begin their participation in the NCAA tournament, hoping that they will both bring home national championships, but regardless of the outcome saying to each and every member of this team and coaches: Thanks for the season you have given us, congratulations on the skills and grace and accomplishment that you have shown, and thanks to those loyal fans of the Huskies who cheered them along every step of the way.

Mr. President, I conclude by simply echoing in this great Chamber the words that now rise mysteriously but thunderously from the State of Connecticut and its 3.4 million citizens, "Go, UCONN Huskies."

Thank you, Mr. President.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I congratulate the junior Senator from Connecticut.

They finally found out that about basketball all these years, but somehow the last weekend a team from the State of Kentucky beat the No. 1 team in the Nation, won the southern conference and is the No. 3 seed in the NCAA tournament. The University of Louisville with Danny Crump won the Metro Conference. In western Kentucky, one small school down in far west Kentucky will be in the Gang of 64.

So I just want to congratulate the Senator from Connecticut and say that we hope that he goes far but not quite as far as he wants, and I think the cap will probably look better at the gymnasium than it would on the Senate floor?

Mr. LIEBERMAN. Mr. President, I thank the Senator from Kentucky for his kind words. We say to him we look forward to seeing him in Kentucky at the final four in Charlotte.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

NORTH KOREA

Mr. McCAIN. Mr. President, we learn today that once again North Korea has violated its international obligations as signatories to the Non-Proliferation Treaty by refusing to allow IAEA inspectors access to critical parts of its plutonium producing facilities. IAEA inspectors left North Korea yesterday after all attempts to complete their mission were denied. The administration's policy of heaping concession upon concession in the feckless hope that our generosity would beget North Korean good faith in meeting its international responsibilities has failed yet again, and failed miserably.

At what point will this administration accept that appeasement of North Korea is a losing proposition? We have canceled joint military operations with our South Korean allies in the face of a massive buildup of North Korean forces along the 38th parallel. Again and again, we have responded to the abundant evidence of Pyongyang's bad faith by holding out the prospect of improved economic and diplomatic relations. The United States has responded to every broken promise, every lie, every threat with the groundless optimism that tomorrow will be a better day. Tomorrow, this lawless, bellicose regime will come to its senses and abide by its international obligations.

What has this shameful failure to confront squarely an immediate threat to our vital national interests earned us? Nothing but the reckless endangerment of 37,000 American servicemen and women who are stationed in Korea.

Nearly 2 months ago, the American commander in Korea, General Luck, requested the immediate deployment of Patriot missile batteries to defend his troops against a North Korean attack. They have yet to be delivered. Why? Perhaps, the administration views even this reasonable precaution to be too provocative a response to North Korean threats.

The administration's policy can be fairly summarized as "walk softly and carry a bundle of carrots." Thus far, it has given North Korea a full year to conduct its nuclear program without interruption. The administration has given Pyongyang every encouragement that it can continue its buildup indefinitely.

What is at the core of this reckless policy? I believe it is an utter failure of nerve; a failure to confront a difficult problem today in the hope that it will simply go away in time. But it will not go away, and the problem we will inevitably confront in the near future will be more intractable and far more dangerous than it is today.

Now is the time to talk quietly but very firmly to Russia and China. The administration has repeatedly assured the Congress that China has cooperated with our efforts to persuade Pyongyang to abandon its nuclear ambitions. But there is not a scintilla of evidence that they have done so. With every North Korean provocation, including yesterday's, Beijing has stated its opposition to sanctions.

We need not issue public threats to China, but we should impress upon them that a nuclear North Korea is not in their interests either. We need not negotiate with China in the press nor rely on public rhetoric to make perfectly clear our insistence on their help.

Quietly, but with unshakable resolve, we should make clear to China's leaders and Russia's that the resolution of this problem is the United States' No. 1 priority. Without their cooperation, the problem will be much harder to resolve, but the United States will resolve it by whatever means necessary. Without their cooperation, it is exceedingly difficult to see under what circumstances the United States could continue to constructively engage China and Russia.

Let me stress again, this is not a message that the United States should send to Beijing and Moscow through the good offices of the New York Times

or the Washington Post. We have already seen how China responds to public threats issued by the United States Government which China judges, with good cause, to be made for the purposes of public and congressional consumption but which are, like so much of this administration's foreign policy, unconnected to any serious intention to act.

Sadly, we have yet to convince even our allies—those allies most threatened by North Korea's nuclear program, South Korean and Japan—that the United States will react with firm resolve to counter the threat from the north. Consequently, even they are reluctant to take the difficult but necessary steps to begin to impress upon Pyongyang that President Clinton was serious when he said he would not tolerate North Korea's possession of nuclear weapons.

The administration still lingers in a seemingly perpetual state of denial that North Korea could respond to our lack of resolve with aggressive hostility. Even today, the Washington Post quotes an administration official's optimism that "it's still possible to salvage the situation by overcoming North Korea's concerns about the inspection." Nonsense.

It is time for North Korea to overcome our concerns or live with the consequences, consequences that will hasten the collapse of that despicable regime, consequences which include but are not limited to the absolute economic isolation of North Korea.

After close, quiet, determined, and successful consultations with China, Russia, South Korea, and Japan, the United States should go to the U.N. Security Council to seek a complete economic embargo of North Korea. Remittances from Koreans living in Japan should stop immediately. The United States should announce that it intends to return tactical nuclear weapons to the Korean peninsula unless North Korea permits all inspections of its nuclear facilities, including two nuclear waste sites, as required under the terms of the Non-Proliferation Treaty.

The United States should begin making all the force improvements necessary to enhance our conventional and rapid deployment capabilities in South Korea. Our forces should be fully ready to repel aggression irrespective of whether North Korea's bellicosity is real or contrived to intimidate this easily intimidated administration. Joint military exercises are a necessary determinant of our readiness, and we should begin planning the resumption of Operation Team Spirit today. Finally, we should make unambiguously clear to Pyongyang that any use of weapons of mass destruction against South Korea will be met with greater retaliation in kind.

Mr. President, the world is an exceedingly difficult and dangerous place. The Clinton administration has avoided facing up to that grim reality in almost every instance where it has been evident. By their negligence they helped to make the world even more dangerous and the United States markedly less secure than it was before they took office. God help us all if the administration does not take immediate steps to reverse its image abroad as vacillating and insecure. let them start in Korea.

As I have in the past when I have addressed the Senate on this subject, I would like to close by paraphrasing Churchill. Let it not be said one day that in a definitive crisis in the post-cold-war world, the United States faced a choice between appeasement and the prospect of war; we chose appeasement first and got war later.

Mr. President, I yield the floor.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. I thank the Chair.

(The remarks of Mr. ROTH pertaining to the introduction of S. 1934 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

SAFETY REGULATIONS IN PASSENGER VEHICLES

Mrs. FEINSTEIN. Mr. President, I would like to speak on an incident last week that raises serious questions about national passenger safety standards for motor vehicles.

CRASH INCIDENTS

On March 9, a 1981 Toyota pickup truck carrying 20 people overturned. Twelve people were killed. Eight people were injured.

Of the four people wedged into the cab of the pickup, only the driver survived. Nine of the 16 passengers in the bed of the pickup, which was covered by a camper shell, were killed.

Among the seven men and five women who died was a pregnant woman.

The 16 people crammed into the back of this pickup were not required under California law to wear seatbelts because the pickup truck was covered by a camper shell.

In October 1993, a 16-year-old was killed in the Daly City area when a half-ton pickup truck with 10 other young people overturned.

In July 1993, seven young passengers in the bed of a pickup were killed when an alleged drunk driver lost control of his car in Commerce and struck the pickup truck. The victims in the pickup, six males and a female ranging in age from 14 to 20, were returning to the San Gabriel Valley from an outing to the beach. There were only two survivors.

That same month, a teenager died in a traffic accident after a pickup truck rolled over three times, throwing him from the truck bed onto a road in Santa Ynez. The two passengers in the vehicle, both of whom were wearing seat belts, survived the accident.

In June 1993, two teenagers were killed as a pickup carrying teenagers from a graduation ceremony crashed in Oxnard.

In September 1991, two teenage boys were killed and two others injured when a pickup overturned on a curve on Moreno Boulevard in Lakeside.

STATE STATISTICS

According to California Highway Patrol statewide statistics, 144 people who were riding without restraints in truck cargo areas were killed in accidents between 1989 and 1992. Another 3,600 were injured in that period.

STATE LAWS

On January 1, 1993, a new law took effect that allowed police, sheriff's and California Highway Patrol officers to pull over motorists for not wearing seatbelts in passenger cars. The first offense brings a $22 fine. The second brings a $55 fine.

California has required motorists to wear seatbelts since 1986. The only real change that occurred in 1993 is that motorists can be pulled over and ticketed simply for not wearing their seatbelts. Previously, officers had to have another reason for stopping a car.

At this point, California law only required that children under the age of 12 be accompanied by an adult when riding in the back of a pickup truck. Ironically, more restrictive laws applied to animals—as a result, animals must be restrained when in the back of a pickup according to a law passed in 1987.

Beginning on January 1, 1994, the California law was expanded. CHP officers began citing motorists and passengers who ride in the beds of pickup trucks without seatbelts. Passengers may only legally ride in the backs of these trucks if they are strapped in by a lap belt attached to a seatbelt bolted into the bed.

But, yet another tragedy has shown that the California laws are inadequate. Twelve people died last week when the pickup truck careened off the road—and no California or Federal law prevented the 20 people from cramming into the vehicle. A loophole in the California law means that anyone who rides in a pickup with a camper shell is exempted under the law.

FEDERAL STANDARDS

The issue of seatbelt safety is not new to the Federal Government. As of September 1, 1989, all new passenger cars produced for sale in the United States are required to be equipped with restraints—either seatbelts or airbags. According to the Department of Transportation, about 4,575 lives were saved in 1989 as a result of the seatbelt use.

Yet, there remains a great deal of leeway in minimum safety standards adopted by States.

I believe it's time to set a minimum national standard of safety for passenger vehicles—cars, pickup trucks, minivans, vans, and the increasingly popular jeeps.

According to a report received from the American Automobile Manufacturers Association, truck sales represent one of the fastest growing segments of the American automobile industry. From 1992 to 1993, there was a 16-percent increase in truck sales in the United States.

Such minimum national standards could prevent anyone riding in the back of a pickup truck without a seatbelt. Such standards could apply the same safety regulations to passenger vehicles and to minivans and jeeps that are now so popular.

National standards could prevent loopholes like the one in California where simply because the pickup had a camper shell, the laws did not apply.

Once minimum national standards are set, I believe the Federal Government should withhold Federal transportation funds from States that do not impose these standards within a reasonable period of time.

Never again should the people of this country witness the tragedy and destruction when 12 people die in a single car accident.

TRIBUTE TO JOHN LINDAHL

Mr. MATHEWS. Mr. President, I rise today to pay tribute to John Lindahl, who was honored recently as the recipient of the 1994 International Commerce Award, presented by sister cities of Nashville. Mr. Lindahl is the chairman and chief executive officer of State Industries, Inc., of Ashland City, TN.

Mr. Lindahl's company, founded by his father, began manufacturing coal and wood burning heating and cooking stoves in 1946. Two years later, the company began manufacturing water heaters. Today, it is the world's largest water heater manufacturer with more than 1,800 employees.

State Industries has been an integral part of the foundation of Tennessee's manufacturing base for nearly 50 years. Under Mr. Lindahl's stewardship, and through his foresight and vision, State Industries has prospered and flourished.

From its humble beginnings, State Industries' commitment to quality and excellence in manufacturing coupled with its dedication in keeping the needs and concerns of its customers first, has set a high standard which has contributed to its success.

Mr. Lindahl can take great pride in his outstanding career as an enterprising and skillful entrepreneur, whose company has contributed much to the community, the region, and our Nation.

Today, State Industries is a key player in manufacturing in the world marketplace, due in no small measure to Mr. Lindahl's leadership and commitment to growth and excellence. He is to be commended for his achievements and congratulated on receiving this well deserved award.

OUTRAGEOUS EXAMPLE OF BUREAUCRATIC ABUSE

Mr. D'AMATO. Mr. President, I rise to call attention to one of the most outrageous examples of bureaucratic abuse I have seen during my time in the Senate.

The big brother in this instance is the Federal Communications Commission. The manner in which this agency has dealt with one of my constituents, Infinity Broadcasting Corporation, is simply unacceptable. It is a situation that everyone who respects our first amendment freedoms and due process in administrative proceedings must be concerned about.

Infinity Broadcasting Corp. is a publicly traded New York company, and is the country's largest company whose business is owning and operating radio stations. They have been in the business for 20 years. Upon completion of pending acquisitions, they will own 25 radio stations in 13 major markets, including stations in every one of the top 10 markets. There are many diverse formats on these stations, including rock, country, oldies, all talk, and all sports.

This sorry situation that I bring to the Senate's attention involves a recent attempt by Infinity to purchase a Los Angeles radio station.

According to news reports, the Commission held up that sale because it did not like the content—the content—of one of Infinity's programs. It apparently did not matter to the FCC that the program in question would not even air on the station Infinity wanted to purchase.

The FCC clearly does not like this program. It is the "Howard Stern Show." The program is not everyone's cup of tea. I have been on it. I like Howard. He is a friend. But I know some people get offended by some of the things he says on it. That is OK. That is their right. This is the United States of America, and if they do not like it, they can turn it off or turn the dial. They can even boycott it. They can boycott the sponsors who put it on. That is their right.

I am not here to debate the merits of Howard Stern. If you like him, you like him; if you do not, you do not.

But what I do know is if the Federal Communications Commission or any citizen in America thinks that what Howard Stern or anyone else says on the air is indecent, they can file a complaint. There are procedures for adjudicating these complaints. And that is the way it should be. If Howard Stern or Infinity or anyone else breaks the law, they should be punished.

That is not what has happened here, though. And that is what bothers me greatly.

What happened here was, because the Federal Communications Commission did not like this particular show, the Commission took revenge on Infinity, the entire corporation—a publicly traded company with thousands of shareholders—by holding up the sale of the Los Angeles station to Infinity.

A sale like this usually requires a 60-day turnaround at the Commission. This one has taken 271 days so far, and still has not been resolved.

In fact, one Commissioner this past New Year's Eve, Commissioner James Quello, told the New York Times that the Infinity KRTH acquisition would be delayed indefinitely because he claimed the Commission disapproved of Mr. Stern. As it turned out, the New York Times never checked with the other two Commissioners who, the following week, repudiated the story and said that Commissioner Quello did not speak for them.

But the harm had already been done. As this one Commissioner must have known, the Infinity stock price had dropped $200 million, about 1 percent of its value, over 3 trading days, and Infinity was forced to pay millions more in penalties for the delay in completing the purchase of the Los Angeles radio station.

If a member of the Federal Communications Commission feels the content of a show is indecent, there are steps, there are procedures that can and should be taken. That is OK. Those ways protect the basic first amendment principles and the due process rights contained in the Communications Act and the FCC's own internal proceedings.

Maybe this case got a lot of publicity because it involved a controversial entertainer. But precisely because it did involve controversy, the constitutional concerns become even more real. After all, often the law is not made in cases involving the most perfect of parties. The Constitution was written to protect all the different voices in the marketplace of ideas.

The way I read the first amendment, a dislike or disagreement with content is clearly not sufficient to punish Infinity in its other unrelated business dealings. But here the Commission did just that.

The Infinity case highlights an impermissible joining of two FCC proceedings that, as I understand it, are supposed to be kept separate—the sale of a broadcast license and the issuance of notice of apparent liability, which is the Commission process for adjudicating indecency complaints. That this improper joining occurred over the enforcement of the indecency standard is particularly troubling.

The FCC needs to be particularly careful in this area, in light of the due

process principles and the first amendment concerns articulated by two unanimous DC Court of Appeals decisions.

In both decisions, the court struck down the foundations of the FCC's enforcement scheme, which should tell it something. While four notices have been issued against Infinity, it is my understanding that Commission issuance of such a notice of apparent liability, along with a proposed fine to a broadcaster, does not constitute any determination that there has been a violation of the indecency standard. The Commission has found Infinity violated the indecency standard only once, and it issued a $6,000 fine for that one broadcast, 4 years ago. The other cases are still pending at the FCC.

Infinity has not yet been able to challenge the $6,000 fine in court, which it has told the FCC it intends to do. In each case, Infinity has denied any violation.

It is these nonfinal notices of apparent liability that the FCC is using for proposing unprecedented fines, now totaling over $1 million. According to news reports, and this gets to the heart of what is wrong, the Commission has also used these same nonfinal notices as its basis for delaying Infinity's purchase of new radio stations.

This appears to be in direct contravention of section 504(c) of the Communications Act, which provides basic due process guarantees to each licensee. Section 504(c) states:

> In any case where the Commission issues a notice of apparent liability looking towards the imposition of a forfeiture under this chapter, that shall not be used in any other proceeding before the Commission to the prejudice of the person to whom such notice was issued, unless, 1, the forfeiture has been paid or, 2, a court of competent jurisdiction has ordered payment of such forfeiture and such payment has become final.

The Commission has violated this procedure.

There is no final court order on the indecency cases. Yet the Commission is using these cases as a basis for delaying the acquisition of another station. This is one of the most blatant examples of the abuse of regulatory power, arrogance, and, yes, regulatory lawlessness, that I can remember.

Deliberately delaying a decision on an acquisition because of a nonfinal notice of apparent liability is in direct violation of section 504(c) of the Federal Communications Act, which was passed by Congress specifically to ensure this due process rights of licensees are protected. Should an FCC Commissioner be allowed to make his decision above the law, how can we demand licensees follow the law, if the FCC does not adhere to the law?

The Federal Communications Commission has an obligation to comply with the direction of the Federal courts, and abide by the requirements of the Communications Act and the first amendment. It is that simple.

If one or more Commissioners believes an indecency standard has been violated, there are administrative procedures for adjudicating such complaints. But they may not use their personal reactions or incomplete enforcement proceedings to penalize program content or to impede or delay a company from doing business and acquiring new broadcast properties. Yet that appears to be precisely what has happened here.

This is a particularly worrisome form of administrative browbeating. If it can be done to Infinity because of one show it can be done to any other company tomorrow, based on the content of a different program with which the commission does not agree.

Maybe tomorrow it is Rush Limbaugh, or G. Gordon Liddy, or maybe Jerry Brown or Lynn Samuels or even some of my colleagues who offer commentaries. Who knows who it will be?

I do not like some of the things I hear on the radio but that does not matter because, you see, this is the United States of America. People have a right to make their opinions known.

So where do these people at the Federal Communications Commission get off doing this? I find myself agreeing with a newspaper I do not often agree with. As the Washington Post stated in a recent editorial re the Infinity case:

> The Infinity-Stern case points up a dangerous aspect of government using its licensing and regulatory powers on a part of the press to try to force changes in editorial content.

Censorship is arbitrary and Congress should start thinking hard about getting Government out of it.

I ask unanimous consent this editorial be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. D'AMATO. That is exactly right. It will be a sad thing if the Congress of the United States has to get involved in setting straight something that is so basic.

Mr. President, Commissioner Quello has seen fit to impose his standards of conduct in an area where it is totally inapplicable. I hope the other Commissioners would not give way to this kind of blackmail. Because that is exactly what it is. No one, whether we agree with him or not in terms of how he presents himself editorially, should be subjected to the kind of situation we have here in this case. So it is by way of my taking to the floor, I hope we would send a warning to the Commission that we are looking, that we are concerned, and that they have abused power in the most arbitrary of ways. That is not their right.

Indeed, they violate the very protections that they should be providing for all. Free speech should not be abridged because one man does not like the commentaries or the programming that he sees.

I yield the floor.

EXHIBIT 1

[From the Washington Post, Jan. 15, 1994]

THE HOWARD STERN CASE

Federal Communications Commissioner Andrew Barrett and a source close to Commissioner Ervin Duggan have told Post staff writer Paul Farhi that no, there has never been any agreement to delay or block the purchase of three radio stations by Howard Stern's employer, Infinity Broadcasting Corp. That's good—because there has never been any justification for doing so. In fact there is no justification for what the FCC has done to Infinity already—which has been to hit the company with more than $1.2 million in fines for alleged violations by Mr. Stern of FCC strictures on "language that describes in terms patently offensive as measured by community standards . . . sexual or excretory activities or organs." As Nicholas Lemann wrote on the opposite page Thursday, the whole Infinity-Stern case points up a dangerous aspect of government using its licensing and regulatory powers on a part of the press to try to force changes in editorial content.

What the commission has been doing—and the possibility that it could still move to wreck a $170 million purchase because of what Howard Stern says on the air—is censorship. Though access to the broadcast airwaves is limited and therefore has been treated as a matter for close government regulation, the enormous growth in available television channels for programming, as well the proliferation of radio stations, makes an even stronger case against the old programming requirements that the FCC made up in the name of "fairness" and "diversity" in program content.

Mr. Stern's program can hardly be described as everyone's idea of acceptable entertainment to put it mildly—but the same could be said about many other talk shows that are readily available on the air at any time of day. Censorship is arbitrary, and Congress should start thinking hard about getting government out of it.

Commissioner Duggan has said that "the idea that we are just sitting on" Infinity's applications to buy stations "is just not accurate. It's premature to say we are blocking the purchases." It shouldn't even be premature. The FCC should make it dead wrong.

NORTHERN STATE UNIVERSITY BASKETBALL

Mr. PRESSLER. Mr. President, my colleague from Connecticut, Senator LIEBERMAN, earlier this morning signaled the start of March madness—the annual NCAA countdown to the final four. I wish good luck to all my colleagues with teams in the tournament. However, I would like to point out that there is great basketball outside the NCAA. In my home State of South Dakota, I am proud to boast of the NAIA Division II women's basketball national champion team.

Congratulations to the Northern State University women's and men's basketball teams. Last night, both teams played in the NAIA Division II National Championship. The women's

team triumphed over Western Oregon 48 to 45. This was the Lady Wolves third trip to the finals in 3 years and their second national title. Northern State's Paula Stolsmark of Pierpont, SC was named tournament MVP. The Lady Wolves boast the longest winning streak in the Nation with 32 wins to their credit.

The Northern men play in the championship game for the second year in a row. After a valiant rally, tying the game in the final minutes and sending the game into overtime after being down by 18 points in the second half, the men fell 98–95 to Eureka College of Illinois. Eureka's coach, Dave Darnall, will retire after 20 years with a national championship. I understand the Eureka team had a secret weapon—a message from President Ronald Reagan, an alumnus of Eureka College, who not only told them "to win one for the Gipper" but also offered his services in the game as "a healthy, feisty, and very mature right guard."

Before the championship game last night, my friend Senator SIMON and I made a little wager on the outcome. So in tribute to the national champion Eureka College Red Devils and in payment of my bet with Senator SIMON, I will now read the Eureka school song:

EUREKA COLLEGE ALMA MATER

'Neath the elms upon the campus, glorious to view, stands Eureka Alma mater, faithful, tried and true.

Lift the Chorus, speed it onward, Ne'er our voices fail! Praise to thee, O fair Eureka, praise to thee, all hail!

Three Northern State players were honored with berths on the NAIA all-American team: Julie Jensen of Langford, SD, Eric Kline of Aberdeen, SD, and Kevin Burckhard of Lakota, ND.

Lady Wolves Coach Curt Fredrickson deserves much credit for leading his team to a superb 32–1 season and three visits to the national championship game in 3 years. Curt was honored as NAIA Coach of the Year in 1992. Assisting Curt is Neil Chalmers. Bob Olson, coach of the Wolves, also has done an outstanding job with his team. He is assisted by Tim Miles, Brad Christenson, and Mike Hultz. I look forward to following the teams during next year's season. I know the NAIA has not heard the last of the Northern State University Wolves and Lady Wolves.

I also commend Northern State University president Dr. John Hutchinson, director of athletics, Dr. James Kretchman, as well as the entire staff and student body for supporting and encouraging excellence in both academics and men's and women's athletic programs.

In tribute to the national champion Lady Wolves and Northern State University, I now will read the Northern State University fight song:

Up, Northern Wolves! Up, Northern Wolves!
We are for you every day.
Our hearts are true! Smile down on you!
As we go cheering, cheering on our way.
Oh watch that sign! Come, hit that line!
Move along and lose no time.
We're on our way: Hip, Hip, Hooray!
We're cheering for you today!

I ask unanimous consent to place in the RECORD articles on these championship basketball games from the Aberdeen American News. I also ask unanimous consent that the team rosters of the Northern State University women's and men's basketball teams appear in the RECORD following my remarks.

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

[From the Aberdeen (SD) American News, Mar. 16, 1994]

STOLSMARK SPARKS WOMEN

(By Matt Schmidt)

MONMOUTH, OR.—The last time the Northern State women's basketball team had one senior it won the NAIA Division II national championship.

That happened again Tuesday as Paula Stolsmark sank four foul shots in the final 14 seconds to lift NSU to a 48–45 win over Western Oregon State for the school's second national title in three years.

Stolsmark, the tournament's most valuable player, stole the ball from WSOC's Julie Miller and sank a layup to tie the game at 42 with one minute and 24 seconds left.

Julie Jensen, who had a game-high 19 points, sank two foul shots with 51.8 seconds left to give NSU a 44–42 lead. Western Oregon State's Lorrie Emery missed and NSU rebounded. Stolsmark was fouled with 13.9 seconds left. She hit both shots to give Northern a 46–42 lead.

Emery then sank a three-point shot with just over four seconds left to make it a one-point game, 46–45. NSU inbounded the ball to Stolsmark who tucked the ball away and stood in the corner.

Miller fouled Stolsmark and after an NSU time-out, Stolsmark hit two foul shots with 1.1 seconds on the clock to clinch the win. Miller's three-point heave at the buzzer was short and to the right.

"It was a tough, physical game and I think we responded well to the pressure and shot our free throws," said Jensen. "It was good we practiced those a lot earlier today.

"If I got the shot and it looked like it would be a good one, I shot it with a lot of confidence," continued Jensen. "I thought about shooting free throws in practice. I was 2-of-6 yesterday, and today I shot them like I usually do."

Jensen made all seven of her free throw opportunities.

Stolsmark sank her last four after missing her first two.

"Neil (Chalmers, a NSU student assistant coach) and I were talking on the way back today (from practice) about what it would be to be the person at the line in the last 10 seconds of the game," said Stolsmark. "Neil said 'If you make the first one, the second one will be a lot easier but if you miss the first one, you'd be kicking yourself.'

"I told him leaving the huddle I was going to make them and I did," continued Stolsmark about the free throws with 13.9 seconds left. "Then I wanted the ball when we inbounded it. I just tucked it away and waited to get fouled."

Stolsmark did, and sank two more foul shots. But the key might have been her steal and layup.

"Like I always play, I went for it all," said Stolsmark. "Coach (Curt Fredrickson) didn't say anything about picking anybody up and I just decided to go for it. I wanted to go out with a bang.

"I think she was going to try to go by me and reverse pivot," she said. "I just got lucky enough to get a piece of the ball when I stuck my hand out."

"There couldn't have been a better person to win the most valuable player award than Paula," said Fredrickson. "She had a great career for us and has been a great example for our basketball program.

"You have to gamble a bit in games like this," continued Fredrickson. "We wanted to pack it in and make the Emery's and (Molly) Duggan work hard for their shots. I thought Nancy King's defensive job on Duggan was outstanding. Nancy didn't score a basket the whole game but worked Duggan hard. She did the defensive job we needed to win."

Western Oregon State's Pam Emery won the hustle award. THe first-team all-tournament selections were: Stolsmark, Panhandle State's Vernetra Allen, Concordia's Livija Medne, Mount Mercy's Peg Loecke, and WOSC's Lorrie Emery. The second team selections were: Jensen, Evangel's Katarzyna Dydek, Shawnee State's Jenni Wessel, Wilmington's Jenny Asbury and WOSC's Molly Duggan.

[From the Aberdeen (SD) American News, Mar. 16, 1994]

NSU MEN LOSE IN OVERTIME

(By Eileen Briesch)

NAMPA, ID.—So close.

Northern State came within one shot of another overtime period, one more chance to try to overtake Eureka College for a national title.

But when Chad Boekelheide's bomb bounced off the front of the rim, the Wolves' dream of an NAIA Division II championship died as Eureka won a 98–95 overtime thriller Tuesday night.

As Eureka fans mobbed their team and coach Dave Darnall, who will retire after this game, Kevin Burckhard of Northern State gathered the Boekelheide twins in his arms like a protective father trying to shield the boys from the pain.

Coach Bob Olson's tears welled up from the emotional upheaval at the loss. "We've got a gutsy bunch of kids. It's been like that all year," he said, holding the runner-up trophy, the second straight such trophy the Wolves have received. "I can't say enough about our kids."

The Wolves battled back from a 19-point deficit early in the first half and pulled within 14 at halftime. They kept chipping away and chipping away, using pesky defense to turn back the Red Devils' seemingly unstoppable shooters.

"We just kept believing in each other. We've been doing that all year," said Eric Kline, one of two Northern State players named to the all-tournament team. Senior forward Kevin Burckhard also received all-tourney honors.

And then it came down to Kline, whose shooting had been off earlier. The 6-foot-1 junior from Aberdeen knocked down the three-pointer with 11 seconds left to tie the game at 87.

"I was hoping to get one of those shots. I like to be in that kind of place," said Kline. "And Buck (a Boekelheide twin) made a good pass to me."

Eureka could not get a shot to fall in the last seven seconds and the overtime was necessary.

That gave the Wolves new life. "In overtime I thought we were going to win," said Olson. "We got a good lead but they hit the big three, a huge three. We came down and executed well but couldn't get anything."

That three-pointer was made by tourney Most Valuable Player Chris Peterson. Peterson, who had a game-high 36 points, then knocked down four straight free throws to seal the victory.

"I just blocked out everything. I acted like it was practice and blocked out the fans," said Peterson, a championship cap perched on his head. "I don't think any of us are tired. we're going strictly on adrenalin out there."

Peterson said the five senior starters had hoped to give their retiring coach the championship as a going away present. "Coach had a great career. With our five senior starters, it was the one thing we wanted him to have," he said.

"But that Northern State, they're one heck of a team. they hit some big threes and played good defense against us. It's too bad somebody had to lose this game."

Kline was philosophical about the loss. "We got here last year and fell short and then it happened again this year," he said. "We played hard, we did our best, and that's life. We have to move on."

[From the Aberdeen (SD) American News, Mar. 16, 1994]

KLINE, BURCKHARD ON ALL-AMERICA

(By Elleen Briesch)

NAMPA, ID.—Northern State players Eric Kline and Kevin Burckhard were named to the first team NAIA All-America team Tuesday.

Kline, a 6-foot-1 junior, averaged 27.7 points per game during the season and 27.5 points per game in the NAIA Division II men's basketball tournament.

Burckhard, a 6-foot-7 senior from Lakota, N.D., averaged 17.4 points and 10.2 rebounds during the season for the Wolves, but really made a difference in the tourney. In the national championship tournament, he averaged 21.5 points and 14.7 rebounds. He ranked second in rebounding in the tourney.

Also named to the first team were Chris Eaton of Eureka, (Ill.) College; Rafid Kiti, Oregon Tech; Matt Stuart, Caldwell; Mark Davidson, Trinity; Raymond Alley, Husson; Craig Douma, Northwestern (Iowa); Derek Foster, Lewis & Clark; and Sean Walker, Tarleton State.

Joe Divis of Black Hills State earned third-team honors while Stacy Koolstra of Sioux Falls College received honorable mention.

[From the Aberdeen (SD) American News, Mar. 16, 1994]

STOLSMARK EARNS WOMEN'S MVP HONOR

(By Matt Schmidt)

MONMOUTH, OR.—After taking second place at the 1993 NAIA Division II national tournament and second as teammates at Langford High School, Paula Stolsmark and Julie Jensen walked away as champions.

Stolsmark, a Northern State senior from Pierpont, was the tournament's most valuable player as the Wolves picked up a 48–45 win over Western Oregon State Tuesday night.

The win gives the Wolves their second national title in three years.

The two were teammates at Langford High School and were the State B runners-up there during Stolsmark's senior year, 1990.

"I thought about that before we played tonight," said Jensen. "We've been second a lot of times and I didn't want to be second again. I wanted to finish first.

"We seemed to be stuck at second in high school," continued Jensen, who had a game-high 19 points in the championship.

Jensen was happy to see her long-time teammate walk away from the basketball court with a championship.

"I'm just so happy for Paula," said Jensen. "This is the best way for her to go out and get the MVP. I couldn't be any happier for her."

Stolsmark finished the tournament with 12 steals.

"I can't think of any better way to go out with a better group of friends," she said. "I don't think we would have been happy taking second. I tell you what, I couldn't be happier than I am right now."

And it came down to a pair of former Langford High School players to clinch a national championship for NSU.

[From the Aberdeen (SD) American News, Mar. 15, 1994]

WOL'VES' JENSEN IS ALL-AMERICA CHOICE

(By Matt Schmidt)

MONMOUTH, OR.—For the second straight season, Northern State's Julie Jensen is a first-team selection on the NAIA Division II All-America team.

Jensen, a 5-foot-11 junior forward from Langford, was one of three returning selections on the 10-member first team announced Monday. The NAIA Division II men's All-America team will be released today.

Nine of the 10 players listed on the first team are members of teams in the NAIA Division II national tournament.

Jensen was the lone Northern State representative on the All-America selections for first team, second team or honorable mention.

The rest of the first team is: Jenny Asbury, Wilmington, Del.; Kayarzyna Dydek, Evangel, Mo.; Lorrie Emery, Western Oregon State; Kathy Gibson, Lewis & Clark, Ore.; Janet Gribnitz, University of Dallas; Rhonda Lelnius, Mary, N.D.; Livija Medne, Concordia, Wis.; Amy Ochsner, Hastings, Neb.; and Jenni Wessel, Shawnee State, Ohio.

Second team selections are: Tamir Anderson, Peru State, Neb.; Kaelie Butler, Tarleton State, Texas; Nicole Clerver, Findlay, Ohio; Tamara Kindrick, Georgetown, Kent.; Jennifer McClure, Whitman, Wash.; Peg Loecke, Mount Mercy, Iowa; Rhonda Morgan, Dakota Wesleyan; Sharon Rines, St. Joseph's, Maine; Leslie Wade, Marion, Ind.; and Nicole Whitney, Southern Oregon State.

NORTHERN STATE UNIVERSITY WOLVES MEN'S BASKETBALL ROSTER

Wh.	Name	Pos.	Ht.	Yr.	Hometown
00	Destin Coles	G	6–0	FR	Valley City, ND.
3	Brian Groff	G	5–10	SO	Clara City, MN.
5	Paul Sather	C	6–7	SR	Princeton, MN.
10	Jared Vergeldt	F	6–5	FR	Aberdeen, SD.
12	Brad Neugebauer	F	6–5	FR	Parkston, SD.
13	Corey Stephens	F	6–4	SO	Burlington, IA.
14	Scott Boekelheide	G	6–0	JR	Northville, SD.
15	Kevin Costain	C	6–10	FR	Baltic, SD.
20	Chad Boekelheide	G	5–11	FR	Northville, SD.
22	Jamie Liudahl	G	5–9	FR	Pierre, SD.
24	Lance Luitjens	G	6–2	SO	Custer, SD.
30	Ryan Johnson	F	6–2	FR	Pierre, SD.
32	Chad McGough	F	6–5	SO	Miller, SD.
34	Matt Clooten	F	6–7	SO	Beulah, ND.
40	Nate Streed	F	6–5	SR	Chaska, MN.
42	Eric Kline	G	6–1	JR	Aberdeen, SD.
44	Mark Sipple	C	6–8	JR	Shoreview, MN.
50	Jeremy Vliem	F	6–8	FR	Lodge Pole, SD.
52	Kevin Burckhard	F	6–7	SR	Lakota, ND.
54	Al Hansen	C	6–8	JR	Prior Lake, MN.
	Jerrod Becker	C	6–7	FR	Omaha, NE.

NORTHERN STATE UNIVERSITY WOLVES MEN'S BASKETBALL ROSTER—Continued

Wh.	Name	Pos.	Ht.	Yr.	Hometown
	Troy Kurth	G	6–2	FR	Langford, SD.

Head coach—Bob Olson.
Assistant coach—Tim Miles, Brad Christenson & Mike Hultz.

NORTHERN STATE UNIVERSITY WOLVES WOMEN'S BASKETBALL ROSTER

Wh.	Name	Pos.	Ht.	Yr.	Hometown
10	Renae Osthus	G	5–3	JR	DeSmet, SD.
12	Roberta Sparling	G	5–6	FR	Athol, SD.
14	Wanda Radel	G	5–6	SO	Parkston, SD.
20	Melissa Schott	G	5–9	FR	St. Charles, MN.
22	Sara Struzyk	F	5–10	FR	Holdingford, MN.
24	Rachel Dick	G/F	5–9	FR	Marion, SD.
30	Chris Swanhorst	F	6–0	FR	Mellette, SD.
33	Paula Stolsmark	G	5–8	SR	Pierpont, SD.
34	Jenny Seesz	G	5–9	JR	Montevideo, MN.
40	Sara Brooks	F	5–10	FR	Chamberlain, SD.
41	Toni Schmidt	G	5–10	FR	Miller, SD.
42	Julie Jensen	F	5–11	JR	Langford, SD.
43	Barb Johnson	F	5–9	JR	Mound City, SD.
50	Rachelle Lesnar	F	5–11	FR	Roslyn, SD.
52	Nancy King	F/C	6–0	JR	Blunt, SD.
53	Stephanie Franzen	F	5–11	JR	Langford, SD.
54	Amie Kiehn	C	6–6	SO	Chamberlain, SD.
55	Shari Carney	C	6–1	FR	Hayti, SD.

Head coach—Curt Fredrickson.
Assistant coach—Neil Chambers.

NORTHERN STATE UNIVERSITY COACHES

BOB OLSON

Bob Olson's journey to the NSU head job seemed destined by location and circumstances. An Aberdeen native, Olson attended Northern State and played collegiate basketball for Coach Wachs. Olson earned a bachelor's degree from Northern in 1977 and moved to Mayville State University where he served as an assistant coach to Pierre duCharme, Olson's high school basketball coach.

A job in the NSU Admissions Office brought Olson back to Aberdeen, the men's basketball program, and Coach Wachs. Olson assisted Wachs with the Wolves' basketball squad while earning a master's degree from Northern in 1980. Next, Olson spent two years at Aberdeen Roncalli High School and coached the boys' basketball team to a 27–13 record and a conference title. Olson moved across town to the NSU campus in 1983 and coached the women's basketball team for two seasons. He established a 44–10 record, won a district title, and was named NAIA District 12 Coach of the Year.

When Coach Bob Wachs retired after more than 30 years and more than 500 wins, Olson was selected as NSU's 15th basketball coach.

After three transition seasons, Northern State basketball began a return to the forefront of District 12. The 1988–89 squad played in the district championship game and the following season, Northern again returned to the district finals but this time the Wolves won the championship crown and advanced to the NAIA National Basketball Tournament in Kansas City, Mo. Olson was named the District 12 Coach of the Year.

In 1990–91, NSU won repeated as district champions and returned to the national tournament. This time, the Wolves advanced to the round of sixteen before losing by one point to Taylor University. Olson was named Coach of the Year by the district, the conference and NAIA Area III.

In 1991–92, the Wolves' season ended with a semi-final loss to Dakota State. Last season, NSU reeled off 18 consecutive wins to begin the season and claimed the NSIC title. Olson was named the conference Coach of the Year. The Wolves claimed the district crown with victories over Sioux Falls College and Black Hills State and Olson was named the district coach of the year for the third time.

The Wolves won their first three games in the national tourney in Nampa, Idaho. In a hard-fought championship game against Williamette College, NSU lost for just the second time all season. Olson was named the NAIA II Coach of the Year by the Basketball Times.

Bob and his wife, Cheri, are the parents of one girl, Stephie.

CURT FREDRICKSON

Curt Fredrickson and the Northern State University women's basketball program are combining forces for the 15th time and there is one thing they have never done—finish the season with a losing record.

An Aberdeen native, he attended Northern State where he was an NAIA All-American in baseball and honorable mention All-American in football. After graduating in 1974, he taught at Canton High School. He returned to Northern in 1976 to work on a master's degree. Fredrickson finished in 1977 and was named the women's basketball coach that fall.

The Wolves have played in three national tournaments winning the national title in 1991–92, finishing second last season and claiming third in 1980–81. During Fredrickson's tenure, NSU has collected two district basketball championships, and two first-place and four second-place finishes in the Northern Sun Intercollegiate Conference. The Wolves finished the 1980s with eight 20-win seasons. The other two years, NSU recorded 19 victories.

Fredrickson spent two years in private business before returning to Northern State University in 1985. In 1987–88, the Wolves were a record-setting 28–3, won their first-ever conference title, and finished second in the district.

NSU went 20–8 in a rebuilding season in 1988–89 and followed that up with 24–7 and 25–6 seasons. The 1991–92 team won a national championship and established a new school record for most wins in a season with its 30–4 mark. Despite a loss to Northern Montana in the district championship game, NSU advanced to the national tourney in Monmouth, Ore., with an at-large berth.

With four returning starters, Northern State set out to defend its national crown in 1992–93. A fourth consecutive loss to Northern Montana in the district finals robbed the Wolves of a district crown but NSU received another at-large berth to nationals. The Skylights and Wolves met up in the championship game with Northern Montana continuing to defeat the Wolves. The second-place finish marked the second time in two seasons that NSU advanced to the title game at nationals.

Last season, Fredrickson was the NAIA's sixth winningest active women's basketball coach in winning percentage. He wins 81 percent of his basketball games. He also was ranked ninth nationally in number of career wins with more than 300.

Fredrickson has been named the NAIA II National Coach of the Year in 1992 and has received additional coach of the year honors from the South Dakota Press Association, Royal Order of the Gyps, and NAIA District 12 three times. In 1992 he was inducted into the NSU Athletic Hall of Fame.

Curt's family includes his wife, Vicki, daughter Lindsey and two boys, Cole and Blair.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The Senator from Wisconsin is recognized.

Mr. KOHL. I thank the Chair.

TELEPHONE PRIVACY

Mr. KOHL. Mr. President, I rise today to praise an action taken by the FCC. Its order on Caller ID, which requires per call blocking, will ensure that consumers nationwide retain at least a moderate amount of telephone privacy.

In 1989, the Subcommittee on Technology and the Law opened the book on a new issue: Caller ID and its varying consequences. And while we thought the development of this new technology could lead to real benefits, some of us were aware that, if left unregulated, Caller ID had the potential to invade our privacy. Back then, we were among the lonely few. But 5 years of persistence has brought our view today to the majority. And last week's FCC action brings us closer to the final chapter of this story.

This ruling was crucial because unregulated Caller ID would invade our privacy and reduce our rights. People should be able, for example, to call a crisis hotline, a business, or even the IRS to ask for help without having their numbers displayed. Forcing people to display their numbers every time they make a call, in my view, is really undesirable.

Fortunately, there is a simple way to realize the benefits of Caller ID while avoiding its potential problems: Simply let consumers decide when they want to reveal their phone numbers and when they do not. The technology gives us this choice. Per call blocking allows anyone to press a few digits on the phone and block the display of their number. And with this option, people can display their numbers when calling friends and family, but they can keep their phone number confidential whenever they want.

Recognizing that blocking was necessary to ensure privacy with Caller ID, I introduced the Telephone Privacy Act in 1989 and again this year with Senator BROWN. Although we have yet to turn our legislation into law, our bill has nevertheless provided the spark for State legislatures and Governments to act.

Indeed, over the last few years, most States have come around to our position; 37 States now require companies offering Caller ID to offer free per call or per line blocking. And last week, as I mentioned, the FCC ruled that telephone companies should provide Caller ID blocking for interstate calls.

The FCC has also made it clear that companies providing 800-number and 900-number service cannot reuse or sell callers' telephone numbers to third parties unless callers give their consent. This was also a key component of the Telephone Privacy Act.

As a result, the FCC ruling helps protect the privacy of callers nationwide. It moves Caller ID technology toward a uniform Federal standard rather than a patchwork of inconsistent State laws. It basically does by regulation what we have tried to do by legislation. The FCC action does not cover calls made within individual States but almost every State has looked at Caller ID by now and has proposed blocking. We are glad to share the credit with State legislators and Federal regulators.

Though this ruling has many positive implications, there are still serious questions about the legality of Caller ID. Most experts and some State courts have concluded that Caller ID is an illegal trap and trace device.

So we still need to ensure the legality of Caller ID, and I will work to have that done this year.

In sum, Mr. President, the FCC action helps us expand use of Caller ID nationwide while protecting the privacy rights of individuals. We still need to clarify Caller ID's legality under Federal wiretap laws, and we still need to encourage every State to approve Caller ID only with blocking. But the FCC's recent action is an important step forward, and it does deserve our applause.

Mr. President, before I conclude, I wish to mention the work of a brilliant young lawyer on my staff who was instrumental in bringing this issue to Congress and, by implication, in protecting the privacy of every American. His name is Keenan Peck, and his life was tragically taken away from us in 1990, just before our first scheduled hearing on Caller ID.

Mr. President, all of us who knew Keenan miss his intelligence, his warm sense of humor, his dedication to civil rights and civil liberties. But we know now more than ever that his legacy will live on.

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

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BAUCUS. Mr. President, what is the pending business?

The PRESIDING OFFICER. The Chair advises the Senator that the Senate is currently in morning business.

CHINA HUMAN RIGHTS POLICY

Mr. BAUCUS. Mr. President, after Secretary of State Christopher's visit

to China, it is appropriate to review our relations with China. The President's Executive order on most favored nation tariff status for China expires in just over 2 months. Today I will discuss the situation we face today, the further actions we hope to see from China, and our options for next year if we are able to renew MFN.

STATUS OF EXECUTIVE ORDER CONDITIONS

The Executive order has seven conditions. On the first two, emigration rights and prison labor, China must comply fully. On the other five—the Universal Declaration on Human Rights; political prisoners; Red Cross access to prisons; protecting the religious and cultural heritage of Tibet; and radio jamming—China must make overall, significant progress.

On the first of the full compliance conditions, China allows substantially free emigration. On prison labor, Treasury Secretary Bentsen signed a new agreement in Beijing in February. Any MFN action on this issue will have to be based on failure to comply with the more recent agreement, and it is too early to tell.

On the overall, significant progress conditions, the record is mixed. China has done little on the civil and political sections of the Universal Declaration of Human Rights. But the declaration also includes rights to a basic standard of living, to seek employment, and to travel within one's country, on which there has been great progress. The Chinese press has become much freer to report on social problems like crime, industrial accidents, hijacking, and corruption.

China has also released some prominent political prisoners and given us our requested accounting of 235 priority cases. China has held talks with the Red Cross and has made some progress.

On Tibet, China is restoring some historic Tibetan temples and monuments, and permitting some monasteries to reopen. Based on the wording of the order, and without minimizing in any way the grave human rights abuses in Tibet, I would say China is meeting this condition. Finally, I see little progress on radio jamming.

FURTHER ACTION REQUIRED FROM CHINA

As the Secretary of State said in Beijing, and Ambassador Kantor repeated yesterday, our differences have narrowed. We may not be there yet. But China has room to act, within the framework of its own laws and existing international obligations, on our concerns.

In the next 2 months, I hope to see China take some of the following steps:

Grant medical parole for political prisoners with serious health problems;

Clear up all problem cases of emigration, and allow Chinese exiles like union organizer Han Dongfang to go home;

Make progress toward agreement with the International Red Cross to give the IRC access to Chinese prisons;

Fully enforce our agreement prohibiting export of goods produced with slave labor; and

End the jamming of foreign radio broadcasts.

CONSEQUENCES OF REVOKING MFN

If China does nothing, it will be hard to avoid revoking MFN. If that happens, everyone will suffer. Among the consequences we would see would be:

The loss of 200,000 jobs in the U.S. as China retaliates against our exports, and worse losses in the years ahead.

The loss of 75,000 jobs in Hong Kong and millions of jobs in China, the vast majority of them wholly innocent workers.

The permanent discrediting of pro-American factions in China, as the succession to Deng Xiaoping begins.

China actively opposing our foreign policy efforts not only in North Korea, but in the Middle East, Iraq and elsewhere.

China's trade relationship with Taiwan crippled, and our guarantee against a political crisis in the region gravely weakened. No doubt other problems would arise as well.

POLICY FOR 1995 AND AFTERWARD

None of this is inevitable. If China takes the actions I cited earlier, we should be able to renew MFN status.

But if we are able to do that, we should think hard about our goals in human rights and the means we use to achieve them.

The MFN conditions may not have been fruitless. But they have not won the basic improvement in human rights we all hope to see in China. They have proven no more effective, and far more dangerous, than the other means at our disposal. Thus, if we can renew MFN status in June, we should not impose conditions again. Instead, we should find other ways to promote human rights. The following are some options, and I am sure we have more.

First, diplomacy. We should continue the exchanges begun by Assistant Secretary of State Shattuck. We should press for attention to human rights in China at the United Nations; seek more support from Europe and Asia; condition high-level diplomatic exchanges on human rights; and meet with officials of Taiwan, Tibetan leaders in exile and Chinese dissidents.

Second, a permanent mechanism like a Bilateral Human Rights Commission to discuss human rights issues and cases.

Third, conditioning support for multilateral loans to China on human rights.

Fourth, tougher enforcement of our agreement on prison labor products. We should impose trade sanctions on goods suspected of forced-labor origin if China will not comply.

Fifth, making the private sector a more active force for change. U.S. business can take voluntary measures to promote human rights, and save lives by promoting workplace safety and pollution prevention, in the regions where they operate.

Finally, finding less confrontational methods. We need not limit ourselves to threats and pressure. Other approaches can get results too. They can include legal exchanges to promote rule of law; health and safety programs for industrial workplaces, mines and farms; expansion of the Peace Corps; religious, cultural and educational exchanges, and so on.

CONCLUSION

Mr. President, our experience this year shows that MFN conditions are not an effective long-term policy. We are committed this spring, and before the Executive order expires, we must push hard for more from China. But if we can renew MFN this spring, we should learn our lesson and find a new approach.

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

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

COMMUNITY DEVELOPMENT BANKING AND FINANCIAL INSTITUTIONS ACT OF 1993

The PRESIDING OFFICER. Under the previous order the clerk will now report Calendar No. 259.

The legislative clerk read as follows:

A bill (S. 1275) to facilitate the establishment of community development financial institutions.

The Senate proceeded to consider the bill which had been reported from the Committee on Banking, Housing, and Urban Affairs, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Community Development, Credit Enhancement, and Regulatory Improvement Act of 1993".

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

Sec. 1. Short title; table of contents.

TITLE I—COMMUNITY DEVELOPMENT AND CONSUMER PROTECTION

Subtitle A—Community Development Banking and Financial Institutions Act

Sec. 101. Short title.
Sec. 102. Findings and purposes.
Sec. 103. Definitions.
Sec. 104. Establishment of national fund for community development banking.
Sec. 105. Applications for assistance.
Sec. 106. Community partnerships.
Sec. 107. Selection of institutions.
Sec. 108. Assistance provided by the Fund.
Sec. 109. Community development training.

Sec. 110. Encouragement of private entities.
Sec. 111. Clearinghouse function.
Sec. 112. Recordkeeping, reports, and audits.
Sec. 113. Investment of receipts and proceeds.
Sec. 114. Inspector General.
Sec. 115. Capitalization assistance to enhance liquidity.
Sec. 116. Community development revolving loan fund for credit unions.
Sec. 117. Study of community development credit unions.
Sec. 118. Regulations.
Sec. 119. Authorization of appropriations.

Subtitle B—Home Ownership and Equity Protection

Sec. 151. Consumer protections for high cost mortgages.
Sec. 152. Civil liability.
Sec. 153. Regulations; effective date.

TITLE II—SMALL BUSINESS CAPITAL FORMATION

Subtitle A—Small Business Loan Securitization

Sec. 201. Short title.
Sec. 202. Small business related security.
Sec. 203. Applicability of margin requirements.
Sec. 204. Borrowing in the course of business.
Sec. 205. Small business related securities as collateral.
Sec. 206. Investment by depository institutions.
Sec. 207. Preemption of State law.
Sec. 208. Insured depository institution capital requirements for transfers of small business loans.
Sec. 209. Transactions in small business related securities by employee benefit plans.
Sec. 210. Taxation of small business loan investment conduits.

Subtitle B—Small Business Capital Enhancement

Sec. 251. Findings and purposes.
Sec. 252. Definitions.
Sec. 253. Approving States for participation.
Sec. 254. Participation agreements.
Sec. 255. Terms of participation agreements.
Sec. 256. Reports.
Sec. 257. Reimbursement by the Secretary.
Sec. 258. Reimbursement to the Secretary.
Sec. 259. Regulations.
Sec. 260. Authorization of appropriations.

TITLE III—PAPERWORK REDUCTION AND REGULATORY IMPROVEMENT

Sec. 301. Incorporated definitions.
Sec. 302. Administrative consideration of burden with new regulations.
Sec. 303. Streamlining of regulatory requirements.
Sec. 304. Elimination of duplicative filings.
Sec. 305. Coordinated and unified examinations.
Sec. 306. Eighteen-month examination rule for certain small institutions.
Sec. 307. Call report simplification.
Sec. 308. Repeal of publication requirements.
Sec. 309. Regulatory appeals process.
Sec. 310. Electronic filing of currency transaction reports.
Sec. 311. Bank Secrecy Act publication requirements.
Sec. 312. Exemption of business loans from Real Estate Settlement Procedures Act requirements.
Sec. 313. Flexibility in choosing boards of directors.
Sec. 314. Holding company audit requirements.
Sec. 315. State regulation of real estate appraisals.
Sec. 316. Acceleration of effective date for interaffiliate transactions.
Sec. 317. Collateralization of public deposits.
Sec. 318. Elimination of stock valuation provision.
Sec. 319. Expedited procedures for forming a bank holding company.
Sec. 320. Exemption of certain holding company formations from registration under the Securities Act of 1933.
Sec. 321. Reduction of post-approval waiting period for bank holding company acquisitions.
Sec. 322. Reduction of post-approval waiting period for bank mergers.
Sec. 323. Bankers' banks.
Sec. 324. Bank Service Corporation Act amendment.
Sec. 325. Merger transaction reports.
Sec. 326. Credit card accounts receivable sales.
Sec. 327. Limiting potential liability on foreign accounts.
Sec. 328. Amendments to outdated dividend provisions.
Sec. 329. Elimination of duplicative disclosures for home equity loans.
Sec. 330. Report on capital standards and their impact on the economy.
Sec. 331. Studies on the impact of the payment of interest on reserves.
Sec. 332. Study and report on streamlined lending process for consumer benefit.
Sec. 333. Repeal of outdated charter requirement for national banks.

TITLE I—COMMUNITY DEVELOPMENT AND CONSUMER PROTECTION

Subtitle A—Community Development Banking and Financial Institutions Act

SEC. 101. SHORT TITLE.

This subtitle may be cited as the "Community Development Banking and Financial Institutions Act of 1993".

SEC. 102. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) many of the Nation's urban, rural, and Native American communities face critical social and economic problems arising in part from the lack of economic growth, people living in poverty, and the lack of employment and other opportunities;

(2) the restoration and maintenance of the economies of these communities will require coordinated development strategies, intensive supportive services, and increased access to equity investments and loans for development activities, including investment in businesses, housing, commercial real estate, human development, and other activities that promote the long-term economic and social viability of the community; and

(3) community development financial institutions have proven their ability to identify and respond to community needs for equity investments, loans, and development services.

(b) PURPOSE.—The purpose of this subtitle is to create a Community Development Financial Institutions Fund that will promote economic revitalization and community development through a program of investment in and assistance to community development financial institutions, including enhancing the liquidity of community development financial institutions.

SEC. 103. DEFINITIONS.

For purposes of this subtitle, the following definitions shall apply:

(1) APPROPRIATE FEDERAL BANKING AGENCY.—The term "appropriate Federal banking agency" has the same meaning as in section 3 of the Federal Deposit Insurance Act, and also includes the National Credit Union Administration Board with respect to insured credit unions.

(2) AFFILIATE.—The term "affiliate" has the same meaning as in section 2(k) of the Bank Holding Company Act of 1956.

(3) COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION.—

(A) IN GENERAL.—The term "community development financial institution" means a person (other than an individual) that—

(i) has a primary mission of promoting community development;

(ii) serves an investment area or targeted population;

(iii) directly, through an affiliate, or through a community partnership, provides development services and equity investments or loans;

(iv) maintains, through representation on its governing board or otherwise, accountability to residents of its investment area or targeted population; and

(v) is not an agency or instrumentality of the United States, or of any State or political subdivision of a State.

(B) QUALIFICATION OF AFFILIATES.—A subsidiary may only qualify as a community development financial institution if its parent company and the subsidiaries thereof (on a consolidated basis) also qualify as community development financial institutions.

(4) COMMUNITY PARTNER.—The term "community partner" means a person (other than an individual) that provides loans, equity investments, or development services, including a depository institution holding company, an insured depository institution, an insured credit union, a nonprofit organization, a State or local government agency, and an investment company authorized to operate pursuant to the Small Business Investment Act of 1958.

(5) COMMUNITY PARTNERSHIP.—The term "community partnership" means an agreement between a community development financial institution and a community partner to provide development services and loans or equity investments to an investment area or targeted population.

(6) DEPOSITORY INSTITUTION HOLDING COMPANY.—The term "depository institution holding company" has the same meaning as in section 3 of the Federal Deposit Insurance Act.

(7) DEVELOPMENT SERVICES.—The term "development services" means activities that promote community development and are integral to lending or investment activities, including—

(A) business planning;

(B) financial and credit counseling; and

(C) marketing and management assistance.

(8) INSURED COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION.—The term "insured community development financial institution" means any community development financial institution that is an insured depository institution or an insured credit union.

(9) INSURED CREDIT UNION.—The term "insured credit union" has the same meaning as in section 101(7) of the Federal Credit Union Act.

(10) INSURED DEPOSITORY INSTITUTION.—The term "insured depository institution" has the same meaning as in section 3 of the Federal Deposit Insurance Act.

(11) INVESTMENT AREA.—The term "investment area" means a geographic area that—

(A)(i) meets objective criteria of economic distress developed by the Community Development Financial Institutions Fund, which

may include the percentage of low-income families or the extent of poverty, the rate of unemployment or underemployment, lag in population growth, and extent of blight and disinvestment; and

(ii) has significant unmet needs for loans or equity investments;

(B) is located in an empowerment zone or enterprise community designated under section 1391 of the Internal Revenue Code of 1986; or

(C) is located on an Indian reservation, as defined in section 3(d) of the Indian Financing Act of 1974 or section 4(10) of the Indian Child Welfare Act of 1978.

(12) LOW-INCOME.—The term "low-income" means having an income, adjusted for family size, of not more than—

(A) for metropolitan areas, 80 percent of the area median income; and

(B) for nonmetropolitan areas, the greater of—

(i) 80 percent of the area median income; and

(ii) 80 percent of the statewide nonmetropolitan area median income.

(13) PARENT COMPANY.—The term "parent company" means any company that directly or indirectly controls another company.

(14) SUBSIDIARY.—The term "subsidiary" has the same meaning as in section 3 of the Federal Deposit Insurance Act, except that a community development financial institution that is a corporation shall not be considered to be a subsidiary of any insured depository institution or depository institution holding company that controls less than 25 percent of the voting shares of the corporation.

(15) TARGETED POPULATION.—The term "targeted population" means low-income persons or persons who otherwise lack adequate access to loans or equity investments.

SEC. 104. ESTABLISHMENT OF NATIONAL FUND FOR COMMUNITY DEVELOPMENT BANKING.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established a corporation to be known as the Community Development Financial Institutions Fund (hereafter in this subtitle referred to as the "Fund") that shall have the duties and responsibilities specified by this subtitle. The Fund shall have succession until dissolved. The offices of the Fund shall be in Washington, D.C. The Fund shall not be affiliated with or be within any other agency or department of the Federal Government.

(2) WHOLLY OWNED GOVERNMENT CORPORATION.—The Fund shall be a wholly owned Government corporation in the executive branch and shall be treated in all respects as an agency of the United States, except as otherwise provided in this subtitle.

(b) MANAGEMENT OF FUND.—

(1) APPOINTMENT OF ADMINISTRATOR AND DEPUTY ADMINISTRATOR.—The management of the Fund shall be vested in an Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate. The Administrator shall not engage in any other business or employment during service as the Administrator. The President may appoint a Deputy Administrator by and with the advice and consent of the Senate. The Deputy Administrator shall serve as the acting Administrator of the Fund during the absence or disability of the Administrator or in the event of a vacancy in the office of the Administrator.

(2) CHIEF FINANCIAL OFFICER.—The Administrator shall appoint a chief financial officer who shall oversee the financial management activities of the Fund.

(3) OTHER OFFICERS.—The Administrator may appoint such other officers and employees of the Fund as the Administrator determines to be necessary or appropriate.

(c) GENERAL POWERS.—In carrying out the functions of the Fund, the Administrator—

(1) shall have all necessary and proper authority to carry out this subtitle;

(2) shall have the power to adopt, alter, and use a corporate seal for the Fund, which shall be judicially noticed;

(3) may adopt, amend, and repeal bylaws, rules, and regulations governing the manner in which business of the Fund may be conducted and such rules and regulations as may be necessary or appropriate to implement this subtitle;

(4) may enter into, perform, and enforce such agreements, contracts, and transactions as may be deemed necessary or appropriate to the conduct of activities authorized under this subtitle;

(5) may determine the character of and necessity for expenditures of the Fund and the manner in which they shall be incurred, allowed, and paid;

(6) may utilize or employ the services of personnel of any agency or instrumentality of the United States with the consent of the agency or instrumentality concerned on a reimbursable or nonreimbursable basis; and

(7) may execute all instruments necessary or appropriate in the exercise of any of the functions of the Fund under this subtitle and may delegate to the officers of the Fund such of the powers and responsibilities of the Administrator as the Administrator deems necessary or appropriate for the administration of the Fund.

(d) ADVISORY BOARD.—

(1) ESTABLISHMENT.—The Administrator shall establish an advisory board to be known as the Community Development Advisory Board (hereafter in this subtitle referred to as the "Board") in accordance with the provisions of the Federal Advisory Committee Act.

(2) MEMBERSHIP.—

(A) IN GENERAL.—The Board shall consist of 5 private citizens who, collectively—

(i) represent community groups whose constituencies include targeted populations or residents of investment areas;

(ii) represent local or regional government interests;

(iii) have expertise in the operations and activities of insured depository institutions; and

(iv) have expertise in community development and lending.

(B) REPRESENTATION.—Each of the categories described in clauses (i) through (iv) of subparagraph (A) shall be represented by not less than 1 member of the Board.

(3) BOARD FUNCTION.—It shall be the function of the Board to advise the Administrator on the policies of the Fund. The Board shall not advise the Administrator on the granting or denial of any particular application.

(4) TERMS OF MEMBERS.—

(A) IN GENERAL.—Each member of the Board shall serve for a term of 4 years.

(B) VACANCIES.—Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the previous member was appointed shall be appointed for the remainder of such term. Members may continue to serve following the expiration of their terms until a successor is appointed and qualified.

(5) CHAIRPERSON.—The Administrator shall appoint a chairperson from among the members of the Board.

(6) MEETINGS.—The Board shall meet at least annually and at such other times as requested by the Administrator or the chairperson. A majority of the members of the Board shall constitute a quorum.

(7) REIMBURSEMENT FOR EXPENSES.—The members of the Board may receive reimbursement for travel, per diem, and other necessary expenses incurred in the performance of their duties, in accordance with the Federal Advisory Committee Act.

(8) COSTS AND EXPENSES.—The Fund shall provide to the Board all necessary staff and facilities.

(e) CONFORMING AMENDMENTS.—Section 9101(3) of title 31, United States Code, is amended—

(1) by redesignating subparagraphs (B) through (M) as subparagraphs (C) through (N), respectively; and

(2) by inserting after subparagraph (A) the following new subparagraph:

"(B) the Community Development Financial Institutions Fund;".

(f) GOVERNMENT CORPORATION CONTROL ACT EXEMPTION.—Section 9107(b) of title 31, United States Code, shall not apply to deposits of the Fund made pursuant to section 108.

(g) LIMITATION OF FUND AND FEDERAL LIABILITY.—The liability of the Fund and the United States Government arising out of any investment in a community development financial institution in accordance with this subtitle shall be limited to the amount of the investment. The Fund shall be exempt from any assessments and other liabilities that may be imposed on controlling or principal shareholders by any Federal law or the law of any State, Territory, or the District of Columbia.

(h) PROHIBITION ON ISSUANCE OF SECURITIES.—The Fund may not issue stock, bonds, debentures, notes, or other securities.

(i) COMPENSATION.—Title 5, United States Code, is amended—

(1) in section 5314, by adding at the end the following:

"Administrator of the Community Development Financial Institutions Fund."; and

(2) in section 5315, by adding at the end the following:

"Deputy Administrator of the Community Development Financial Institutions Fund.".

(j) ASSISTED INSTITUTIONS NOT UNITED STATES INSTRUMENTALITIES.—A community development financial institution or other organization that receives assistance pursuant to this subtitle shall not be deemed to be an agency, department, or instrumentality of the United States.

SEC. 105. APPLICATIONS FOR ASSISTANCE.

(a) FORM AND PROCEDURES.—An application for assistance under this subtitle shall be submitted in such form and in accordance with such procedures as the Fund shall establish.

(b) MINIMUM REQUIREMENTS.—Except as provided in sections 106 and 115, the Fund shall require an application—

(1) to establish that the applicant is, or will be, a community development financial institution;

(2) to include a comprehensive strategic plan for the organization that contains—

(A) a business plan of not less than 5 years in duration that demonstrates that the applicant will be properly managed and will have the capacity to operate a community development financial institution that will not be dependent upon assistance from the Fund for continued viability;

(B) an analysis of the needs of the investment area or targeted population and a strategy for how the applicant will attempt to meet those needs;

(C) a plan to coordinate use of assistance from the Fund with existing Federal, State, and local assistance programs, and private sector financial services;

(D) an explanation of how the proposed activities of the applicant are consistent with existing economic, community, and housing development plans adopted by or applicable to an investment area; and

(E) a description of how the applicant will coordinate with community organizations and financial institutions which will provide equity investments, loans, secondary markets, or other services to investment areas or targeted populations;

(3) to include a detailed description of the applicant's plans and likely sources of funds to match the amount of assistance requested from the Fund;

(4) in the case of an applicant that has previously received assistance under this subtitle, to demonstrate that the applicant—

(A) has substantially met its performance goals and otherwise carried out its responsibilities under this subtitle and the assistance agreement; and

(B) will expand its operations into a new investment area or to serve a new targeted population, offer more services, or increase the volume of its business;

(5) in the case of an applicant with a prior history of serving investment areas or targeted populations, to demonstrate that the applicant—

(A) has a record of success in serving investment areas or targeted populations;

(B) will expand its operations into a new investment area or to serve a new targeted population, offer more services, or increase the volume of its current business; and

(6) to include such other information as the Fund deems appropriate.

(c) PREAPPLICATION OUTREACH PROGRAM.—The Fund may operate an outreach program to identify and provide information to potential applicants.

SEC. 106. COMMUNITY PARTNERSHIPS.

(a) APPLICATION.—An application for assistance may be filed jointly by a community development financial institution and a community partner to carry out a community partnership.

(b) APPLICATION REQUIREMENTS.—The Fund shall require a community partnership application—

(1) to meet the minimum requirements established for community development financial institutions under section 105(b), except that the criteria specified in paragraphs (1) and (2)(A) of section 105(b) shall not apply to the community partner;

(2) to describe how each coapplicant will participate in carrying out the community partnership and how the partnership will enhance activities serving the investment area or targeted population; and

(3) to demonstrate that the community partnership activities are consistent with the strategic plan submitted by the community development financial institution coapplicant.

(c) SELECTION CRITERIA.—The Fund shall consider a community partnership application based on the selection criteria set out in section 107.

(d) LIMITATION ON DISTRIBUTION OF ASSISTANCE.—Assistance provided upon approval of an application under this section shall be distributed only to the community development financial institution coapplicant, and shall not be used to fund any activities carried out directly by the community partner or an affiliate thereof.

(e) OTHER REQUIREMENTS AND LIMITATIONS.—All other requirements and limitations imposed by this subtitle on a community development financial institution assisted under this subtitle shall apply (in the manner that the Fund determines to be appropriate) to assistance provided to carry out community partnerships. The Fund may establish additional guidelines and restrictions on the use of Federal funds to carry out community partnerships.

SEC. 107. SELECTION OF INSTITUTIONS.

(a) SELECTION CRITERIA.—Except as provided in section 115, the Fund shall, in its sole discretion, select applicants for assistance based on—

(1) the likelihood of success of the applicant in meeting the goals of its comprehensive strategic plan;

(2) the experience and background of the proposed management team;

(3) the extent of need for equity investments, loans, and development services within the investment areas or targeted populations;

(4) the extent of economic distress within the investment areas or the extent of need within the targeted populations, as those factors are measured by objective criteria;

(5) the extent to which the applicant will concentrate its activities on serving its investment areas or targeted populations;

(6) the amount of firm commitments to meet or exceed the matching requirements and the likely success of the plan for raising the balance of the match;

(7) the extent to which the proposed activities will expand economic opportunities within the investment areas or the targeted populations;

(8) whether the applicant is, or will become, an insured depository institution or an insured credit union;

(9) whether the applicant is, or will be, located—

(A) in an empowerment zone or enterprise community designated under section 1391 of the Internal Revenue Code of 1986; or

(B) on an Indian reservation, as defined in section 3(d) of the Indian Financing Act of 1974 or section 4(10) of the Indian Child Welfare Act of 1978;

(10) the extent to which the applicant will increase its resources through coordination with other institutions or participation in a secondary market;

(11) in the case of an applicant with a prior history of serving investment areas or targeted populations, the extent of success in serving them; and

(12) other factors (such as the extent to which the applicant has strong ties to the community that it will serve) deemed to be appropriate by the Fund.

(b) GEOGRAPHIC DIVERSITY.—The Fund shall assist a geographically diverse group of applicants, including an appropriate mix of applicants from urban, rural, and Native American communities.

SEC. 108. ASSISTANCE PROVIDED BY THE FUND.

(a) FORMS OF ASSISTANCE.—

(1) IN GENERAL.—The Fund may provide—

(A) financial assistance through equity investments, deposits, credit union shares, loans, and grants; and

(B) technical assistance—

(i) directly;

(ii) through grants; or

(iii) by contracting with organizations that possess expertise in community development, without regard to whether the organizations receive or are eligible to receive assistance under this subtitle.

(2) EQUITY INVESTMENTS.—The Fund shall not own more than 50 percent of the equity of a community development financial institution and may not control the operations of such institution. The Fund may hold only transferable, nonvoting equity investments. Such equity investments may provide for convertibility to voting stock upon transfer by the Fund.

(3) DEPOSITS.—Deposits made pursuant to this section in an insured community development financial institution shall not be subject to any requirement for collateral or security.

(4) LIMITATIONS ON OBLIGATIONS.—Direct loan obligations may be incurred by the Fund only to the extent that appropriations of budget authority to cover their costs, as defined in section 502 of the Congressional Budget Act of 1974, are made in advance.

(b) USES OF FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—Financial assistance made available under this subtitle may be used by assisted institutions to serve investment areas or targeted populations by developing or supporting—

(A) commercial facilities that promote revitalization, community stability, or job creation or retention;

(B) businesses that—

(i) provide jobs for low-income people or are owned by low-income people; or

(ii) enhance the availability of products and services to low-income people;

(C) community facilities;

(D) the provision of basic financial services;

(E) housing that is principally affordable to low-income people, except that assistance used to facilitate homeownership opportunities shall only be used for activities and lending products that serve low-income people and are not offered by other lenders in the area; and

(F) other businesses and activities deemed appropriate by the Fund.

(2) LIMITATIONS.—No assistance made available under this subtitle may be expended by a community development financial institution (or an organization receiving assistance under section 115) to pay any person to influence or attempt to influence any agency, elected official, officer, or employee of a State or local government in connection with the making, award, extension, continuation, renewal, amendment, or modification of any State or local government contract, grant, loan, or cooperative agreement (as such terms are defined in section 1352 of title 31, United States Code).

(c) USES OF TECHNICAL ASSISTANCE.—Technical assistance may be used for activities that enhance the capacity of a community development financial institution, such as training of management and other personnel and development of programs and investment or loan products.

(d) AMOUNT OF ASSISTANCE.—

(1) IN GENERAL.—The Fund may provide not more than $5,000,000 of assistance, in the aggregate, during any 3-year period to any 1 community development financial institution and its affiliates.

(2) EXCEPTION.—Notwithstanding the limitations in paragraph (1), in the case of an existing community development financial institution that proposes to serve an investment area or targeted population outside of any State and outside of any metropolitan area presently served by the institution, the Fund may provide not more than $7,500,000 of assistance to a community development financial institution, in the aggregate, during any 3-year period, of which not less than $2,500,000 shall be used to establish affiliates to serve the new investment area or targeted population.

(3) TIMING OF ASSISTANCE.—Assistance may be provided as described in paragraphs (1) and (2) in a lump sum or over a period of time, as determined by the Fund.

(e) MATCHING REQUIREMENTS.—Assistance other than technical assistance shall be matched with funds from sources other than the Federal Government on the basis of not less than 1 dollar for each dollar provided by the Fund. Such matching funds shall be at least comparable in form and value to the assistance provided by the Fund. The Fund may reduce by up to 50 percent the matching requirements for applicants with severe constraints on available sources of matching funds, except that in any fiscal year, not more than 25 percent of funds disbursed by the Fund may have a reduced match. The Fund shall provide no assistance (other than technical assistance) until a community development financial institution has secured firm commitments for the matching funds required.

(f) TERMS AND CONDITIONS.—

(1) SOUNDNESS OF UNREGULATED INSTITUTIONS.—The Fund shall—

(A) ensure, to the maximum extent practicable, that each community development financial institution (other than an insured community development financial institution or depository institution holding company) assisted under this subtitle is financially and managerially sound and maintains appropriate internal controls; and

(B) require such institution to submit, not less than once during each 18-month period, a statement of financial condition audited by an independent certified public accountant as part of the report required by section 112(a)(4).

(2) CONSULTATION WITH THE APPROPRIATE BANKING REGULATOR.—Prior to providing assistance to an insured community development financial institution, the Fund shall consult with the appropriate Federal banking agency.

(3) ASSISTANCE AGREEMENT.—

(A) IN GENERAL.—Before providing any assistance under this subtitle, the Fund and each community development financial institution to be assisted shall enter into an agreement that requires the institution to comply with performance goals and abide by other terms and conditions pertinent to assistance received under this subtitle.

(B) PERFORMANCE GOALS.—Performance goals shall be negotiated between the Fund and each community development financial institution receiving assistance based upon the strategic plan submitted pursuant to section 105(b)(2). Such goals may be modified with the consent of the parties, or as provided in subparagraph (C). Performance goals for insured community development financial institutions shall be determined in consultation with the appropriate Federal banking agency.

(C) SANCTIONS.—The agreement shall provide that, in the event of fraud, mismanagement, noncompliance with this subtitle, or noncompliance with the terms of the agreement, the Fund, in its discretion, may—

(i) revoke approval of the application;

(ii) terminate or reduce future assistance;

(iii) require repayment of assistance;

(iv) require changes to the performance goals imposed pursuant to subparagraph (B);

(v) bar an applicant from reapplying for assistance from the Fund;

(vi) require changes to the strategic plan submitted pursuant to section 105(b)(2); and

(vii) take such other actions as the Fund deems appropriate.

(D) INSURED COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS.—In the case of an insured community development financial institution, the Fund shall notify the appropriate Federal banking agency not less than 15 days before imposing sanctions pursuant to this paragraph and shall not impose such sanctions if the agency disapproves, with an explanation in writing, during that 15-day period.

(g) AUTHORITY TO SELL EQUITY INVESTMENTS AND LOANS.—The Fund may, at any time, sell its equity investments and loans, but the Fund shall retain the power to enforce limitations on assistance entered into in accordance with the requirements of this subtitle until the performance goals related to the investment or loan have been met.

(h) NO AUTHORITY TO LIMIT SUPERVISION AND REGULATION.—Nothing in this subtitle shall affect any authority of the appropriate Federal banking agency to supervise and regulate any institution or company.

SEC. 109. COMMUNITY DEVELOPMENT TRAINING.

(a) IN GENERAL.—The Fund may operate a training program to increase the capacity and expertise of community development financial institutions and other members of the financial services industry to undertake community development activities (hereafter in this subtitle referred to as the "training program").

(b) PROGRAM ACTIVITIES.—The training program shall provide educational programs to assist community development financial institutions and other members of the financial services industry in developing lending and investment products, underwriting and servicing loans, managing equity investments, and implementing development services targeted to areas of economic distress, low-income persons, and persons who lack adequate access to loans and equity investments.

(c) PARTICIPATION.—The training program shall be made available to community development financial institutions and other members of the financial services industry that serve or seek to serve areas of economic distress, low-income persons, and persons who lack adequate access to loans and equity investments.

(d) CONTRACTING.—The Fund may offer the training described in this section directly or through a contract with other organizations. The Fund may contract to provide the training with organizations that possess special expertise in community development, without regard to whether the organizations receive or are eligible to receive assistance under this subtitle.

(e) FEES.—The Fund, as it deems appropriate, may charge fees for participation in training services to offset the cost of providing the services.

SEC. 110. ENCOURAGEMENT OF PRIVATE ENTITIES.

The Fund may facilitate the organization of corporations in which the Federal Government has no ownership interest that will complement the activities of the Fund in carrying out the purpose of this subtitle. The purpose of any such entity shall be to assist community development financial institutions in a manner that is complementary to the activities of the Fund under this subtitle. Any such entity shall be managed exclusively by persons not employed by the Federal Government or any agency or instrumentality thereof.

SEC. 111. CLEARINGHOUSE FUNCTION.

(a) ESTABLISHMENT.—The Fund may establish and maintain an information clearinghouse in coordination with other Federal departments or agencies and community development financial institutions to—

(1) collect, compile, and analyze information pertinent to community development financial institutions that will assist in creating, developing, expanding, and preserving these institutions; and

(2) provide information on financial, technical, and management assistance, data on the activities of community development financial institutions, regulations, and other information that may promote the purposes of this subtitle.

(b) COSTS.—The cost of maintaining the clearinghouse shall be shared equally by the Fund and each department or agency involved in maintaining the clearinghouse.

SEC. 112. RECORDKEEPING, REPORTS, AND AUDITS.

(a) RECORDKEEPING.—

(1) IN GENERAL.—A community development financial institution receiving assistance from the Fund shall keep such records, for such periods as may be prescribed, as may be necessary to disclose the manner in which any assistance under this subtitle is used and to demonstrate compliance with the requirements of this subtitle.

(2) ACCESS TO RECORDS.—The Fund shall have access on demand, for the purpose of determining compliance with this subtitle, to any records of a community development financial institution that receives assistance from the Fund.

(3) REVIEW.—Not less than annually, the Fund shall review the progress of each assisted community development financial institution in carrying out its strategic plan, meeting its performance goals, and satisfying the terms and conditions of its assistance agreement.

(4) REPORTING.—

(A) ANNUAL REPORTS.—The Fund shall require each community development financial institution receiving assistance under this subtitle to submit an annual report to the Fund on its activities, its financial condition, and its success in meeting performance goals, in satisfying the terms and conditions of its assistance agreement, and in complying with other requirements of this subtitle in such form and manner as the Fund shall specify.

(B) AVAILABILITY OF REPORTS.—The Fund, after deleting or redacting any material, as appropriate to protect privacy or proprietary interests, shall make such reports available for public inspection.

(b) ANNUAL REPORT BY THE FUND.—The Fund shall conduct an annual evaluation of the activities carried out by the Fund and the community development financial institutions assisted pursuant to this subtitle, and shall submit a report of its findings to the President and the Congress not later than 120 days after the end of each fiscal year of the Fund. The report shall include financial statements audited in accordance with subsection (d).

(c) STUDIES.—

(1) OPTIONAL STUDIES.—The Fund may conduct such studies as the Fund determines necessary to further the purpose of this subtitle and to facilitate investment in distressed communities. The findings of any studies conducted pursuant to this paragraph shall be included in the report required by subsection (b).

(2) INVESTMENT, GOVERNANCE, AND ROLE OF FUND.—Thirty months after the appointment and qualification of the Administrator, the Comptroller General shall submit to the President and the Congress a study evaluating the structure, governance, and performance of the Fund.

(d) EXAMINATION AND AUDIT.—The financial statements of the Fund shall be audited in

accordance with section 9105 of title 31, United States Code, except that audits required by section 9105(a) of such title shall be performed annually.

SEC. 113. INVESTMENT OF RECEIPTS AND PROCEEDS.

(a) ESTABLISHMENT OF ACCOUNT.—Any dividends on equity investments and proceeds from the disposition of investments, deposits, or credit union shares that are received by the Fund as a result of assistance provided pursuant to section 108, and any fees received pursuant to section 109(e) shall be deposited and accredited to an account of the Fund in the United States Treasury (hereafter in this section referred to as "the account") established to carry out the purpose of this subtitle.

(b) INVESTMENTS.—Upon request of the Administrator, the Secretary of the Treasury shall invest amounts deposited in the account in public debt securities with maturities suitable to the needs of the Fund, as determined by the Administrator, and bearing interest at rates determined by the Secretary of the Treasury, comparable to current market yields on outstanding marketable obligations of the United States of similar maturities.

(c) AVAILABILITY.—Amounts deposited into the account and interest earned on such amounts pursuant to this section shall be available to the Fund until expended.

SEC. 114. INSPECTOR GENERAL.

(a) ESTABLISHMENT.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App. 11) is amended—

(1) in paragraph (1), by inserting "; the Administrator of the Community Development Financial Institutions Fund;" before "and the chief"; and

(2) in paragraph (2), by inserting "the Community Development Financial Institutions Fund," after "the Agency for International Development,".

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for the operation of the Office of Inspector General established by the amendments made by subsection (a).

SEC. 115. CAPITALIZATION ASSISTANCE TO ENHANCE LIQUIDITY.

(a) ASSISTANCE.—

(1) IN GENERAL.—The Fund may provide assistance for the purpose of providing capital to organizations that will purchase loans or otherwise enhance the liquidity of community development financial institutions if—

(A) the primary purpose of such organizations is to promote community development; and

(B) any assistance received is matched with funds—

(i) from sources other than the Federal Government;

(ii) on the basis of not less than $1 for each dollar provided by the Fund; and

(iii) that are comparable in form and value to the assistance provided by the Fund.

(2) LIMITATION ON OTHER ASSISTANCE.—An organization that receives assistance under this section may not receive other financial or technical assistance under this subtitle.

(b) SELECTION.—The selection of organizations to receive assistance under this section shall be at the discretion of the Fund and in accordance with criteria established by the Fund. In establishing such criteria, the Fund shall take into account the criteria contained in sections 105(b) and 107, as appropriate.

(c) AMOUNT OF ASSISTANCE.—The Fund may provide a total of not more than $5,000,000 of assistance to an organization under this section during any 3-year period. Assistance may be provided in a lump sum or over a period of time, as determined by the Fund.

(d) AUDIT AND REPORT REQUIREMENTS.—

(1) IN GENERAL.—Organizations that receive assistance from the Fund in accordance with this section shall—

(A) submit to the Fund not less than once in every 18-month period, financial statements audited by an independent certified public accountant;

(B) submit an annual report on its activities; and

(C) keep such records as may be necessary to disclose the manner in which any assistance under this section is used.

(2) ACCESS.—The Fund shall have access on demand, for the purposes of determining compliance with this section, to any records of such organizations.

(e) LIMITATIONS ON LIABILITY.—

(1) LIABILITY OF FUND.—The liability of the Fund and the United States Government arising out of the provision of assistance to any organization in accordance with this section shall be limited to the amount of such assistance. The Fund shall be exempt from any assessments and any other liabilities that may be imposed on controlling or principal shareholders by any Federal law or the law of any State, territory, or the District of Columbia.

(2) LIABILITY OF GOVERNMENT.—This section does not oblige the Federal Government, either directly or indirectly, to provide any funds to any organization assisted pursuant to this section, or to honor, reimburse, or otherwise guarantee any obligation or liability of such an organization. This section shall not be construed to imply that any such organization or any obligations or securities of any such organization are backed by the full faith and credit of the United States.

(f) USE OF PROCEEDS.—Any proceeds from the sale of loans to an organization assisted under this section shall be used by the seller for community development purposes.

SEC. 116. COMMUNITY DEVELOPMENT REVOLVING LOAN FUND FOR CREDIT UNIONS.

(a) REPEAL.—Section 120 of the Federal Credit Union Act (12 U.S.C. 1766) is amended by striking subsection (k).

(b) REVOLVING LOAN FUND.—The Federal Credit Union Act (12 U.S.C. 1751 et seq.) is amended by inserting after section 129 the following new section:

"SEC. 130. COMMUNITY DEVELOPMENT REVOLVING LOAN FUND FOR CREDIT UNIONS.

"(a) IN GENERAL.—The Board may exercise the authority granted to it by the Community Development Credit Union Revolving Loan Fund Transfer Act, including any additional appropriation made or earnings accrued, subject only to this section and to regulations prescribed by the Board.

"(b) INVESTMENT.—The Board may invest any idle Fund moneys in United States Treasury securities. Any interest accrued on such securities shall become a part of the Fund.

"(c) LOANS.—The Board may require that any loans made from the Fund be matched by increased shares in the borrower credit union.

"(d) INTEREST.—Interest earned by the Fund may be allocated by the Board for technical assistance to community development credit unions, subject to an appropriations Act.

"(e) DEFINITION.—As used in this section, the term 'Fund' means the Community Development Credit Union Revolving Loan Fund.".

SEC. 117. STUDY OF COMMUNITY DEVELOPMENT CREDIT UNIONS.

(a) IN GENERAL.—The National Credit Union Administration Board, in consultation with representatives of the credit union industry, shall conduct a study of community development credit activities by credit unions. In conducting the study, the Board shall consider—

(1) the role of such institutions in providing credit and related financial services to inner city and rural areas;

(2) the failure rate of such institutions in the past;

(3) the desirability of establishing a special examination force for community development credit unions and mentor programs;

(4) the desirability of establishing a clearinghouse for the recirculation of startup equipment and furniture for community development credit unions; and

(5) appropriate startup and permanent financing programs for such credit unions.

(b) REPORT.—Not later than October 1, 1994, the National Credit Union Administration Board shall issue a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives on the study conducted under subsection (a) and the regulatory and legislative changes that may be necessary to ensure that community development activity by credit unions becomes and remains viable and productive.

SEC. 118. REGULATIONS.

Not later than 180 days after the appointment and qualification of the Administrator, the Fund shall issue such regulations as may be necessary to carry out this subtitle.

SEC. 119. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—To carry out this subtitle, there are authorized to be appropriated to the Fund, to remain available until expended—

(1) $60,000,000 for fiscal year 1994;

(2) $104,000,000 for fiscal year 1995;

(3) $107,000,000 for fiscal year 1996; and

(4) $111,000,000 for fiscal year 1997.

(b) ADMINISTRATIVE EXPENSES.—Of amounts authorized to be appropriated to the Fund—

(1) not more than $5,500,000 may be used by the Fund in each fiscal year to pay the administrative costs and expenses of the Fund; and

(2) not more than $50,000 may be used by the Fund in each fiscal year to provide for administrative costs and expenses described in section 104(d)(8).

(c) COMMUNITY DEVELOPMENT CREDIT UNION REVOLVING LOAN FUND.—There are authorized to be appropriated for the purposes of the Community Development Credit Union Revolving Loan Fund—

(1) $2,000,000 for fiscal year 1994;

(2) $1,000,000 for fiscal year 1995;

(3) $1,000,000 for fiscal year 1996; and

(4) $1,000,000 for fiscal year 1997.

(d) CAPITALIZATION ASSISTANCE.—Not more than 5 percent of the amounts authorized to be appropriated under subsection (a) may be used as provided in section 115.

(e) BUDGETARY TREATMENT.—Amounts authorized to be appropriated under this section shall be subject to discretionary spending caps, as provided in section 601 of the Congressional Budget Act of 1974, and therefore shall reduce by an equal amount funds made available for other discretionary spending programs.

Subtitle B—Home Ownership and Equity Protection

SEC. 151. CONSUMER PROTECTIONS FOR HIGH COST MORTGAGES.

(a) DEFINITION.—Section 103 of the Truth in Lending Act (15 U.S.C. 1602) is amended by adding at the end the following new subsection:

"(aa)(1) The term 'high cost mortgage' means a consumer credit transaction, other than a residential mortgage transaction or a transaction under an open end credit plan, that is secured by a consumer's principal dwelling, if—

"(A) the annual percentage rate at consummation of the transaction will exceed by more than 10 percentage points the rate of interest on Treasury securities having comparable periods of maturity on the fifteenth day of the month immediately preceding the month in which the loan is consummated; or

"(B) the total points and fees payable by the consumer at or before closing will exceed the greater of—

"(i) 8 percent of the total loan amount; or

"(ii) $400.

"(2) The amount specified in paragraph (1)(B)(ii) shall be adjusted annually on January 1 by the annual percentage change in the Consumer Price Index, as reported on June 1 of the year preceding such adjustment.

"(3) For purposes of paragraph (1)(B), points and fees shall include—

"(A) all items included in the finance charge except interest and the time-price differential;

"(B) all compensation paid to mortgage brokers;

"(C) all direct and indirect compensation received by the creditor in connection with credit insurance; and

"(D) each of the charges listed in section 106(e) (except an escrow for future payment of taxes), unless—

"(i) the charge is reasonable;

"(ii) the creditor receives no direct or indirect compensation; and

"(iii) the charge is paid to a third party unaffiliated with the creditor.".

(b) MATERIAL DISCLOSURES.—Section 103(u) of the Truth in Lending Act (15 U.S.C. 1602(u)) is amended—

(1) by striking "and the due dates" and inserting ", the due dates"; and

(2) by inserting before the period ", and the disclosures for high cost mortgages required by section 129(a)".

(c) DEFINITION OF CREDITOR CLARIFIED.—Section 103(f) of the Truth in Lending Act (15 U.S.C. 1602(f)) is amended by adding at the end the following: "Any person who originates 2 or more high cost mortgages in any 12-month period or any person who originates 1 or more high cost mortgages through a mortgage broker shall be considered to be a creditor for purposes of this title.".

(d) DISCLOSURES REQUIRED AND CERTAIN TERMS PROHIBITED.—The Truth in Lending Act (15 U.S.C. 1601 et seq.) is amended by inserting after section 128 the following new section:

"SEC. 129. REQUIREMENTS FOR HIGH COST MORTGAGES.

"(a) DISCLOSURES.—

"(1) SPECIFIC DISCLOSURES.—In addition to other disclosures required under this title, for each high cost mortgage, the creditor shall provide the following disclosures in conspicuous type size:

"(A) 'You are not required to complete this agreement merely because you have received these disclosures or have signed a loan application.'

"(B) 'If you obtain this loan, the lender will have a mortgage on your home. You could lose your home, and any money you have put into it, if you do not meet your obligations under the loan.'.

"(2) ANNUAL PERCENTAGE RATE.—In addition to the disclosures required under paragraph (1), the creditor shall disclose—

"(A) the annual percentage rate of the loan and the amount of the regular monthly payment; or

"(B) in the case of a variable rate loan, the annual percentage rate of the loan, a statement that the interest rate and monthly payment may increase, and the amount of the maximum possible monthly payment.

"(b) TIME OF DISCLOSURES.—

"(1) IN GENERAL.—The disclosures required by this section shall be given not less than 3 business days prior to consummation of the transaction.

"(2) NEW DISCLOSURES REQUIRED.—After providing the disclosures required by this section, a creditor may not change the terms of the loan if such changes make the disclosures inaccurate, unless new disclosures are provided that meet the requirements of this section.

"(3) MODIFICATIONS.—The Board may, if it finds that such action is necessary to permit homeowners to meet bona fide personal financial emergencies, prescribe regulations authorizing the modification or waiver of rights created under this subsection, to the extent and under the circumstances set forth in those regulations.

"(c) NO PREPAYMENT PENALTY.—

"(1) IN GENERAL.—Except as provided in paragraph (4), a high cost mortgage may not contain terms under which a consumer must pay a prepayment penalty for paying all or part of the principal of the loan prior to the date on which such principal is due. If the date of maturity of the high cost mortgage is accelerated for any reason, and the consumer is entitled to a rebate of interest, computation of the rebate amount shall comply with paragraph (2). No high cost mortgage shall provide for a default interest rate that is higher than the interest rate provided by the note for the loan prior to default.

"(2) REBATE COMPUTATION.—For purposes of this subsection, any method of computing rebates of interest that is less favorable to the consumer than the actuarial method (as defined in section 933 of the Housing and Community Development Act of 1992) using simple interest is a prepayment penalty.

"(3) CERTAIN OTHER FEES PROHIBITED.—An agreement to refinance a high cost mortgage by the same creditor or an affiliate of the creditor may not require the consumer to pay points, discount fees, or prepaid finance charges on the portion of the loan refinanced.

"(4) EXCEPTION.—A high cost mortgage may include terms under which a consumer is required to pay not more than 1 month's interest as a penalty if the consumer prepays the principal of the loan within 90 days of origination.

"(d) NO BALLOON PAYMENTS.—A high cost mortgage may not include terms under which the aggregate amount of the regular periodic payments would not fully amortize the outstanding principal balance.

"(e) NO NEGATIVE AMORTIZATION.—A high cost mortgage may not include terms under which the outstanding principal balance will increase at any time over the course of the loan because the regular periodic payments do not cover the full amount of interest due.

"(f) NO PREPAID PAYMENTS.—A high cost mortgage may not include terms under which more than 2 periodic payments required under the loan are consolidated and paid in advance from the loan proceeds provided to the consumer.

"(g) CONSEQUENCE OF FAILURE TO COMPLY.—Any high cost mortgage loan that contains a provision prohibited by this section shall be deemed a failure to deliver the material disclosures required under this title, for the purpose of section 125.

"(h) DEFINITION.—For purposes of this section, the term 'affiliate' has the same meaning as in section 2(k) of the Bank Holding Company Act of 1956.

"(i) DISCRETIONARY REGULATORY AUTHORITY OF BOARD.—

"(1) EXEMPTIONS.—The Board may, by regulation or order, exempt specific mortgage products or categories of mortgages from any or all of the prohibitions specified in subsections (c) through (f), if the Board finds that the exemption—

"(A) is in the interest of the borrowing public; and

"(B) will apply only to products that maintain and strengthen home ownership and equity protection.

"(2) PROHIBITIONS.—The Board, by regulation or order, shall prohibit any specific acts or practices in connection with high cost mortgages that the Board finds to be unfair, deceptive, or designed to evade the provisions of this section.".

(e) CONFORMING AMENDMENTS.—

(1) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 2 of the Truth in Lending Act is amended by striking the item relating to section 129 and inserting the following:

"129. Requirements for high cost mortgages.".

(2) TRUTH IN LENDING ACT.—Section 105(a) of the Truth in Lending Act (15 U.S.C. 1604(a)) is amended in the second sentence, by striking "These" and inserting "Except in the case of a high cost mortgage, as defined in section 103(aa), these".

SEC. 152. CIVIL LIABILITY.

(a) DAMAGES.—Section 130(a) of the Truth in Lending Act (15 U.S.C. 1640(a)) is amended—

(1) by striking "and" at the end of paragraph (2)(B);

(2) by striking the period at the end of paragraph (3) and inserting "; and"; and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) in the case of a failure to comply with any requirement under section 129, an amount equal to the sum of all finance charges and fees paid by the consumer, unless the creditor demonstrates that the failure to comply is not material.".

(b) STATE ATTORNEY GENERAL ENFORCEMENT.—Section 130(e) of the Truth in Lending Act (15 U.S.C. 1640(e)) is amended by adding at the end the following: "An action to enforce a violation of section 129 may also be brought by the appropriate State attorney general in any appropriate United States district court, or any other court of competent jurisdiction, not later than 3 years after the date on which the violation occurs. The State attorney general shall provide prior written notice of any such civil action to the Federal agency responsible for enforcement under section 108 and shall provide the agency with a copy of the complaint. If prior notice is not feasible, the State attorney general shall provide notice to such agency immediately upon instituting the action. The Federal agency may—

"(1) intervene in the action;

"(2) upon intervening—

"(A) remove the action to the appropriate United States district court, if it was not originally brought there; and

"(B) be heard on all matters arising in the action; and

"(3) file a petition for appeal.".

(c) ASSIGNEE LIABILITY.—Section 131 of the Truth in Lending Act (15 U.S.C. 1641) is amended by adding at the end the following new subsection:

"(d) HIGH COST MORTGAGES.—

"(1) IN GENERAL.—In addition to any other liability imposed under this title, any person who purchases or is otherwise assigned a high cost mortgage shall be subject to all claims and defenses with respect to the mortgage that the consumer could assert against the creditor of the mortgage.

"(2) DAMAGES.—Relief provided as a result of liability imposed under paragraph (1) shall be limited to the sum of—

"(A) the amount of all remaining indebtedness; and

"(B) the total amount paid by the consumer in connection with the transaction.

"(3) NOTICE.—Any person who sells or otherwise assigns a high cost mortgage shall include a prominent notice of the potential liability under this subsection as determined by the Board.".

SEC. 153. REGULATIONS; EFFECTIVE DATE.

(a) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Board of Governors of the Federal Reserve System shall issue such regulations as may be necessary to carry out this subtitle.

(b) EFFECTIVE DATE.—This subtitle, and the amendments made by this subtitle, shall apply to every high cost mortgage (as defined in section 103(aa) of the Truth in Lending Act, as added by section 151(a) of this Act) consummated on or after the date which is 60 days after the promulgation of final regulations under subsection (a).

TITLE II—SMALL BUSINESS CAPITAL FORMATION

Subtitle A—Small Business Loan Securitization

SEC. 201. SHORT TITLE.

This subtitle may be cited as the "Small Business Loan Securitization and Secondary Market Enhancement Act of 1993".

SEC. 202. SMALL BUSINESS RELATED SECURITY.

(a) DEFINITION.—Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended by adding at the end the following new paragraph:

"(53)(A) The term 'small business related security' means a security that is rated in 1 of the 4 highest rating categories by at least 1 nationally recognized statistical rating organization, and either—

"(i) represents an interest in 1 or more promissory notes evidencing the indebtedness of a small business concern and originated by an insured depository institution, insured credit union, insurance company, or similar institution which is supervised and examined by a Federal or State authority, or a finance company; or

"(ii) is secured by an interest in 1 or more promissory notes (with or without recourse to the issuer) and provides for payments of principal in relation to payments, or reasonable projections of payments, on notes described in clause (i).

"(B) For purposes of this paragraph—

"(i) an 'interest in a promissory note' includes ownership rights, certificates of interest or participation in such notes, and rights designed to assure servicing of such notes, or the receipt or timely receipt of amounts payable under such notes;

"(ii) the term 'small business concern' has the same meaning as in section 3 of the Small Business Act;

"(iii) the term 'insured depository institution' has the same meaning as in section 3 of the Federal Deposit Insurance Act; and

"(iv) the term 'insured credit union' has the same meaning as in section 101 of the Federal Credit Union Act.".

(b) TECHNICAL AMENDMENT.—Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended by redesignating paragraph (51) defining the term "foreign financial regulatory authority" as paragraph (52) and inserting such paragraph after paragraph (51), defining the term "penny stocks".

SEC. 203. APPLICABILITY OF MARGIN REQUIREMENTS.

Section 7(g) of the Securities Exchange Act of 1934 (15 U.S.C. 78g(g)) is amended by inserting "or a small business related security" after "mortgage related security".

SEC. 204. BORROWING IN THE COURSE OF BUSINESS.

Section 8(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78h(a)) is amended in the last sentence by inserting "or a small business related security" after "mortgage related security".

SEC. 205. SMALL BUSINESS RELATED SECURITIES AS COLLATERAL.

Clause (ii) of section 11(d)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78k(d)(1)) is amended by inserting "or any small business related security" after "mortgage related security".

SEC. 206. INVESTMENT BY DEPOSITORY INSTITUTIONS.

(a) HOME OWNERS' LOAN ACT AMENDMENT.—Section 5(c)(1) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(1)) is amended by adding at the end the following new subparagraph:

"(S) SMALL BUSINESS RELATED SECURITIES.—Investments in small business related securities (as defined in section 3(a)(53) of the Securities Exchange Act of 1934), subject to such regulations as the Director may prescribe, including regulations concerning the minimum size of the issue (at the time of the initial distribution), the minimum aggregate sales price, or both.".

(b) CREDIT UNIONS.—Section 107(15) of the Federal Credit Union Act (12 U.S.C. 1757(15)) is amended—

(1) in subparagraph (A), by striking "or" at the end;

(2) in subparagraph (B), by inserting "or" at the end; and

(3) by adding at the end the following new subparagraph:

"(C) are small business related securities (as defined in section 3(a)(53) of the Securities Exchange Act of 1934), subject to such regulations as the Board may prescribe, including regulations prescribing the minimum size of the issue (at the time of the initial distribution), the minimum aggregate sales price, or both;".

(c) NATIONAL BANKING ASSOCIATIONS.—Section 5136 of the Revised Statutes (12 U.S.C. 24) is amended in the last sentence in the first full paragraph of paragraph Seventh, by striking "or (B) are mortgage related securities" and inserting the following: "(B) are small business related securities (as defined in section 3(a)(53) of the Securities Exchange Act of 1934); or (C) are mortgage related securities".

SEC. 207. PREEMPTION OF STATE LAW.

(a) IN GENERAL.—Section 106(a)(1) of the Secondary Mortgage Market Enhancement Act of 1984 (15 U.S.C. 77r-1(a)(1)) is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by redesignating subparagraph (C) as subparagraph (D); and

(3) by inserting after subparagraph (B) the following new subparagraph:

"(C) small business related securities (as defined in section 3(a)(53) of the Securities Exchange Act of 1934), or".

(b) OBLIGATIONS OF THE UNITED STATES.—Section 106(a)(2) of the Secondary Mortgage Market Enhancement Act of 1984 (15 U.S.C. 77r-1(a)(2)) is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by redesignating subparagraph (C) as subparagraph (D); and

(3) by inserting after subparagraph (B) the following new subparagraph:

"(C) small business related securities (as defined in section 3(a)(53) of the Securities Exchange Act of 1934), or".

(c) PREEMPTION OF STATE LAWS.—Section 106(c) of the Secondary Mortgage Market Enhancement Act of 1984 (15 U.S.C. 77r-1(c)) is amended—

(1) in the first sentence, by striking "or that" and inserting ", that"; and

(2) by inserting ", or that are small business related securities (as defined in section 3(a)(53) of the Securities Exchange Act of 1934)" before "shall be exempt".

(d) IMPLEMENTATION.—Section 106 of the Secondary Mortgage Market Enhancement Act of 1984 (15 U.S.C. 77r-1) is amended by adding at the end the following new subsection:

"(d) IMPLEMENTATION.—

"(1) LIMITATION.—The provisions of subsections (a) and (b) concerning small business related securities shall not apply with respect to a particular person, trust, corporation, partnership, association, business trust, or business entity or class thereof in any State that, prior to the expiration of 7 years after the date of enactment of this subsection, enacts a statute that specifically refers to this section and either prohibits or provides for a more limited authority to purchase, hold, or invest in such small business related securities by any person, trust, corporation, partnership, association, business trust, or business entity or class thereof than is provided in this section. The enactment by any State of any statute of the type described in the preceding sentence shall not affect the validity of any contractual commitment to purchase, hold, or invest that was made prior to such enactment, and shall not require the sale or other disposition of any small business related securities acquired prior to the date of such enactment.

"(2) STATE REGISTRATION OR QUALIFICATION REQUIREMENTS.—Any State may, not later than 7 years after the date of enactment of this subsection, enact a statute that specifically refers to this section and requires registration or qualification of any small business related securities on terms that differ from those applicable to any obligation issued by the United States.".

SEC. 208. INSURED DEPOSITORY INSTITUTION CAPITAL REQUIREMENTS FOR TRANSFERS OF SMALL BUSINESS LOANS.

(a) ACCOUNTING PRINCIPLES.—The accounting principles applicable to the transfer of a small business loan with recourse contained in reports or statements required to be filed with Federal banking agencies by a qualified insured depository institution shall be consistent with generally accepted accounting principles.

(b) CAPITAL AND RESERVE REQUIREMENTS.—With respect to the transfer of a small business loan with recourse that is a sale under generally accepted accounting principles, each qualified insured depository institution shall—

(1) establish and maintain a reserve equal to an amount sufficient to meet the reasonable estimated liability of the institution under the recourse arrangement; and

(2) include, for purposes of applicable capital standards and other capital measures, only the amount of the retained recourse in the risk-weighted assets of the institution.

(c) QUALIFIED INSTITUTIONS CRITERIA.—An insured depository institution is a qualified insured depository institution for purposes of this section if, without regard to the accounting principles or capital requirements referred to in subsections (a) and (b), the institution is—

(1) well capitalized; or

(2) with the approval, by regulation or order, of the appropriate Federal banking agency, adequately capitalized.

(d) AGGREGATE AMOUNT OF RECOURSE.—The total outstanding amount of recourse retained by a qualified insured depository institution with respect to transfers of small business loans under subsections (a) and (b) shall not exceed—

(1) 15 percent of the risk-based capital of the institution; or

(2) such greater amount, as established by the appropriate Federal banking agency by regulation or order.

(e) INSTITUTIONS THAT CEASE TO BE QUALIFIED OR EXCEED AGGREGATE LIMITS.—If an insured depository institution ceases to be a qualified insured depository institution or exceeds the limits under subsection (d), this section shall remain applicable to any transfers of small business loans that occurred during the time that the institution was qualified and did not exceed such limit.

(f) PROMPT CORRECTIVE ACTION NOT AFFECTED.—The capital of an insured depository institution shall be computed without regard to this section in determining whether the institution is adequately capitalized, under capitalized, significantly undercapitalized, or critically undercapitalized under section 38 of the Federal Deposit Insurance Act.

(g) REGULATIONS REQUIRED.—Not later than 180 days after the date of the enactment of this Act each appropriate Federal banking agency shall promulgate final regulations implementing this section.

(h) ALTERNATIVE SYSTEM PERMITTED.—

(1) IN GENERAL.—At the discretion of the appropriate Federal banking agency, this section shall not apply if the regulations of the agency provide that the aggregate amount of capital and reserves required with respect to the transfer of small business loans with recourse does not exceed the aggregate amount of capital and reserves that would be required under subsection (b).

(2) EXISTING TRANSACTIONS NOT AFFECTED.—Notwithstanding paragraph (1), this section shall remain in effect with respect to transfers of small business loans with recourse by qualified insured depository institutions occurring before the effective date of regulations referred to in paragraph (1).

(i) DEFINITIONS.—For purposes of this section—

(1) the term "adequately capitalized" has the same meaning as in section 38(b) of the Federal Deposit Insurance Act;

(2) the term "appropriate Federal banking agency" has the same meaning as in section 3 of the Federal Deposit Insurance Act;

(3) the term "capital standards" has the same meaning as in section 38(c) of the Federal Deposit Insurance Act;

(4) the term "Federal banking agencies" has the same meaning as in section 3 of the Federal Deposit Insurance Act;

(5) the term "insured depository institution" has the same meaning as in section 3 of the Federal Deposit Insurance Act;

(6) the term "other capital measures" has the meaning as in section 38(c) of the Federal Deposit Insurance Act;

(7) the term "recourse" has the meaning given to such term under generally accepted accounting principles;

(8) the term "small business" means a business that meets the criteria for a small business concern established by the Small Business Administration under section 3(a) of the Small Business Act; and

(9) the term "well capitalized" has the same meaning as in section 38(b) of the Federal Deposit Insurance Act.

SEC. 209. TRANSACTIONS IN SMALL BUSINESS RELATED SECURITIES BY EMPLOYEE BENEFIT PLANS.

(a) PROHIBITED TRANSACTION EXEMPTION.—The Secretary of Labor, in consultation with the Secretary of the Treasury, shall exempt transactions involving small business related securities (as defined in section 3(a)(53) of the Securities Exchange Act of 1934 (as added by section 202 of this Act)), either unconditionally or on stated terms and conditions, from the restrictions of sections 406 and 407 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1106, 1107) and the taxes imposed under section 4975 of the Internal Revenue Code of 1986 (26 U.S.C. 4975).

(b) CONDITIONS.—In providing for the exemption required under subsection (a), the Secretary of Labor shall consider—

(1) the importance of facilitating transactions in small business related securities; and

(2) the necessity of imposing any term or condition to protect the rights and interests of participants and beneficiaries of employee benefit plans affected by the exemption.

(c) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary of Labor shall promulgate final regulations to carry out subsection (a).

SEC. 210. TAXATION OF SMALL BUSINESS LOAN INVESTMENT CONDUITS.

(a) TAXATION SIMILAR TO REMIC.—The Secretary of the Treasury shall promulgate regulations providing for the taxation of a small business loan investment conduit and the holder of an interest therein similar to the taxation of a real estate mortgage investment conduit and the holder of interests therein under the Internal Revenue Code of 1986.

(b) ADJUSTMENT TO REMIC PROVISIONS.—In promulgating regulations under subsection (a), the Secretary of the Treasury shall make any necessary adjustments to the real estate mortgage investment conduit provisions to take into consideration—

(1) the purpose of facilitating the securitization of small business loans through the use of small business loan investment conduits and the development of a secondary market in small business loans;

(2) differences in the nature of qualifying mortgages in a real estate mortgage investment conduit and small business loans and obligations; and

(3) differences in the practices of participants in the securitization of real estate mortgages in a real estate mortgage investment conduit and the securitization of other assets.

(c) SMALL BUSINESS LOAN INVESTMENT CONDUIT DEFINED.—For purposes of this section, the term "small business loan investment conduit" means any entity substantially all of the assets of which consist of any obligation (including any participation or certificate of beneficial ownership therein)—

(1) of a business that meets the criteria for a small business concern established under section 3(a) of the Small Business Act; and

(2) that was originated by an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act), credit union, insurance company, or similar institution or a finance company which is supervised and examined by an appropriate Federal or State authority.

Subtitle B—Small Business Capital Enhancement

SEC. 251. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) small business concerns are a vital part of the economy, accounting for the majority of new jobs, new products, and new services created in the United States;

(2) adequate access to debt capital is a critical component for small business development, productivity, expansion, and success in the United States;

(3) commercial banks are the most important suppliers of debt capital to small business concerns in the United States;

(4) commercial banks and other depository institutions have various incentives to minimize their risk in financing small business concerns;

(5) as a result of such incentives, many small business concerns with economically sound financing needs are unable to obtain access to needed debt capital;

(6) the small business capital access programs implemented by certain States are a flexible and efficient tool to assist financial institutions in providing access to needed debt capital for many small business concerns in a manner consistent with safety and soundness regulations;

(7) a small business capital access program would complement other programs which assist small business concerns in obtaining access to capital; and

(8) Federal policy can stimulate and accelerate efforts by States to implement small business capital access programs by providing an incentive to States, while leaving the administration of such programs to each participating State.

(b) PURPOSES.—By encouraging States to implement administratively efficient capital access programs that encourage commercial banks and other depository institutions to provide access to debt capital for a broad portfolio of small business concerns, and thereby promote a more efficient and effective debt market, the purposes of this subtitle are—

(1) to promote economic opportunity and growth;

(2) to create jobs;

(3) to promote economic efficiency;

(4) to enhance productivity; and

(5) to spur innovation.

SEC. 252. DEFINITIONS.

For purposes of this subtitle—

(1) the term "Secretary" means the Secretary of Housing and Urban Development;

(2) the term "appropriate Federal banking agency"—

(A) has the same meaning as in section 3 of the Federal Deposit Insurance Act; and

(B) includes the National Credit Union Administration Board in the case of any credit union the deposits of which are insured in accordance with the Federal Credit Union Act;

(3) the term "early loan" means a loan enrolled at a time when the aggregate covered amount of loans previously enrolled under the Program by a particular participating financial institution is less than $5,000,000;

(4) the term "enrolled loan" means a loan made by a participating financial institution that is enrolled by a participating State in accordance with this subtitle;

(5) the term "financial institution" means any federally chartered or State-chartered commercial bank, savings association, savings bank, or credit union;

(6) the term "participating financial institution" means any financial institution that has entered into a participation agreement with a participating State in accordance with section 254;

(7) the term "participating State" means any State that has been approved for participation in the Program in accordance with section 253;

(8) the term "passive real estate ownership" means ownership of real estate for the purpose of deriving income from speculation, trade, or rental, except that such term shall not include—

(A) the ownership of that portion of real estate being used or intended to be used for the operation of the business of the owner of the real estate (other than the business of passive ownership of real estate); or

(B) the ownership of real estate for the purpose of construction or renovation, until the completion of the construction or renovation phase;

(9) the term "Program" means the Small Business Capital Enhancement Program established under this subtitle;

(10) the term "reserve fund" means a fund, established by a participating State, earmarked for a particular participating financial institution, for the purposes of—

(A) depositing all required premium charges paid by the participating financial institution and by each borrower receiving a loan under the Program from a participating financial institution;

(B) depositing contributions made by the participating State; and

(C) covering losses on enrolled loans by disbursing accumulated funds; and

(11) the term "State" means the States of the United States and the District of Columbia.

SEC. 253. APPROVING STATES FOR PARTICIPATION.

(a) APPLICATION.—Any State may apply to the Secretary for approval to be a participating State under the Program and to be eligible for reimbursement by the Secretary pursuant to section 257.

(b) APPROVAL CRITERIA.—The Secretary shall approve a State to be a participating State, if—

(1) a specific department or agency of the State has been designated to implement the Program;

(2) all legal actions necessary to enable such designated department or agency to implement the Program have been accomplished;

(3) funds in the amount of at least $1 for every 2 people residing in the State (as of the last decennial census for which data have been released) are available and have been legally committed to contributions by the State to reserve funds, with such funds being available without time limit and without requiring additional legal action, except that such requirements shall not be construed to limit the authority of the State to take action at a later time that results in the termination of its obligation to enroll loans and make contributions to reserve funds;

(4) the State has prescribed a form of participation agreement to be entered into between it and each participating financial institution that is consistent with the requirements and purposes of this subtitle; and

(5) the State and the Secretary have executed a reimbursement agreement that conforms to the requirements of this subtitle.

(c) EXISTING STATE PROGRAMS.—

(1) IN GENERAL.—A State that is not a participating State, but that has its own capital access program providing portfolio insurance for business loans (based on a separate loss reserve fund for each financial institution), may apply at any time to the Secretary to be approved to be a participating State. The Secretary shall approve such State to be a participating State, and to be eligible for reimbursements by the Secretary pursuant to section 257, if the State—

(A) satisfies the requirements of subsections (a) and (b); and

(B) certifies that each affected financial institution has satisfied the requirements of section 254.

(2) APPLICABLE TERMS OF PARTICIPATION.—

(A) STATUS OF INSTITUTIONS.—If a State is approved for participation under paragraph (1), each financial institution with a participation agreement in effect with the participating State shall immediately be considered a participating financial institution. Reimbursements may be made under section 237 in connection with all contributions made to the reserve fund by the State in connection with lending that occurs on or after the date on which the Secretary approves the State for participation.

(B) EFFECTIVE DATE OF PARTICIPATION.—If an amended participation agreement that conforms with section 255 is required in order to secure participation approval by the Secretary, contributions subject to reimbursement under section 257 shall include only those contributions made to a reserve fund with respect to loans enrolled on or after the date that an amended participation agreement between the participating State and the participating financial institution becomes effective.

(C) USE OF ACCUMULATED RESERVE FUNDS.—A State that is approved for participation in accordance with this subsection may continue to implement the program utilizing the reserve funds accumulated under the State program.

(d) PRIOR APPROPRIATIONS REQUIREMENT.—The Secretary shall not approve a State for participation in the Program until at least $50,000,000 has been appropriated to the Secretary (subject to an appropriations Act), without fiscal year limitation, for the purpose of making reimbursements pursuant to section 257.

(e) AMENDMENTS TO AGREEMENTS.—If a State that has been approved to be a participating State wishes to amend its form of participation agreement and continue to be a participating State, such State shall submit such amendment for review by the Secretary in accordance with subsection (b)(4). Any such amendment shall become effective only after it has been approved by the Secretary.

SEC. 254. PARTICIPATION AGREEMENTS.

(a) IN GENERAL.—A participating State may enter into a participation agreement with any financial institution determined by the participating State, after consultation with the appropriate Federal banking agency, to have sufficient commercial lending experience and financial and managerial capacity to participate in the Program. The determination by the State shall not be reviewable by the Secretary.

(b) PARTICIPATING FINANCIAL INSTITUTIONS.—Upon entering into the participation agreement with the participating State, the financial institution shall become a participating financial institution eligible to enroll loans under the Program.

SEC. 255. TERMS OF PARTICIPATION AGREEMENTS.

(a) IN GENERAL.—The participation agreement to be entered into by a participating State and a participating financial institution shall include all provisions required by this section, and shall not include any provisions inconsistent with the provisions of this section.

(b) ESTABLISHMENT OF SEPARATE RESERVE FUNDS.—A separate reserve fund shall be established by the participating State for each participating financial institution. All funds credited to a reserve fund shall be subject to the control of the participating State. Notwithstanding the preceding sentence, the participating State may allow a participating financial institution to treat the premium charges paid by the institution and the borrower into the reserve fund, and interest earned thereon, as assets of the institution for accounting purposes. Each reserve fund shall be an administrative account for the purposes of—

(1) receiving all required premium charges to be paid by the borrower and participating financial institution and contributions by the participating State; and

(2) disbursing funds, either to cover losses sustained by the participating financial institution in connection with loans made under the Program, or as contemplated by subsections (d) and (r).

(c) INVESTMENT AUTHORITY.—Subject to applicable State law, the participating State may invest, or cause to be invested, funds held in a reserve fund by establishing a deposit account at the participating financial institution in the name of the participating State. In the event that funds in the reserve fund are not deposited in such an account, such funds shall be invested in a form that the participating State determines is safe and liquid.

(d) EARNED INCOME AND INTEREST.—Interest or income earned on the funds credited to a reserve fund shall be deemed to be part of the reserve fund, except that a participating State may, as further specified in the participation agreement—

(1) provide authority for the participating State to withdraw some or all of such interest or income earned; and

(2) allow the participating financial institution, upon its withdrawal from the Program, to withdraw interest or income earned that is deemed to be attributable to the premium charges paid by the institution and the borrower and that remains in the reserve fund, if such withdrawal does not expose the participating State to any greater risk of loss than the risk of loss in the absence of such withdrawal.

(e) LOAN TERMS AND CONDITIONS.—

(1) IN GENERAL.—A loan to be filed for enrollment under the Program may be made with such interest rate, fees, and other terms and conditions as agreed upon by the participating financial institution and the borrower, consistent with applicable law.

(2) LINES OF CREDIT.—If a loan to be filed for enrollment is in the form of a line of credit, the amount of the loan shall be considered to be the maximum amount that can be drawn by the borrower against the line of credit.

(f) ENROLLMENT PROCESS.—

(1) FILING.—

(A) IN GENERAL.—A participating financial institution shall file each loan made under the Program for enrollment by completing and submitting to the participating State a form prescribed by the participating State.

(B) FORM.—The form referred to in subparagraph (A) shall include a representation

by the participating financial institution that it has complied with the participation agreement in enrolling the loan with the State.

(C) PREMIUM CHARGES.—Accompanying the completed form shall be the nonrefundable premium charges paid by the borrower and the participating financial institution, or evidence that such premium charges have been deposited into the deposit account containing the reserve fund, if applicable.

(D) SUBMISSION.—The participation agreement shall require that the items required by this subsection shall be submitted to the participating State by the participating financial institutions not later than 10 calendar days after a loan is made.

(2) ENROLLMENT BY STATE.—Upon receipt by the participating State of the filing submitted in accordance with paragraph (1), the participating State shall promptly enroll the loan and make a matching contribution to the reserve fund in accordance with subsection (j), unless the information submitted indicates that the participating financial institution has not complied with the participation agreement in enrolling the loan.

(g) COVERAGE AMOUNT.—In filing a loan for enrollment under the Program, the participating financial institution may specify an amount to be covered under the Program that is less than the full amount of the loan.

(h) PREMIUM CHARGES.—

(1) MINIMUM AND MAXIMUM AMOUNTS.—The premium charges payable to the reserve fund by the borrower and the participating financial institution shall be prescribed by the participating financial institution, within minimum and maximum limits set forth in the participation agreement. The participation agreement shall establish minimum and maximum limits whereby the sum of the premium charges paid in connection with a loan by the borrower and the participating financial institution is not less than 3 percent nor more than 7 percent of the amount of the loan covered under the Program.

(2) ALLOCATION OF PREMIUM CHARGES.—The participation agreement shall specify terms for allocating premium charges between the borrower and the participating financial institution. However, if the participating financial institution is required to pay any of the premium charges, the participation agreement shall authorize the participating financial institution to recover from the borrower the cost of the payment of the participating financial institution, in any manner on which the participating financial institution and the borrower agree.

(i) RESTRICTIONS.—

(1) ACTIONS PROHIBITED.—Except as provided in subsection (h) and paragraph (2) of this subsection, the participating State may not—

(A) impose any restrictions or requirements, relating to the interest rate, fees, collateral, or other business terms and conditions of the loan; or

(B) condition enrollment of a loan in the Program on the review by the State of the risk or creditworthiness of a loan.

(2) EFFECT ON OTHER LAW.—Nothing in this subtitle shall affect the applicability of any other law to the conduct by a participating financial institution of its business.

(j) STATE CONTRIBUTIONS.—In enrolling a loan under the Program, the participating State shall contribute to the reserve fund an amount, as provided for in the participation agreement, which shall not be less than the sum of the amount of premium charges paid by the borrower and the participating financial institution.

(k) ELEMENTS OF CLAIMS.—

(1) FILING.—If a participating financial institution charges off all or part of an enrolled loan, such participating financial institution may file a claim for reimbursement with the participating State by submitting a form that—

(A) includes the representation by the participating financial institution that it is filing the claim in accordance with the terms of the applicable participation agreement; and

(B) contains such other information as may be required by the participating State.

(2) TIMING.—Any claim filed under paragraph (1) shall be filed contemporaneously with the action of the participating financial institution to charge off all or part of an enrolled loan. The participating financial institution shall determine when and how much to charge off on an enrolled loan, in a manner consistent with its usual method for making such determinations on business loans that are not enrolled loans under this subtitle.

(l) ELEMENTS OF CLAIMS.—A claim filed by a participating financial institution may include the amount of principal charged off, not to exceed the covered amount of the loan. Such claim may also include accrued interest and out-of-pocket expenses, if and to the extent provided for under the participation agreement.

(m) PAYMENT OF CLAIMS.—

(1) IN GENERAL.—Except as provided in subsection (n) and paragraph (2) of this subsection, upon receipt of a claim filed in accordance with this section and the participation agreement, the participating State shall promptly pay to the participating financial institution, from funds in the reserve fund, the full amount of the claim as submitted.

(2) INSUFFICIENT RESERVE FUNDS.—If there are insufficient funds in the reserve fund to cover the entire amount of a claim of a participating financial institution, the participating State shall pay to the participating financial institution an amount equal to the current balance in the reserve fund. If the enrolled loan for which the claim has been filed—

(A) is not an early loan, such payment shall be deemed fully to satisfy the claim, and the participating financial institution shall have no other or further right to receive any amount from the reserve fund with respect to such claim; or

(B) is an early loan, such payment shall not be deemed fully to satisfy the claim of the participating financial institution, and at such time as the remaining balance of the claim does not exceed 75 percent of the balance in the reserve fund, the participating State shall, upon the request of the participating financial institution, pay any remaining amount of the claim.

(n) DENIAL OF CLAIMS.—A participating State may deny a claim if a representation or warranty made by the participating financial institution to the participating State at the time that the loan was filed for enrollment or at the time that the claim was submitted was known by the participating financial institution to be false.

(o) SUBSEQUENT RECOVERY OF CLAIM AMOUNT.—If, subsequent to payment of a claim by the participating State, a participating financial institution recovers from a borrower any amount for which payment of the claim was made, the participating financial institution shall promptly pay to the participating State for deposit into the reserve fund the amount recovered, less any expenses incurred by the institution in collection of such amount.

(p) PARTICIPATION AGREEMENT TERMS.—

(1) IN GENERAL.—In connection with the filing of a loan for enrollment in the Program, the participation agreement—

(A) shall require the participating financial institution to obtain an assurance from each borrower that—

(i) the proceeds of the loan will be used for a business purpose;

(ii) the loan will not be used to finance passive real estate ownership; and

(iii) the borrower is not—

(I) an executive officer, director, or principal shareholder of the participating financial institution;

(II) a member of the immediate family of an executive officer, director, or principal shareholder of the participating financial institution; or

(III) a related interest of any such executive officer, director, principal shareholder, or member of the immediate family;

(B) shall require the participating financial institution to provide assurances to the participating State that the loan has not been made in order to place under the protection of the Program prior debt that is not covered under the Program and that is or was owed by the borrower to the participating financial institution or to an affiliate of the participating financial institution;

(C) may provide that if—

(i) a participating financial institution makes a loan to a borrower that is a refinancing of a loan previously made to the borrower by the participating financial institution or an affiliate of the participating financial institution;

(ii) such prior loan was not enrolled in the Program; and

(iii) additional or new financing is extended by the participating financial institution as part of the refinancing,

the participating financial institution may file the loan for enrollment, with the amount to be covered under the Program not to exceed the amount of any additional or new financing; and

(D) may include additional restrictions on the eligibility of loans or borrowers that are not inconsistent with the provisions and purposes of this subtitle.

(2) DEFINITIONS.—For purposes of this subsection, the terms "executive officer", "director", "principal shareholder", "immediate family", and "related interest" refer to the same relationship to a participating financial institution as the relationship described in part 215 of title 12 of the Code of Federal Regulations, or any successor to such part.

(q) TERMINATION CLAUSE.—In each participation agreement, the participating State shall reserve for itself the ability to terminate its obligation to enroll loans under the Program. Any such termination shall be prospective only, and shall not apply to amounts of loans enrolled under the Program prior to such termination.

(r) ALLOWABLE WITHDRAWALS FROM FUND.—

(1) WITHDRAWALS BASED ON OUTSTANDING BALANCE.—The participation agreement may provide that, if, for any consecutive period of not less than 24 months, the aggregate outstanding balance of all enrolled loans for a participating financial institution is continually less than the outstanding balance in the reserve fund for that participating financial institution, the participating State, in its discretion, may withdraw an amount from the reserve fund to bring the balance in the reserve fund down to the outstanding balance of all such enrolled loans.

(2) WITHDRAWALS BASED ON PREMIUM CHARGES REMAINING IN FUND.—Upon its with-

drawal from the Program, a participating financial institution may withdraw from the reserve fund an amount that is equivalent to the premium charges paid into the fund by the institution and the borrower that remain in the reserve fund, if such withdrawal would not expose the participating State to a greater risk of loss than the risk of loss in the absence of such withdrawal.

SEC. 256. REPORTS.

(a) RESERVE FUNDS REPORT.—On or before the last day of each calendar quarter, a participating State shall submit to the Secretary a report of contributions to reserve funds made by the participating State during the previous calendar quarter. If the participating State has made contributions to one or more reserve funds during the previous quarter, the report shall—

(1) indicate the total amount of such contributions;

(2) indicate the amount of contributions which is subject to reimbursement, which shall be equal to the total amount of contributions, unless one of the limitations contained in section 257 is applicable;

(3) if one of the limitations in section 257 is applicable, provide documentation of the applicability of such limitation for each loan for which the limitation applies; and

(4) include a certification by the participating State that—

(A) the information provided in accordance with paragraphs (1), (2), and (3) is accurate;

(B) funds in an amount meeting the minimum requirements of section 253(b)(3) continue to be available and legally committed to contributions by the State to reserve funds, less any amount that has been contributed by the State to reserve funds subsequent to the State being approved for participation in the Program;

(C) there has been no unapproved amendment to any participation agreement or the form of participation agreements; and

(D) the participating State is otherwise implementing the Program in accordance with this subtitle and regulations issued pursuant to section 259.

(b) ANNUAL DATA.—Not later than March 31 of each year, each participating State shall submit to the Secretary annual data indicating the number of borrowers financed under the Program, the total amount of covered loans, and breakdowns by industry type, loan size, annual sales, and number of employees of the borrowers financed.

(c) FORM.—The reports and data filed pursuant to subsections (a) and (b) shall be in such form as the Secretary may require.

SEC. 257. REIMBURSEMENT BY THE SECRETARY.

(a) REIMBURSEMENTS.—Not later than 30 calendar days after receiving a report filed in compliance with section 256, the Secretary shall reimburse the participating State in an amount equal to 50 percent of the amount of contributions by the participating State to the reserve funds that are subject to reimbursement by the Secretary pursuant to section 256 and this section. The Secretary shall reimburse participating States, as it receives reports pursuant to section 256(a), until available funds are expended.

(b) SIZE OF ASSISTED BORROWER.—The Secretary shall not provide any reimbursement to a participating State with respect to an enrolled loan made to a borrower that has 500 or more employees at the time that the loan is enrolled in the Program.

(c) THREE-YEAR MAXIMUM.—The amount of reimbursement to be provided by the Secretary to a participating State over any 3-year period in connection with loans made to any single borrower or any group of borrowers among which a common enterprise exists shall not exceed $75,000. For purposes of this subsection, "common enterprise" shall have the same meaning as in part 32 of title 12 of the Code of Federal Regulations, or any successor to that part.

(d) LOANS TOTALING LESS THAN $2,000,000.—In connection with a loan in which the covered amount of the loan plus the covered amount of all previous loans enrolled by a participating financial institution does not exceed $2,000,000, the amount of reimbursement by the Secretary to the participating State shall not exceed the lesser of—

(1) 75 percent of the sum of the premium charges paid to the reserve fund by the borrower and the participating financial institution; or

(2) 5.25 percent of the covered amount of the loan.

(e) LOANS TOTALING MORE THAN $2,000,000.—In connection with a loan in which the sum of the covered amounts of all previous loans enrolled by the participating financial institution in the Program equals or exceeds $2,000,000, the amount of reimbursement to be provided by the Secretary to the participating State shall not exceed the lesser of—

(1) 50 percent of the sum of the premium charges paid by the borrower and the participating financial institution; or

(2) 3.5 percent of the covered amount of the loan.

(f) OTHER AMOUNTS.—In connection with the enrollment of a loan that will cause the aggregate covered amount of all enrolled loans to exceed $2,000,000, the amount of reimbursement by the Secretary to the participating State shall be determined—

(1) by applying subsection (d) to the portion of the loan, which when added to the aggregate covered amount of all previously enrolled loans equals $2,000,000; and

(2) by applying subsection (e) to the balance of the loan.

SEC. 258. REIMBURSEMENT TO THE SECRETARY.

(a) IN GENERAL.—If a participating State withdraws funds from a reserve fund pursuant to terms of the participation agreement permitted by subsection (d) or (r) of section 255, such participating State shall, not later than 15 calendar days after such withdrawal, submit to the Secretary an amount computed by multiplying the amount withdrawn by the appropriate factor, as determined under subsection (b).

(b) FACTOR.—The appropriate factor shall be obtained by dividing the total amount of contributions that have been made by the participating State to all reserve funds which were subject to reimbursement—

(1) by 2; and

(2) by the total amount of contributions made by the participating State to all reserve funds, including if applicable, contributions that have been made by the State prior to becoming a participating State if the State continued its own capital access program in accordance with section 253(b).

(c) USE OF REIMBURSEMENTS.—The Secretary may use funds reimbursed pursuant to this section to make reimbursements under section 257.

SEC. 259. REGULATIONS.

The Secretary shall promulgate appropriate regulations to implement this subtitle.

SEC. 260. AUTHORIZATION OF APPROPRIATIONS.

(a) AMOUNT.—There are authorized to be appropriated to the Secretary $50,000,000 to carry out this subtitle.

(b) BUDGETARY TREATMENT.—The amount authorized to be appropriated under subsection (a) shall be subject to discretionary spending caps, as provided in section 601 of the Congressional Budget Act of 1974, and therefore shall reduce by an equal amount funds made available for other discretionary spending programs.

TITLE III—PAPERWORK REDUCTION AND REGULATORY IMPROVEMENT

SEC. 301. INCORPORATED DEFINITIONS.

Unless otherwise specifically provided in this title, for purposes of this title—

(1) the terms "appropriate Federal banking agency", "Federal banking agencies", and "insured depository institution" have the same meanings as in section 3 of the Federal Deposit Insurance Act; and

(2) the term "insured credit union" has the same meaning as in section 101 of the Federal Credit Union Act.

SEC. 302. ADMINISTRATIVE CONSIDERATION OF BURDEN WITH NEW REGULATIONS.

In determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on insured depository institutions, each Federal banking agency shall consider, consistent with the principles of safety and soundness and the public interest—

(1) any administrative burdens that such regulations would place on depository institutions, including small depository institutions, and customers of depository institutions; and

(2) the benefits of such regulations.

SEC. 303. STREAMLINING OF REGULATORY REQUIREMENTS.

(a) REVIEW OF REGULATIONS; REGULATORY UNIFORMITY.—During the 2-year period beginning on the date of enactment of this Act, each Federal banking agency shall, consistent with principles of safety and soundness and the public interest—

(1) conduct a review of the regulations and written policies of that agency—

(A) to streamline those regulations and policies in order to improve efficiency, reduce unnecessary costs, and eliminate unwarranted constraints on credit availability; and

(B) to remove inconsistencies and outmoded and duplicative requirements; and

(2) work jointly with the other Federal banking agencies to make uniform all regulations and guidelines implementing common statutory or supervisory policies.

(b) REPORT TO CONGRESS.—The Federal banking agencies shall submit a joint report to the Congress annually for 2 years following the date of enactment of this Act detailing the progress of the agencies in carrying out the requirements of subsection (a).

SEC. 304. ELIMINATION OF DUPLICATIVE FILINGS.

The Federal banking agencies shall work jointly—

(1) to eliminate, to the extent practicable, duplicative or otherwise unnecessary requests for information in connection with applications or notices to the agencies; and

(2) to harmonize, to the extent practicable, any inconsistent publication and public notice requirements.

SEC. 305. COORDINATED AND UNIFIED EXAMINATIONS.

Section 10(d) of the Federal Deposit Insurance Act (12 U.S.C. 1820(d)) is amended by adding at the end the following new paragraph:

"(6) COORDINATED EXAMINATIONS.—To minimize the disruptive effects of examinations on the operations of insured depository institutions—

"(A) each appropriate Federal banking agency shall, to the extent practicable and consistent with safety and soundness principles and the public interest—

"(i) coordinate examinations to be conducted by that agency at an insured depository institution and its affiliates;

"(ii) coordinate with the other appropriate Federal banking agencies in the conduct of such examinations; and

"(iii) work to coordinate the conduct of all examinations made pursuant to this subsection with the appropriate State bank supervisor; and

"(B) not later than 2 years after the date of enactment of the Community Development, Credit Enhancement, and Regulatory Improvement Act of 1993, the Federal banking agencies shall jointly establish and implement a system for determining which one of the Federal banking agencies shall conduct a unified examination of each insured depository institution and its affiliates, as required by this subsection, on behalf of all Federal banking agencies.".

SEC. 306. EIGHTEEN-MONTH EXAMINATION RULE FOR CERTAIN SMALL INSTITUTIONS.

Section 10(d)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1820(d)(4)) is amended—

(1) in subparagraph (A), by striking "$100,000,000" and inserting "$250,000,000";

(2) in subparagraph (C), by striking "and" at the end;

(3) by redesignating subparagraph (D) as subparagraph (E); and

(4) by inserting after subparagraph (C) the following new subparagraph:

"(D) the insured institution is not currently subject to a formal enforcement proceeding or order by the Corporation or the appropriate Federal banking agency; and".

SEC. 307. CALL REPORT SIMPLIFICATION.

(a) MODERNIZATION OF CALL REPORT FILING AND DISCLOSURE SYSTEM.—In order to reduce the administrative requirements pertaining to bank reports of condition, savings association financial reports, and bank holding company consolidated and parent-only financial statements, and to improve the timeliness of such reports and statements, the Federal banking agencies shall—

(1) work jointly to develop a system under which—

(A) insured depository institutions and their affiliates may file such reports and statements electronically; and

(B) the Federal banking agencies may make such reports and statements available to the public electronically; and

(2) not later than 1 year after the date of enactment of this Act, report to the Congress and make recommendations for legislation that would enhance efficiency for filers and users of such reports and statements.

(b) UNIFORM REPORTS AND SIMPLIFICATION OF INSTRUCTIONS.—The Federal banking agencies shall, consistent with the principles of safety and soundness, work jointly—

(1) to adopt a single form for the filing of core information required to be submitted under Federal law to all such agencies in the reports and statements referred to in subsection (a); and

(2) to simplify instructions accompanying such reports and statements and to provide an index to the instructions that is adequate to meet the needs of both filers and users.

(c) REVIEW OF CALL REPORT SCHEDULE.—Each Federal banking agency shall—

(1) review the information required by schedules supplementing the core information referred to in subsection (b); and

(2) eliminate requirements that are not warranted for reasons of safety and soundness or other public purposes.

SEC. 308. REPEAL OF PUBLICATION REQUIREMENTS.

(a) REVISED STATUTES.—Section 5211 of the Revised Statutes (12 U.S.C. 161) is amended—

(1) in the fifth sentence of subsection (a), by striking "; and the statement of resources" and all that follows through "as may be required by the Comptroller"; and

(2) in subsection (c), by striking the fourth sentence.

(b) FDIA.—Section 7(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(1)) is amended by striking the fourth sentence.

(c) FEDERAL RESERVE ACT.—Section 9 of the Federal Reserve Act (12 U.S.C. 324) is amended in the last sentence of the sixth undesignated paragraph, by striking "and shall be published" and all that follows through the end of the sentence and inserting a period.

SEC. 309. REGULATORY APPEALS PROCESS.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, each appropriate Federal banking agency and the National Credit Union Administration Board shall establish an independent intra-agency appellate process. The process shall be available to review material supervisory determinations made at insured depository institutions or at insured credit unions that the agency supervises.

(b) REVIEW PROCESS.—In establishing the independent appellate process under subsection (a), each agency shall ensure—

(1) that any appeal of a material supervisory determination by an insured depository institution or credit union is heard and decided expeditiously; and

(2) that appropriate safeguards exist for protecting the appellant from retaliation by agency examiners.

(c) COMMENT PERIOD.—Not later than 90 days after the date of enactment of this Act, each appropriate Federal banking agency and the National Credit Union Administration shall provide public notice and opportunity for comment on proposed guidelines for the establishment of an appellate process under this section.

(d) DEFINITIONS.—For purposes of this section—

(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; and

(2) the term "independent appellate process" means a review by an agency official who does not directly or indirectly report to the agency official who made the material supervisory determination under review.

(e) EFFECT ON OTHER AUTHORITY.—Nothing in this section shall affect the authority of an appropriate Federal banking agency or the National Credit Union Association Board to take enforcement or supervisory action against an institution.

SEC. 310. ELECTRONIC FILING OF CURRENCY TRANSACTION REPORTS.

Section 123 of the Bank Secrecy Act (12 U.S.C. 1953) is amended by adding at the end the following new subsection:

"(c) ACCEPTANCE OF AUTOMATED RECORDS.—The Secretary shall permit an uninsured bank or financial institution to retain or maintain records referred to in subsection (a) in electronic or automated form, subject to terms and conditions established by the Secretary.".

SEC. 311. BANK SECRECY ACT PUBLICATION REQUIREMENTS.

Chapter 53 of title 31, United States Code, is amended by adding at the end the following new section:

"SEC. 5329. STAFF COMMENTARIES.

"The Secretary shall—

"(1) publish all written rulings interpreting this chapter; and

"(2) annually issue a staff commentary on the regulations issued under this chapter.".

SEC. 312. EXEMPTION OF BUSINESS LOANS FROM REAL ESTATE SETTLEMENT PROCEDURES ACT REQUIREMENTS.

The Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.) is amended by inserting after section 6 the following new section:

"SEC. 7. EXEMPTED TRANSACTIONS.

"This Act does not apply to credit transactions involving extensions of credit—

"(1) primarily for business, commercial, or agricultural purposes; or

"(2) to government or governmental agencies or instrumentalities.".

SEC. 313. FLEXIBILITY IN CHOOSING BOARDS OF DIRECTORS.

Section 5146 of the Revised Statutes (12 U.S.C. 72) is amended in the first sentence, by striking "two thirds" and inserting "a majority".

SEC. 314. HOLDING COMPANY AUDIT REQUIREMENTS.

Section 36(i) of the Federal Deposit Insurance Act (12 U.S.C. 1831m(i)) is amended by striking paragraph (2) and inserting the following:

"(2) the institution—

"(A) has total assets, as of the beginning of such fiscal year, of less than $5,000,000,000;

"(B) has—

"(i) total assets, as of the beginning of such fiscal year, of more than $5,000,000,000 and less than $9,000,000,000; and

"(ii) a CAMEL composite rating of 1 or 2 under the Uniform Financial Institutions Rating System (or an equivalent rating by any such agency under a comparable rating system) as of the most recent examination of such institution by the Corporation or the appropriate Federal banking agency; or

"(C) has—

"(i) total assets, as of the beginning of such fiscal year, of more than $9,000,000,000; and

"(ii) a CAMEL composite rating of 1 under the Uniform Financial Institutions Rating System (or an equivalent rating by any such agency under a comparable rating system) as of the most recent examination of such institution by the Corporation or the appropriate Federal banking agency.

Notwithstanding paragraph (2)(C), in the case of an insured depository institution that the Corporation determines to be a large institution, the audit committee of the holding company of such an institution shall not include any large customers of the institution.".

SEC. 315. STATE REGULATION OF REAL ESTATE APPRAISALS.

Section 1122 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3351) is amended—

(1) by redesignating subsections (b) through (e) as subsections (c) through (f), respectively;

(2) by inserting after subsection (a) the following new subsection:

"(b) RECIPROCITY.—The Appraisal Subcommittee shall encourage the States to develop reciprocity agreements that readily authorize appraisers who are licensed or cer-

tified in one State (and who are in good standing with their State appraiser certifying or licensing agency) to perform appraisals in other States."; and

(3) in subsection (a)—

(A) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C);

(B) by striking "A State" and inserting the following:

"(1) IN GENERAL.—A State"; and

(C) by adding at the end the following new paragraph:

"(2) FEES FOR TEMPORARY PRACTICE.—A State appraiser certifying or licensing agency shall not impose excessive fees or burdensome requirements, as determined by the Appraisal Subcommittee, for temporary practice under this subsection.".

SEC. 316. ACCELERATION OF EFFECTIVE DATE FOR INTERAFFILIATE TRANSACTIONS.

(a) HOME OWNERS' LOAN ACT AMENDMENT.—Section 11(a)(2) of the Home Owners' Loan Act (12 U.S.C. 1468(a)(2)) is amended by adding at the end the following new subparagraph:

"(C) TRANSITION RULE FOR WELL CAPITALIZED SAVINGS ASSOCIATIONS.—

"(i) IN GENERAL.—A savings association that is well capitalized (as defined in section 38 of the Federal Deposit Insurance Act), as determined without including goodwill in calculating core capital, shall be treated as a bank for purposes of section 23A(d)(1) and section 23B of the Federal Reserve Act.

"(ii) LIABILITY OF COMMONLY CONTROLLED DEPOSITORY INSTITUTIONS.—Any savings association that engages under clause (i) in a transaction that would not otherwise be permissible under this subsection, and any affiliated insured bank that is commonly controlled (as defined in section 5(e)(9) of the Federal Deposit Insurance Act), shall be subject to subsection (e) of section 5 of the Federal Deposit Insurance Act as if paragraph (6) of that subsection did not apply.".

(b) REPEAL PROVISION.—Effective on January 1, 1995, subparagraph (C) of section 11(a)(2) of the Home Owners' Loan Act (12 U.S.C. 1468(a)(2)) (as added by subsection (a) of this section) is repealed.

SEC. 317. COLLATERALIZATION OF PUBLIC DEPOSITS.

Section 13(e) of the Federal Deposit Insurance Act (12 U.S.C. 1823(e)) is amended—

(1) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively;

(2) by striking "No agreement" and inserting the following:

"(1) IN GENERAL.—No agreement"; and

(3) by adding at the end the following new paragraph:

"(2) PUBLIC DEPOSITS.—An agreement to provide for the lawful collateralization of deposits of a Federal, State, or local governmental entity or of any depositor referred to in section 11(a)(2) shall not be deemed to be invalid pursuant to paragraph (1)(B) solely because of changes in the collateral made in accordance with such agreement.".

SEC. 318. ELIMINATION OF STOCK VALUATION PROVISION.

(a) IN GENERAL.—Section 39(b)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1831p-1(b)(1), as added by section 132(a) of the Federal Deposit Insurance Corporation Improvements Act of 1991) is amended—

(1) in subparagraph (A), by adding "and" at the end; and

(2) by striking subparagraph (C).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be construed to have the same effective date as section 39 of the Federal Deposit Insurance Act, as provided in section 132(c) of the Federal Deposit Insurance Corporation Improvements Act of 1991.

SEC. 319. EXPEDITED PROCEDURES FOR FORMING A BANK HOLDING COMPANY.

Section 3(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)) is amended—

(1) in the second sentence, by striking "or (B)" and inserting "(B)"; and

(2) in the second sentence, by inserting before the period the following: "; or (C) with 30 days prior notification to the Board, the acquisition by a company of control of a bank in a reorganization in which a person or group of persons exchanges its shares of the bank for shares of a newly formed bank holding company and receives, after the reorganization, substantially the same proportional share interest in the holding company as it held in the bank (except for changes in shareholders' interests resulting from the exercise of dissenting shareholders' rights under State or Federal law) if, immediately following the acquisition, (i) the bank holding company meets the capital and other financial standards prescribed by the Board by regulation for such a bank holding company; (ii) the bank is adequately capitalized (as defined in section 38 of the Federal Deposit Insurance Act); and (iii) the holding company does not engage in any activities other than those of banking or managing and controlling banks".

SEC. 320. EXEMPTION OF CERTAIN HOLDING COMPANY FORMATIONS FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933.

Section 4 of the Securities Act of 1933 (15 U.S.C. 77d) is amended by adding at the end the following new paragraph:

"(7) transactions involving offers or sales of equity securities, in connection with the acquisition of a bank by a company under section 3(a) of the Bank Holding Company Act of 1956, if—

"(A) the acquisition occurs solely as part of a reorganization in which a person or group of persons exchanges its shares of a bank for shares of a newly formed bank holding company with no significant assets other than securities of the bank and the existing subsidiaries of the bank;

"(B) the shareholders receive, after that reorganization, substantially the same proportional share interests in the bank holding company as they held in the bank, except for changes in shareholders' interests resulting from lawful elimination of fractional interests and the exercise of dissenting shareholders' rights under State or Federal law;

"(C) the rights and interests of security holders in the bank holding company are substantially the same as those in the bank prior to the transaction, other than as may be required by law; and

"(D) the bank holding company has substantially the same assets and liabilities as the bank had prior to the transaction.".

SEC. 321. REDUCTION OF POST-APPROVAL WAITING PERIOD FOR BANK HOLDING COMPANY ACQUISITIONS.

Section 11(b)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1849(b)(1)) is amended by inserting before the period at the end of the fourth sentence the following: "or, if the Board has not received any adverse comment from the Attorney General of the United States relating to competitive factors, such shorter period of time as may be prescribed by the Board with the concurrence of the Attorney General, but in no event less than 15 calendar days after the date of approval".

SEC. 322. REDUCTION OF POST-APPROVAL WAITING PERIOD FOR BANK MERGERS.

Section 18(c)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)(6)) is amended by inserting before the period at the end of the last sentence the following: "or, if the agency has not received any adverse comment from the Attorney General of the United States relating to competitive factors, such shorter period of time as may be prescribed by the agency with the concurrence of the Attorney General, but in no event less than 15 calendar days after the date of approval".

SEC. 323. BANKERS' BANKS.

(a) OWNERSHIP BY BANKERS' BANKS.—

(1) Paragraph Seventh of section 5136 of the Revised Statutes (12 U.S.C. 24) is amended in the eleventh sentence—

(A) by inserting "or depository institution holding companies (as defined in section 3 of the Federal Deposit Insurance Act)" after "(except to the extent directors' qualifying shares are required by law) by depository institutions"; and

(B) by striking "employees" and inserting "employees (also referred to as a 'bankers' bank')".

(2) Section 5169(b)(1) of the Revised Statutes (12 U.S.C. 27(b)(1)) is amended—

(A) by inserting "or depository institution holding companies" after "(except to the extent directors' qualifying shares are required by law) by other depository institutions"; and

(B) by striking "employees" and inserting "employees (also referred to as a 'bankers' bank')".

(b) OWNERSHIP BY SAVINGS ASSOCIATIONS.—Section 5(c)(4) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(4)) is amended by adding at the end the following new subparagraph:

"(E) BANKERS' BANKS.—A Federal savings association may purchase for its own account shares of stock of a bankers' bank, described in Paragraph Seventh of section 5136 of the Revised Statutes or in section 5169(b) of the Revised Statutes, on the same terms and conditions as a national bank may purchase such shares.".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) BANK HOLDING COMPANY ACT.—Section 3(e) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(e)) is amended by striking the second sentence.

(2) MANAGEMENT INTERLOCKS ACT.—Section 202(3)(D) of the Depository Institution Management Interlocks Act (12 U.S.C. 3201(3)(D)) is amended by striking "the voting securities" and all that follows through the end of the subparagraph and inserting "and is a bankers' bank, described in Paragraph Seventh of section 5136 of the Revised Statutes; or".

SEC. 324. BANK SERVICE CORPORATION ACT AMENDMENT.

Section 5 of the Bank Service Corporation Act (12 U.S.C. 1865) is amended—

(1) in subsection (a), by striking "the prior approval of" and inserting "prior notice, as determined by"; and

(2) in subsection (c), by inserting "or whether to approve or disapprove any notice" after "approval".

SEC. 325. MERGER TRANSACTION REPORTS.

Section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)) is amended—

(1) in paragraph (4)—

(A) in the first sentence—

(i) by striking "General and the other two" and inserting "General, who shall promptly notify the other"; and

(ii) by inserting before the period "of any such proposed transaction that raises a significant competitiveness issue"; and

(B) in the second sentence, by striking "and the other two banking agencies"; and

(2) in paragraph (6), by striking "and the other two banking agencies".

SEC. 326. CREDIT CARD ACCOUNTS RECEIVABLE SALES.

Section 11(e) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)) is amended by adding at the end the following new paragraphs:

"(14) SELLING CREDIT CARD ACCOUNTS RECEIVABLE.—

"(A) NOTIFICATION REQUIRED.—An undercapitalized insured depository institution (as defined in section 38) shall notify the Corporation in writing before entering into an agreement to sell credit card accounts receivable.

"(B) WAIVER BY CORPORATION.—The Corporation may at any time, in its sole discretion and upon such terms as it may prescribe, waive its right to repudiate an agreement to sell credit card accounts receivable if the Corporation—

"(i) determines that the waiver is in the best interests of the deposit insurance fund; and

"(ii) provides a written waiver to the selling institution.

"(C) EFFECT OF WAIVER ON SUCCESSORS.—

"(i) IN GENERAL.—If, under subparagraph (B), the Corporation has waived its right to repudiate an agreement to sell credit card accounts receivable—

"(I) any provision of the agreement that restricts solicitation of a credit card customer of the selling institution, or the use of a credit card customer list of the institution, shall bind any receiver or conservator of the institution; and

"(II) the Corporation shall require any acquirer of the selling institution, or of substantially all of the selling institution's assets or liabilities, to agree to be bound by a provision described in subclause (I) as if the acquirer were the selling institution.

"(ii) EXCEPTION.—Clause (i)(II) does not—

"(I) restrict the acquirer's authority to offer any product or service to any person identified without using a list of the selling institution's customers in violation of the agreement;

"(II) require the acquirer to restrict any preexisting relationship between the acquirer and a customer; or

"(III) apply to any transaction in which the acquirer acquires only insured deposits.

"(D) WAIVER NOT ACTIONABLE.—The Corporation shall not, in any capacity, be liable to any person for damages resulting from the waiver of or failure to waive the Corporation's right under this section to repudiate any contract or lease, including an agreement to sell credit card accounts receivable. No court shall issue any order affecting any such waiver or failure to waive.

"(E) OTHER AUTHORITY NOT AFFECTED.—This paragraph does not limit any other authority of the Corporation to waive the Corporation's right to repudiate an agreement or lease under this section.

"(15) CERTAIN CREDIT CARD CUSTOMER LISTS PROTECTED.—

"(A) IN GENERAL.—If any insured depository institution sells credit card accounts receivable under an agreement negotiated at arm's length that provides for the sale of the institution's credit card customer list, the Corporation shall prohibit any party to a transaction with respect to the institution under this section or section 13 from using the list except as permitted under the agreement.

"(B) FRAUDULENT TRANSACTIONS EXCLUDED.—Subparagraph (A) does not limit the Corporation's authority to repudiate any agreement entered into with the intent to hinder, delay, or defraud the institution, the institution's creditors, or the Corporation.".

SEC. 327. LIMITING POTENTIAL LIABILITY ON FOREIGN ACCOUNTS.

(a) AMENDMENT TO THE FEDERAL RESERVE ACT.—The Federal Reserve Act (12 U.S.C. 221 et seq.) is amended by inserting after section 25B the following new section:

"SEC. 25C. POTENTIAL LIABILITY ON FOREIGN ACCOUNTS.

"A member bank shall not be required to repay any deposit made at a foreign branch of the bank if the branch cannot repay the deposit due to—

"(1) an act of war, insurrection or civil strife; or

"(2) an action by a foreign government or instrumentality (whether de jure or de facto) in the country in which the branch is located,

unless the member bank has expressly agreed in writing to repay the deposit under those circumstances. The Board may prescribe such regulations as it deems necessary to implement this section.".

(b) CONFORMING AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT.—

(1) IN GENERAL.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following new subsection:

"(q) SOVEREIGN RISK.—Section 25C of the Federal Reserve Act shall apply to every nonmember insured bank in the same manner and to the same extent as if the nonmember insured bank were a member bank.".

(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 3(l)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1813(l)(5)) is amended to read as follows:

"(A) any obligation of a depository institution which is carried on the books and records of an office of such bank or savings association located outside of any State, unless—

"(i) such obligation would be a deposit if it were carried on the books and records of the depository institution, and would be payable at, an office located in any State; and

"(ii) the contract evidencing the obligation provides by express terms, and not by implication, for payment at an office of the depository institution located in any State; and".

(c) EXISTING CLAIMS NOT AFFECTED—Section 25C of the Federal Reserve Act (as added by subsection (a)) shall not be applied retroactively and shall not be construed to affect or apply to any claim or cause of action addressed by that section arising from events or circumstances that occurred before the date of enactment of this Act.

SEC. 328. AMENDMENTS TO OUTDATED DIVIDEND PROVISIONS.

(a) WITHDRAWAL OF CAPITAL.—Section 5204 of the Revised Statutes (12 U.S.C. 56) is amended—

(1) in the second sentence, by striking "net profits then on hand, deducting therefrom its losses and bad debts" and inserting "undivided profits, subject to other applicable provisions of law"; and

(2) by striking the third sentence.

(b) DECLARATION OF DIVIDENDS.—Section 5199 of the Revised Statutes (12 U.S.C. 60) is amended—

(1) in the first sentence, by striking "net profits of the association" and inserting "undivided profits of the association, subject to the limitations in subsection (b),";

(2) by striking "net profits" each subsequent place such term appears and inserting "net income"; and

(3) by striking subsection (c).

SEC. 329. ELIMINATION OF DUPLICATIVE DISCLOSURES FOR HOME EQUITY LOANS.

Section 4(a) of the Real Estate Settlement Procedures Act (12 U.S.C. 2603(a)) is amended by adding at the end the following: "In the case of a federally related mortgage loan secured by a subordinate lien on residential property, disclosures made under section 127A(a) of the Truth in Lending Act may be used in lieu of the disclosures required under this section if—

"(1) the disclosures made pursuant to such section 127A(a) contain all of the information that is required under this section; and

"(2) the information is disclosed in a manner that is no less conspicuous than is required under this section.".

SEC. 330. REPORT ON CAPITAL STANDARDS AND THEIR IMPACT ON THE ECONOMY.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Treasury, after consultation with the Federal banking agencies, shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives on the effect of the implementation of risk-based capital standards on—

(1) the safety and soundness of insured depository institutions; and

(2) the availability of credit, particularly to consumers and small business concerns.

(b) RECOMMENDATIONS.—The report required by subsection (a) shall contain any recommendations that the Secretary of the Treasury considers relevant.

SEC. 331. STUDIES ON THE IMPACT OF THE PAYMENT OF INTEREST ON RESERVES.

(a) FEDERAL RESERVE STUDY.—Not later than 180 days after the date of enactment of this Act, the Board of Governors of the Federal Reserve System, in consultation with the Federal Deposit Insurance Corporation, shall conduct a study and report to Congress on—

(1) the necessity, for monetary policy purposes, of continuing to require insured depository institutions to maintain sterile reserves;

(2) the appropriateness of paying a market rate of interest to insured depository institutions on sterile reserves or, in the alternative, providing for payment of such interest into the appropriate deposit insurance fund;

(3) the monetary impact that the failure to pay interest on sterile reserves has had on insured depository institutions, including an estimate of the total dollar amount of interest and the potential income lost by insured depository institutions; and

(4) the impact that the failure to pay interest on sterile reserves has had on the ability of the banking industry to compete with nonbanking providers of financial services and with foreign banks.

(b) BUDGETARY IMPACT STUDY.—Not later than 180 days after the date of enactment of this Act, the Director of the Office of Management and Budget and the Director of the Congressional Budget Office, in consultation with the Committees on the Budget of the Senate and the House of Representatives, shall jointly conduct a study and report to the Congress on the budgetary impact of—

(1) paying a market rate of interest to insured depository institutions on sterile reserves; and

(2) paying such interest into the respective deposit insurance funds.

SEC. 332. STUDY AND REPORT ON STREAMLINED LENDING PROCESS FOR CONSUMER BENEFIT.

(a) STUDY.—During the 12-month period beginning on the date of enactment of this Act, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Secretary of Housing and Urban Development shall conduct a study of ways to improve the home mortgage, small business, and consumer lending processes, consistent with the principles of safety and soundness, so as to—

(1) reduce consumer burdens, inconvenience, cost, and delay; and

(2) minimize cost and burdens on insured depository institutions, credit unions, and other lenders.

(b) COMMENTS.—In conducting the study under subsection (a), comments shall be solicited from consumer groups, insured depository institutions, other lenders, and any other interested parties.

(c) REPORT.—Not later than 12 months after the date of enactment of this Act, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Secretary of Housing and Urban Development shall submit a joint report to the Congress indicating any legislative changes necessary to improve the home mortgage, small business, and consumer lending processes and including a summary of comments received pursuant to subsection (b).

SEC. 333. REPEAL OF OUTDATED CHARTER REQUIREMENT FOR NATIONAL BANKS.

Section 5170 of the Revised Statutes (12 U.S.C. 28) is repealed.

Amend the title so as read: "A bill to facilitate the establishment of community development financial institutions, to provide consumer protections for high cost mortgages, to encourage investment in and lending to small businesses, to improve the regulation of depository institutions, and for other purposes.".

The PRESIDING OFFICER. Who seeks recognition?

The Chair recognizes the Senator from Michigan [Mr. RIEGLE].

Mr. RIEGLE. Mr. President, under the standing order we are now moving to S. 1275, the Community Development, Credit Enhancement, and Regulatory Improvement Act of 1995.

I will shortly begin a description of that bill. At the end of my remarks I will ask unanimous consent to have a letter from Treasury Secretary Bentsen and other supplementary materials printed in the RECORD.

This is an important day for the country, that we have a chance to bring this bill to the Senate floor. I thank the majority leader for allowing us this spot in the schedule, to be able to present it to the Senate and move it through, I hope, quite expeditiously so we can get into conference and get this into law before this year is over.

The bill we have before the Senate now incorporates a number of provisions that are designed to foster community development, such as we have just heard; to also, importantly, encourage lending to small business, because we know that is such an important engine of growth in this country, and of job creation. And also to target and eliminate unnecessary paperwork and redundancy within our financial system. Also in order to deal with some specific problems, to put in place some consumer protections that are also needed to prevent some abuses we have uncovered that we think need to be dealt with directly.

As I have said, the committee worked together in a bipartisan fashion to craft this bill. We have also worked closely with the Clinton administration, and I thank them for their cooperation. I think this teamwork effort is reflected in the overwhelming bipartisan support that this bill received in the Banking, Housing, and Urban Affairs Committee. We reported this bill out favorably by a vote of 18 to 1. I repeat that, by a vote of 18 to 1. I am very proud of the strength of the bipartisan support it achieved.

I particularly commend Senator D'AMATO, the ranking Republican, for his leadership and input in developing this legislation. We have worked together on a vast number of issues in the committee. That is the approach we take. We have done that here. We have crafted a bill we both strongly support and I thank him for his leadership, and his staff as well.

Let me now briefly describe the provisions of the bill. Let me start with community development.

The first title of the bill addresses the issue of community development and consumer protection. It is aimed at revitalizing distressed communities by helping to enlarge and strengthen the capacity of local community development institutions and to improve the access of capital into these institutions. It will create the community development financial institutions fund. That fund will promote revitalization of our distressed communities by providing financial and technical assistance to new and to existing community development financial institutions.

The fund will be directed by an administrator appointed by the President and confirmed by the Senate. A 5-member advisory board will consist of representatives of community groups, local and regional governments, community development organizations, and the banking industry itself.

The bill authorizes $382 million over 4 years to carry out this program. The money can be used for small business, commercial, and community facilities, basic financial services where they do now not exist or are very expensive and out of the reach of many people, and also low-income housing, if that is not provided by other area housing lenders.

Banks and other financial institutions and Government entities will be able to play a very important role in this initiative. Together with community development financial institutions, existing commercial banks and others will be able to submit joint applications for assistance called community partnerships. Federal funds, however, may only go to the community development financial institution itself.

A community development subsidiary owned by banks or by thrifts or both may qualify, provided that no one company owns more than 25 percent of its voting shares.

So we facilitate a partnership arrangement with the existing financial system, to the extent they want to participate in this way, but it reaches out to those community entities like the one that brought into being the South Shore Bank in Chicago and others, to enable an additional level of infusion of financial activity and capital down to the grassroots where it is so badly needed.

I might just say, I believe strongly in the free enterprise system. I have seen it work any number of times. But in order for it to work you have to be able to take a good idea and a good team of people and to be able to get access to capital so you can actually put your idea to work.

If the credit facilities are such that you are strangled before you ever start because you cannot establish a normal financial relationship, particularly with a startup entity, very often, particularly in depressed areas, inner-city urban areas, and even rural areas, you have ideas that could take hold and create new economic activity and job creation, but they never happen because of the absence of credit facilities and the absence of financing.

We want to change that. We want to take and infuse more capital into areas where capital has been missing.

Another part of this bill that I will describe in a minute has to do with the securitization of small business loans. That is aimed at exactly the same problem because we feel—and Senator D'AMATO has led this particular effort—but if we can find a way to take and make more small business loans, securitize those loans, and sell them off in a secondary market, we can hook up a source of investment capital and bring that in to underserved areas and to give the free enterprise and the capitalistic system a chance to work because people will be able to have the money they need to actually put good ideas to work. So this is something that is very important. It goes right to the center of validating our entire economic system.

Title I, as I mentioned, also includes a provision amending the Truth in Lending Act to provide new consumer protections for certain second mortgages that have carried with them exceptionally high fees or interest rates. The bill defines these second mortgages that fall into that category as "high-cost mortgages."

On February 17 of this year, we had a hearing in the Banking Committee,

and witnesses then testified that homeowners in low-income minority communities have been deliberately targeted for abusive lending practices. Our legislation requires lenders to make a separate disclosure when they are offering high-cost mortgages that contain annual interest rates, monthly payments and a warning that the borrower could lose his or her home.

What this deals with is what is called reverse redlining where some unscrupulous lenders were going into areas, offering second mortgages at rates as high as 17 percent, or higher, knowing full well that the person taking that loan could never pay it back and, in due course, would have to default on the loan and enable them, the lender, to take that property in foreclosure and make a huge profit.

We do not want the system operating that way. So this is an effort to try to, in a balanced fashion, deal with that abuse with respect to high-cost second mortgages.

So the disclosure would have to be provided at least 3 days before the settlement, creating an additional cooling-off period so that consumers have an opportunity to see what is involved here and not get swept up in a high-pressure sales pitch and, the next thing they know, be locked into a financial arrangement that will devastate them and literally take their home right out from under them.

The bill generally prevents lenders from including certain terms that have caused problems, such as prepayment penalties, in these high-cost mortgages. The Federal Reserve has given authority to exempt loans from these provisions, however, if, in their view, it is in the interest of the borrowing public.

Finally, the bill transfers liability in connection with high-cost mortgages from the originator to any subsequent purchaser of the loan. This provision is essential to make the market police itself.

Next, let me move to the small business section which is contained in title II. The small business capital formation section contains two provisions designed to ensure that small businesses will have access to the credit that they need to come into existence, grow, and create jobs.

First, title II includes S. 384. That is a bill introduced by Senator D'AMATO to facilitate the securitization of small business loans. Back in 1984, Congress enacted legislation to promote the securitization of home mortgages. Most observers now believe that securitization of residential mortgages has served over the intervening years to increase the supply of capital to home buyers, ensuring a continuous supply of that capital and also bringing down the cost. It is a more efficient market and is a way for capital to get to that kind of investment form. And so people wanting to have home mortgages have greatly benefited in the process.

Senator D'AMATO, and other Senators, introduced a bill intended to develop a secondary market for small business loans similar to that for these residential mortgages. This provision, with modifications, is now incorporated in the bill.

Under this legislation, financial institutions can originate loans to small businesses and then sell them to an entity that would issue securities to investors. The bill makes changes to Federal securities laws that parallel the 1984 statute. These would allow issuers sufficient time to pool and sell securities and to file a single registration statement with the SEC.

The bill also changes bank capital requirements for small business loans to "without recourse." That is, where the bank remains liable for a portion of any losses on the loan.

The committee worked with the Federal bank regulators and the Treasury Department to develop an approach that will facilitate securitization of small business loans while maintaining bank safety and soundness.

In fashioning this legislation, the committee was mindful that banks are losing market share in the area of small business lending, and that is not helping anyone. A Government-sponsored enterprise to securitize small business loans could lead to a standardization of product and that could further move business out of the banking industry.

The legislation approved by the Banking Committee does not create such a Government-sponsored enterprise. Instead, it removes a number of regulatory impediments to the development of a secondary market by the private sector. While standards may converge as the market develops, the committee has not sanctioned—I emphasize, has not sanctioned—any Government-sponsored uniformity in small business lending. We realize how crucial bank financing is to small and startup businesses, and we want commercial banks to continue to be players in this market. This is designed to help them do exactly that.

Title II also includes S. 478. That is a measure providing Federal assistance for State capital access programs. Fourteen States have adopted capital access programs. These programs encourage banks to make loans to small- and medium-size businesses that they might not otherwise make. Lenders may choose to participate in a program. For each loan enrolled in a program, the bank and the borrower contribute to a loan reserve fund. The State then matches the contribution of the bank and the borrower. The loan loss reserve fund protects the lender against loss on the loan. Participating lenders assume the risk of loss on their loans if the losses exceed the total contribution to the reserve funds.

Unlike a guarantee program, the Government is not exposed to the risk of the entire loan. The bill authorizes $50 million in Federal funds to match State contributions to capital access programs. This will help States that already have such programs and encourage other States to adopt such programs. The Federal role would be limited to certifying State programs for participation, receiving reports and matching State contributions.

Finally, title III of this bill contains a number of directives to the bank regulatory agencies to require them to improve the way they carry out their functions. Our goal is to harmonize and to simplify the regulatory mandates that are now imposed by multiple bank regulatory agencies.

Under this bill, for example, within 2 years, examinations will be coordinated and each institution and its affiliates will receive a unified exam conducted by just one regulator.

Now we have a situation where as many as four regulators are in the act. I have been told stories of individual institutions where you have three different regulators all on site at the same time, all doing different kinds of examinations according to different standards. It is costly, it is time consuming, it is confusing, it is burdensome and it is time to change it, and we change it in this respect in this bill.

We think that that is going to eliminate the cost to banks of these duplicative exams. Each agency has to establish a regulatory appeals process. Also within 2 years, the Federal banking agencies must conduct a top-to-bottom review of regulations, removing inconsistent, outmoded and duplicative mandates. New regulations will not be issued without the scrutiny of the administrative burden that they may create, and this is particularly a problem for smaller institutions who just do not have the margins to carry a lot of burdensome regulatory requirements that, in the end, are not needed.

The current system of four different agencies adopting four different guidelines on the same subject will come to an end. I happen to think we also ought to consolidate those agencies into a single entity. We are doing that on a separate track, coming down that track with a proposal within the committee. That would be a major institutional advance with respect to consolidation. But until we achieve that goal, and even with whatever final form we get there, it is very important this administrative simplification and streamlining take place.

The bill also contains numerous amendments to existing laws that will reduce the paperwork and unnecessary regulatory burden with which banks must now cope. For example, institutions with assets of less than $100 mil-

lion are currently exempt from the requirement of annual inspection and instead may be examined on an 18-month cycle. Title III raises that threshold from $100 million to $250 million. Call reports no longer need to be published in local newspapers. Loans that are made for commercial, agriculture, and governmental purposes are exempted from the forms required under the Real Estate Settlement Practices Act.

In addition, title III calls for study of risk-based capital standards, sterile reserves, and burden in the consumer loan process. A number of these provisions are drawn from Senate bills 265 and 1124 introduced by Senators SHELBY, MACK, D'AMATO, DOLE, BRYAN, SASSER, and others.

It is fair to say that virtually all the members of the committee have had input into these provisions. The package has, as I said earlier, the full support of the Clinton administration. Secretary of the Treasury Bentsen applauded the regulatory reform provisions of the bill as a very reasonable and sensible approach and one that does not go overboard. As he noted, the aim of these provisions is to remove outmoded and outdated and sometimes excessive restrictions on our financial system.

The measures in the bill reflect a thorough review and balancing to eliminate unnecessary restrictions while at the same time maintaining effective supervision—most importantly, the safety and soundness of the banking system, protection of the bank insurance fund, and appropriate consumer protections.

Any actions that hinder effective bank regulation or undermine bank safety and soundness may save the banks some money today but at the risk of causing potentially severe losses to the insurance fund tomorrow, and we draw that line very clearly, and we do not want to cross that line.

This bill is a major step toward eliminating the duplicative and inconsistent regulation that increases costs for consumers and undermines support for essential regulation in this area.

Again, I wish to thank all the members of the committee for their cooperation, particularly my ranking member, Senator D'AMATO, for their very solid bipartisan cooperation in drafting and reporting out this legislation.

I will shortly yield to my colleague from New York. After he has spoken, I will seek recognition for the purpose of describing and moving the adoption of a managers' amendment. The managers' amendment contains a number of improvements to the bill agreed to by Senator D'AMATO and myself as well as other Senators.

Mr. President, I yield the floor at this point.

The PRESIDING OFFICER. Who seeks recognition?

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from New York [Mr. D'AMATO].

Mr. D'AMATO. Mr. President, I am going to open with a short statement as it relates to this bill, and then I am going to speak to another subject that literally has come to my attention just this morning but obviously concerns banking, banking institutions, regulatory authorities, and the appropriateness of the conduct of the Treasury Department and maybe others as it relates to the responsibility of these independent agencies.

Mr. President, I rise today in support of S. 1275, the Community Development, Credit Enhancement, and Regulatory Improvement Act.

Throughout our country there are communities in decline because of a lack of capital and credit. In hearings before the Banking Committee last year, we heard testimony that community development banks can provide a powerful tool to reestablish neighborhoods and turn decay into prosperity by providing a combination of loans, seed capital, and technical assistance.

Rural farm communities can also benefit from community development financial institutions through the provisions of farm loans and development capital.

Title I of this legislation is designed to assist in the establishment and funding of community development financial institutions. It establishes a community development financial institutions fund that will make grants, loans, and technical assistance to local financial institutions. These local institutions can be insured banks, savings and loans, low-income credit unions, or other community lending organizations. However, in all cases, the institution must have, as its primary mission, the promotion of community development.

Assistance given by the fund, other than technical assistance, must be matched by non-Federal dollars. Generally, except for certain hardship instances, the matching requirement will require $1 of non-Federal funds for each $1 of Federal assistance.

This matching requirement is an extremely important safeguard. It ensures that the private sector or local Government agency is willing to risk its own resources on the viability of the institution selected for Federal funding. The matching requirement provides a second opinion as to the need for and likely success of the institution's planned use of the Federal assistance. The matching requirement should go a long way toward eliminating some of the waste associated with prior efforts to revitalize our distressed communities.

Under the bill as reported, a traditional bank or savings association may become a partner with a community development financial institution, or it may hold up to a 25 percent interest in such an institution. However, a traditional bank or savings association may not apply directly or have a wholly owned subsidiary that qualifies for this program. However, a traditional bank or thrift association may control up to 25 percent of the voting shares of a community development financial institution that qualifies for assistance under this act.

Title I of the bill also contains provisions relating to mortgage lending practices that in certain circumstances have lead to consumer abuses. The Banking Committee held hearings on the reverse redlining problem—unscrupulous lenders who were targeting the poorest consumers for high interest rate home equity loans. We heard from witnesses who were tricked into taking high interest rate loans, often with large up front fees. Many of these consumers were elderly people who were facing the loss of their homes due to these high cost mortgages.

Last year, Senator RIEGLE and I introduced the Home Ownership and Equity Protection Act of 1993, to deal with this problem. That bill has largely been incorporated into this legislation as subtitle B of title I.

Subtitle B provides additional consumer protection for nonpurchase money mortgage loans that either has an interest rate of 10 points or more above comparable Treasury rates, or that involves the payment of up front fees of 8 percent or more.

Before the consumer goes to settlement on a mortgage that meets either of these tests, the lender must make certain disclosures, including the fact that the borrower may lose his or her home. These disclosures must come at least 3 days before settlement.

One important feature of the bill provides that if a loan is sold, the consumer may raise the same legal defenses against the buyer of the loan that he or she could have raised against the original lender. Hopefully, this will force the secondary market to refuse to deal with unscrupulous lenders who engage in fraudulent practices, or who do not make the required disclosures.

Subtitle B also provides the Federal Reserve Board with some flexibility to make exceptions from the prohibitions in the bill. However, exceptions may only be made if the Fed finds that it is in the interest of the borrowing public and will only apply to products that strengthen home ownership and equity protection.

The Federal Reserve Board is required to prohibit any act or practice in connection with these mortgages that the Board finds to be unfair, deceptive, or designed to evade the act. I expect that the Board will use this authority to restrict or prohibit lending practices associated with these loans

that have led to abuses in the marketplace.

Subtitle A of title II of this legislation contains the Small Business Loan Securitization and Secondary Market Enhancement Act of 1994. I introduced this bill (S. 384) last year with strong bipartisan support from my colleagues who recognize the importance of facilitating the flow of credit to our Nation's small businesses.

Over the past several months, Chairman RIEGLE and I have worked together along with the administration and the bank regulators to improve this legislation. As a result, the small business loan securitization bill has the support of the administration, the bank regulators, and the banking and securities industries.

While small businesses have been starved for credit, there is no credit crunch for home buyers. This is because we have a strong secondary market in residential mortgages that facilitates the flow of credit from the capital markets to those who want to finance a home.

In 1984, Congress removed regulatory impediments to selling securities backed by pools of residential mortgages by enacting the Secondary Mortgage Market Enhancement Act [SMMEA].

The Small Business Loan Securitization and Secondary Market Enhancement Act of 1994 extends the 1984 law to small business loans and encourages capital market investment in securities backed by small business loans. Title II simply removes unnecessary legal barriers in the securities, banking, pension and tax laws to facilitate the sale of securities backed by small business loans.

The development of a secondary market in small business loans will help bankers, small business borrowers, and investors alike.

Banks will be able to originate more small business loans without having to raise additional capital because the loans will be sold to investors rather than kept on the bank's books.

Small businesses will gain access to the capital markets—making more credit available at lower prices.

Institutional and individual investors will be able to fund small businesses by purchasing investment grade securities backed by small business loans.

I want to stress that this legislation does not create a new Federal agency to guarantee these securities and does not put the taxpayers on the hook for potential losses on these securities. Instead, these securities will be sold by the private sector and will be backed by the pools of small business loans and other credit enhancements provided by the issuer of the securities.

Subtitle B of title II also encourages small business lending by providing for Federal funds to be devoted to State capital access programs. These capital access programs give banks flexibility to make riskier—but prudent—loans to small businesses. The program provides for a reserve fund, consisting of payments made by the borrower, the lender and the State, to protect the bank against losses on the loan. To help States that already have capital enhancement programs in place and to encourage other States to develop these programs, the bill provides that States will be reimbursed for 50 percent of their payment.

I am particularly pleased to have been able to ensure that a highly successful program in New York City, the Small Business Reserve Fund, will also be entitled to participate in this program. It is my understanding that the Small Business Reserve Fund has helped disburse at least 56 loans for a total of $2.9 million since its inception in January 1993. I expect that S. 1275 will go a long way toward enabling the Small Business Reserve Fund, and other similar programs, to greatly increase their loan disbursements.

Title III of this legislation incorporates provisions from a number of bills that had been introduced concerning the regulatory burden currently placed on our insured financial institutions, as well as recommendations made by the Federal banking agencies and the Federal financial institutions examination committee's study on regulatory burden. These changes should significantly lower the costs of doing business for financial institutions while maintaining the safety and soundness of our regulatory system. The costs saved by this title should result in increased lending by our insured institutions, especially for the consumer and small business sectors of our economy.

Mr. President, in summary, this bill contains many important provisions that will provide meaningful assistance to disadvantaged urban and rural communities, small businesses, and consumers. The other body has already acted on a companion bill, and I hope that we can pass this measure out of the Senate and proceed to a conference as soon as possible. This legislation is important to our country and to our economy. It should not be delayed.

Mr. President, I think this is a good bill. There may be certain aspects of the bill that Members may not be entirely pleased with, but I say to those of my colleagues on the Republican side who are concerned that this is more Federal spending, that they will lose these dollars, that they will not be administered well as it relates to community development facilities, there has been an attempt to deal with that by requiring a local match, dollar for dollar, so that there will be accountability and, hopefully, with proper supervision we can create opportunity for growth in communities that do not ordinarily get an opportunity for capital when it is so badly needed, capital that is the engine of economic growth in this country, capital that should be made available to minority communities and the small business community that is often difficult, if not impossible, to get.

Second, I think probably that area of the bill which gives deep concern to me is the fact that we do not have adequate markets for capital to the small business community and, therefore, by the securitization of small business loans, we will make available capital to small businesses throughout America that heretofore has not been made available. Without spending one penny of taxpayers' dollars, we really have the opportunity to leverage the amount of money that banks are putting out now to small businesses by six to seven times, at no risk to the Federal Treasury, by permitting securitization. We did that back in 1984 with home mortgages, and to date people can get mortgages because of the securitization.

We are doing the same thing here. We will provide an opportunity for the marketplace to work and to create dollars that otherwise would not flow.

If anyone goes in, and, yes, if it is empirical or anecdotal information, you will find that small business loans are difficult, if not impossible, to get today. If you want to get jobs and the creation of jobs for people, I would suggest to you let us give the fuel to the engine of economic growth, and that fuel is capital that is now being denied and not available because banks are just simply not going to do it because of the cost and time, et cetera. Let them be able to securitize that, pool these loans, sell them on the secondary market, and I think you will see a tremendous increase in jobs in this country next year, absolutely, just through this technique. So I commend it to my colleagues.

Let me say I wish to thank Senator RIEGLE in using his position to craft together a bill that I think really makes a lot of sense, and this was a bipartisan effort. I commend the Senator for helping us to achieve this, and also Senators SHELBY, MACK, and others who have encouraged important paperwork reduction to get the monkey off the backs of business, in this case the banks, that are being impeded by unnecessary regulations.

Mr. BRADLEY. Mr. President, barely a year has passed since I rose on this floor to introduce my urban community-building initiative, eight bills designed to give creative people in communities at the heart of the turmoil the tools to rebuild strong, supportive communities. We sought to give children a safe and nurturing environment, to help communities repair themselves, to help individuals find and get to jobs, to help poor people develop assets for the future, and to restore strong finan-

cial institutions that help communities save their own money, invest, borrow, and grow.

A year later, we are beginning to see communities pull together around their applications to become empowerment zones and enterprise communities, through which we will invest $1 billion for six of the innovative programs I proposed. One of the programs to give children a better chance in life, Community Schools, passed the Senate in the crime bill and is progressing through the House. And today we are finally passing legislation to bring basic financial institutions back to impoverished cities and rural areas, along the lines of the Community Capital Partnership Act that I introduced a year ago.

Most of us take basic financial institutions for granted. We have savings and checking accounts, our bank lends our money to businesses in our communities, and we borrow ourselves when it comes time to buy a home or we have an inspiration to start a new business. But in most American cities, the only financial institution they know is the check-cashing cubicle, which charges up to 5 percent just to cash a government check, and takes the money back out of the community. People who want to save have nowhere to go and businesses have no access to capital. Within the 165 squares miles that make up the areas most affected by the disorders in Los Angeles in 1992, there are 19 bank branches, as compared to 135 check cashing establishments.

People who want to borrow have even fewer opportunities. They can buy a car or furniture on time, or on a rent-to-own plan, but if they want to borrow to get ahead by starting a small service business or a store, they are out of luck.

The McNeil-Lehrer Newshour recently interviewed some ambitious entrepreneurs in rural Arkansas, one of them a woman named Jesse Pearl Jackson, who owns a beauty salon. She needed a loan for new equipment, and when she went to a bank, she says the loan officer—

> laughed me clean out the door. She said, "You want money for what?" She said, "You don't walk in here and ask me for an application for a loan. That's not the way you do it." I said, "Well, if you'll tell me what to do, then I'll come back, and I'll do it right the next time." She was laughing so hard and making fun of me so bad I never went back.

There is money to be made here, for any bank willing to take entrepreneurs like Ms. Jackson seriously, but large financial institutions without roots in the community are unlikely to see those opportunities.

But there are islands of hope for people who want to save and invest in troubled communities. Last year, I visited La Casa de Don Pedro, which operates a credit union in a very poor section of Newark. La Casa is a multipurpose community organization that just happens to have a credit union. While I was there, a stream of members poured into the small building which houses the credit union, day care center, and other programs, depositing $20, $50, and $100 at a time. I did not see any banks in the vicinity of La Casa. If it were not for the credit union, many of the community's residents would have no place to deposit their money, secure small loans, or take advantage of other services we often take for granted.

Community credit unions and banks may start small, but they don't have to stay small. Over the last 20 years, Shorebank of Chicago has shown the world that a financial institution that is committed to community development can lead a community back from the brink of economic and social decline. Since 1973, it has made $340 million in development financing, mainly for the purchase or rehabilitation of housing units in Chicago's South Shore neighborhood. Through its various subsidiaries and affiliates, it has been an active force in the revitalization of the South Shore. Shorebank has used a subsidiary, City Lands Corp., to make high-risk loans for housing development. It has used a nonprofit affiliate, the Neighborhood Institute, to help disadvantaged residents achieve their GED's, start up small businesses, and train for jobs available in the community. It has used its depository institution, South Shore Bank, to make loans to people seeking to renovate apartment buildings and establish small businesses that generate jobs in the community.

Full-fledged banks like Shorebank are the best known of the community development financial institutions, but we cannot expect that every community will grow an institution as large and well-capitalized as Shorebank and do so over night. At my urging, this legislation not only addresses banks, but also community development credit unions, revolving loan funds, microloan funds, and community development corporations. All these emerging institutions would be eligible for assistance under this bill, and I am pleased and I salute the chairman, Senator RIEGLE, for his agreement to increase funding for a revolving loan fund for Community Development Credit Unions, giving them immediate access to capital so they can grow.

One of the best examples of a community-building institution that is not a bank, but has nonetheless responded to the need for capital and savings, is New Community Corp. in Newark, NJ. New Community Corp. was formed in the wake of the Newark riots of 1967. Over the last 25 years, it and its subsidiaries have developed over 2,500 housing units, 25,000 square feet of office space, and an $11 million extended care facility. New Community has also built a $15 million shopping center, which contains Central Newark's only major grocery store built since 1967.

New Community's founder, Msgr. William Linder, testified last year before Congress:

> I have seen bank branch after bank branch close because the bank did not find serving our community profitable. There was always the same trend. Managers were frequently changed, service became poor, the facility was always dirty. Frankly, no one in authority cared about our community.

But instead of giving up hope, Monsignor Linder and others started a credit union. He now presides over a credit union with about $1.7 million in assets that provides basic banking services to community residents. Last year, New Community's credit union made 165 loans, mainly to poor residents of Newark's Central Ward. Basic banking services like check cashing, consumer loans, and savings accounts are taken for granted by a lot of people, but in places like the central ward of Newark they have become scarce and prized resources. Like Shorebank, New Community, in its own way, has recreated opportunities for its community.

This bill does not, and should not, seek to create organizations that will be perpetually dependent on government for support. Instead, it seeks to reach in at a point of leverage in capital-starved communities and get them started. It does not set development strategies for either the institutions or the communities they serve. Instead, it lets those involved in the struggle for economic recovery find their own path.

I am pleased that there has been such widespread support for the idea of expanding community financial institutions, even though it is a relatively new idea to many people. I still hear some wariness, though, about this investment from people who argue that poor people do not save and that distressed communities do not have the resources to support economic development.

The evidence contradicts this cynical view. In Paterson, NJ, last year, I visited one of the few banks that had not left that city. I struck up a conversation with a customer, who volunteered that she was depositing $100. Surprised, I asked her how much she generally saved in a week. She told me that she and her husband had five children and earned $20,000 last year, below the poverty line. But even on this income, they saved $3,000 that year, for health emergencies, for college, or to give their children a chance at a better life. Their experience tells me that saving for the future is a fundamental value of cur country, not limited to the middle class, and that if we all had access to the institutions that make capitalism work, we could all be a part of vital, self-sufficient communities.

Mr. RIEGLE. Mr. President, I appreciate the statement of the Senator

from New Jersey [Mr. BRADLEY] for his interest and leadership in this area. We have made very good progress, but with the help of a number of Senators on a bipartisan basis, and particularly my ranking minority member, Senator D'AMATO. I will have more to say about that shortly.

I acknowledge and thank Senator BRADLEY for his important contribution in this area.

PRIVILEGE OF THE FLOOR—S. 1275

Mr. BRADLEY. Mr. President, I ask unanimous consent that privilege of the floor be granted to the following member of the chairman of the Banking Committee's staff: Kay Bondehagen, during the pendency of S. 1275.

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

WHITEWATER AND MADISON

Mr. D'AMATO. Mr. President, there has been a lot said, and I think a lot more to be learned, on the situation of Whitewater and Madison. I look today and find out something that I suspected may have been taking place, and that suspicion today is given greater fuel by the article that I read today in the New York Times, March 16, 1994, by Stephen Labaton. I am going to read part of it, just part of it:

Clinton administration officials last year rejected a recommendation by a senior regulator to open a Treasury Department investigation into the failed savings and loan association owned by President Clinton's former partner in the Whitewater venture, Government and Congressional offices said today.

The request to open a broad investigation of the savings institution was made by Brian McCormally, the top enforcement official for the Midwest Division of the Office of Thrift Supervision, which is part of the Treasury Department.

The article goes on—I am not going to read it verbatim—to say:

The two agencies have overlapping jurisdictions—

That is, the RTC, and the OTS, have overlapping jurisdiction.

and often conduct separate investigations into failed savings associations. But the Thrift Supervision Office has a larger staff and greater enforcement powers and has handled many of the most significant investigations of savings associations and their lawyers and accountants.

Government officials and Congressional aides said the request was turned down last fall by Mr. McCormally's supervisors in Washington, Carolyn Lieberman, acting counsel to the thrift supervision office, and Jonathan Flechter, acting director of the office. They report to senior political appointees at the Treasury Department, and rarely make major decisions without high-level consultations.

William E. Fulwider, the spokesman for the Office of Thrift Supervision, declined to discuss the case or to say whether its officials had consulted the Treasury Department.

As enforcement director for the Midwestern region of the Office of Thrift Supervision, Mr. McCormally oversees enforcement efforts against savings associations in 23 states, including Arkansas. He is best known as the Federal regulator who supervised the inquiry into Neil Bush, a son of former President George Bush, who settled charges of conflict of interest over his role in the Silverado Banking, savings and Loan Association in Denver.

Officials said Mr. McCormally asked his superiors in Washington last fall for permission to look into the collapse of Madison. It is unclear whether he made the request before or after the meetings between Treasury and White House officials concerning the Resolution Trust Corporation's inquiry.

The Office of Thrift Supervision regulates the savings industry, and the trust corporation handles savings institutions that have been seized and bailed out by the Government. The thrift supervision office, created in 1989, also has many records from its predecessor agency, the Federal Home Loan Bank Board, and officials said it had many of Madison's files from the 1980's.

Mr. President, I asked this question yesterday during what was supposed to be a talk show. But it was like putting—in the old gladiator days—people in the midst of an arena. It was an arena setting. I was one of the participants.

Today, in America, the people have a right to take their opinions and make them known.

If George Bush were President, and the matter as it relates to Madison Guarantee concerned him, the same situation, and he were here, would the Congress of the United States say that it was not important to hold hearings? We held hearings on the House side as it relates to George Bush's son, Neil. The Banking Committee chairman, Mr. GONZALEZ, had no problems. And, yes, there were Federal investigations undertaken.

None of us suggest that we just go forth willy-nilly with hearings without giving the special counsel the opportunity to interview those witnesses first, as we suggested with him. And we said that with something that important to him we would not grant immunity to witnesses, that we would do it in the manner in which it would be less detrimental to his case.

But the facts have dribbled out, and are dribbling out. Most recently we have these alarming allegations in the New York Times. Mr. Fiechter was before our committee. I guess it would have taken a great act of courage on his part to indicate about this because he knew that we were concerned. We did not ask him the precise question as to whether or not he ever consulted with people as it related to the Treasury Department. But he could have raised it as it related to the White House.

But this situation obviously cries out. We now have one of the independent regulators that came in and had meetings which were, at the very least, inappropriate. I am talking about the RTC. Then when we find out that the OTS, and the same enforcement official who handled President Bush's son's matter, was not permitted to go forward. I suggest to you that Congress has an absolute total responsibility to find out why. That is not the province of the special prosecutor; his mandate relates to criminal prosecutions. Our role is to see whether or not there is an abuse of power.

When we have this kind of information coming forward—and let us understand, these people are not going to come forward on their own. They need the protection of the Congress and Congressional hearings. Those people, otherwise, would rightfully feel that they would suffer the wrath of those in high positions.

The so-called claims of paralysis that may or may not be taking place in Government—will be self-induced. You cannot say we cannot go forward, because people are asking questions when they have a legitimate reason, and want answers to these questions. I say to those who say, "Why are you asking these questions?" Because it is our responsibility to do so. Ours is not to paralyze. Ours is not to bring someone down, but it is to get the facts.

I want to tell you something. An abuse of power in this country is serious. And if there are those in high political positions, whether they be in the Treasury or the White House or any other place, or attempting to stifle the truth and abusing power in that manner, is serious. The American people have a right to know. That does not fall under the prerogatives of the special counsel. We cannot delegate those away. They are our prerogatives.

No amount of name calling is going to stop this Senator from going forth and asking for the facts. That is what we are asking for: a hearing to get the facts.

I would hope that our Senate leaders could agree on the format to do this in a constructive way so that the business of the people can go forward. This Senator has not attempted to obstruct it. I have made brief appearances on this floor. If you were to count all of the time that I have taken and all of my appearances, it does not amount to very much over the months.

If I had not made these requests for the statutorily required RTC Oversight Board hearing, and had the chairman of the Banking Committee, Senator RIEGLE, not agreed as he did, we may have never learned of the initial meeting and the subsequent meetings that took place that were, at the very least, inappropriate.

Now, when we hear some of the same Treasury people who went to those meetings about the RTC, to give a so-called heads up to the administration, to the White House, may be among the same people who denied and stopped the OTS from going forward and looking into this matter, I would say to you that there is no other course than to

have congressional hearings. We should hold hearings in an orderly way and in a proper manner; and, that by denying these hearings it leads people to believe that there is something far greater and more significant. Maybe it leads people to say, "What are you hiding, and why are you hiding?"

That is the inescapable conclusion that, I believe more and more American people will come to. It is one that I have begun to come to. It is not one that I initially started out with. I simply wanted some facts and information, but I could not get those facts and information.

Finally, we got it in the most terse forms, and only, again, because Senator RIEGLE and his staff called up and said, "My gosh, why don't you give it to us?" Eight Senators sent a letter asking to find out when the statute of limitations runs. "Are you going to basically use the same procedures that have been used in other cases to protect whatever the Government's claim may or may not be?"

We were stonewalled—stonewalled.

Then of course came the days when I came down to the floor and presented the calendar, and talked about the statute running out. We got at least an extension of that statute of limitations through the efforts of Senator METZENBAUM, myself and the rest of my colleagues.

These are the questions that people have a right to have answered. We should not be met by this barrage, attack, claims that "you are trying to hurt the administration, trying to take them down, trying to damage some program, whether it is their health program or another one." That is not the case. That is absolutely not the case. But that is the cry, and that cry is a false canard.

Let me suggest that you go back to the Watergate days and look at the testimony of John Dean. John Dean said that the administration, while they talked about cooperation, said they would attack those in the Congress as it relates to their conduct of the hearings, saying that these are politically inspired. There is beginning to be a parallel here: Shredding of documents, missing documents, the manner in which papers are taken out of Mr. Foster's office after his death, in the manner in which the Park Police and FBI were not permitted to do their jobs, the concealment in such a manner of these basic facts, raises questions. It seems to me that the very people who cry that we are attempting to obstruct them from pursuing their program, are as a result of either their own actions or the actions of those close to them, creating the situations that lead people to say, "Why are you doing this?" All we want are the facts.

I want to know why, if what this article alleges is accurate, it was that Mr. McCormally was refused permission, and who it was that made that decision. Did they consult with Treasury? Which officials in Treasury? Was it Mr. Altman? Did Mr. Altman advise others as it relates to this? Did he speak to the White House? Did the counsel, Joan Hanson, who, three times before, went to the White House? And when counsel to the Treasury Department undertakes that kind of mission, there is no excuse. That is a person steeped in the law. Was she consulted on this? Did she go to the White House and speak to others about this? These are questions that flow from just a cursory review of this article.

Mr. President, I ask unanimous consent that the full article 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, Mar. 16, 1994]

TREASURY OFFICIAL URGED 2D INQUIRY—REGULATOR'S REQUEST FOR LOOK AT FAILED S&L IS SAID TO HAVE BEEN REJECTED

(By Stephen Labaton)

WASHINGTON, March 15.—Clinton Administration officials last year rejected a recommendation by a senior regulator to open a Treasury Department investigation into the failed savings and loan association owned by President Clinton's former partner in the Whitewater venture, Government and Congressional officials said today.

The requests to open a broad investigation of the savings institution was made by Brian McCormally, the top enforcement official for the Midwestern division of the Office of Thrift Supervision, which is part of the Treasury Department.

At the time another Federal agency, the Resolution Trust Corporation, had already been investigating the institution, the Madison Guaranty Savings and Loan Association.

The two agencies have overlapping jurisdictions and often conduct separate investigations into failed savings associations. But the thrift supervision office has a larger staff and greater enforcement powers, and has handled many of the most significant investigations of savings associations and their lawyers and accounts.

NEW QUESTIONS LIKELY

The decision to reject the request for an investigation by the thrift supervision office is likely to raise new questions in Congressional hearings scheduled for next week about whether officials in Washington tried to narrow potentially embarrassing inquiries into Madison. Before if failed, Madison had been owned by James B. McDougal, the Clintons' business partner in the Whitewater Development Company, a 200-acre real estate venture along the White River in northern Arkansas.

Government officials and Congressional aides said the request was turned down last fall by Mr. McCormally's supervisors in Washington, Carolyn Lieberman, acting counsel to the thrift supervision office, and Jonathan Fiechter, acting director of the office. They report to senior political appointees at the Treasury Department, and rarely make major decisions without high-level consultations.

William E. Fulwider, the spokesman for the Office of Thrift Supervision, declined to discuss the case or to say whether its officials had consulted the Treasury Department.

Michelle Smith, a spokeswoman for the department, said: "There was no involvement by Treasury. Treasury would only be involved on policy matters, not specific cases."

WHITE HOUSE CONTACTS

In the last three weeks the White House has found itself engulfed in controversy as it struggled to defend meetings between Treasury and White House officials seeking to discuss the Resolution Trust Corporation's investigation into Madison.

Those contacts are now being examined by an independent counsel, Robert B. Fiske Jr., who is trying to determine whether the trust corporation's investigation was improperly impeded by Administration officials. Ultimately, the trust corporation decided last fall to refer questions about Madison to the Justice Department to investigate for possible criminal violations.

Mr. Fiske has also been examining whether Madison improperly funneled money into Whitewater or into Mr. Clinton's re-election campaign in 1984, when he was Governor of Arkansas.

As enforcement director for the Midwestern region of the Office of Thrift Supervision, Mr. McCormally oversees enforcement efforts against savings associations in 23 states, including Arkansas. He is best known as the Federal regulator who supervised the inquiry into Neil Bush, a son of former President George Bush, who settled charges of conflict of interest over his role in the Silverado Banking, Savings and Loan Association in Denver.

Reached in Chicago today, Mr. McCormally said he could not comment about the Madison matter.

QUESTIONS RAISED IN 1992

Officials said that Republican appointees in the Treasury Department initially instructed Mr. McCormally to look into the Madison case after news reports about the savings institution appeared in the 1992 Presidential campaign. But the officials said it was not until last year, after the Clinton Administration had taken office, that Mr. McCormally believed he had enough information to warrant a request to open a formal investigation.

Officials said Mr. McCormally asked his superiors in Washington last fall for permission to look into the collapse of Madison. It is unclear whether he made the request before or after the meetings between Treasury and White House officials concerning the Resolution Trust Corporation's inquiry.

The Office of Thrift Supervision regulates the savings industry, and the trust corporation handles savings institutions that have been seized and bailed out by the Government. The thrift supervision office, created in 1989, also has many records from its predecessor agency, the Federal Home Loan Bank Board, and officials said it had many of Madison's files from the 1980's.

The House Banking Committee is scheduled to hold a hearing next week that is supposed to be a semiannual review of the trust corporation, but Republicans are hoping it will wind up as a showcase for problems in the Madison case.

Republicans on the committee have asked regulators at the trust corporation and the thrift supervision office for files about their handling of the Madison case. But the chairman of the committee, Representative Henry B. Gonzalez, recently wrote to the heads of the two agencies ordering them not to comply with the Republican request.

Mr. D'AMATO. I will not say any more with respect to this today, be-

cause we have this important bill on the floor. I want to go forward with the bill. I commend the staff on both sides, the majority staff, as well as the chairman of the Banking Committee, for bringing us so far as it relates to this particular legislation, which I hope we can even pass today. I do not know of any big controversial matters or reasons we should not act on this bill.

If Members have amendments, please come down and submit them to us so that we can act on them accordingly and do the business of the people.

Mr. RIEGLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Let me make a comment or two. First of all, I appreciate the strength of the feeling of the Senator from New York on all of the issues he has addressed here today. I want to say that I appreciate the fact that notwithstanding his concern about the issue he has just talked about and made reference to with respect to the article in the New York Times today, he feels that we should move ahead with this legislation.

We have worked this out on a bipartisan basis, and it has a number of elements which I have described—all important, all timely. I appreciate the fact that he is prepared to move that forward, and also the parts of it that represent the thinking he has contributed in terms of small business loan securitization, among other things.

With respect to the other issues the Senator raises, in rereading the story in today's New York Times, I fully would imagine that Robert Fiske, whom I have met with and whom the Senator has met with, will pursue any questions that arise which fall within the scope of his efforts.

I do not purport to speak for him, but his charter certainly is drawn in such a way.

Mr. D'AMATO. Mr. President, if my colleague will yield for an observation—and I do not want to debate my colleague on this—but there is a very fine distinction between the role of Congress as it relates to the abuse of power, which may not constitute a criminal act per se, but is absolutely unreasonable, unwarranted, and should not be done.

The people have a right to know that. While Mr. Fiske will be looking to see if there was criminal wrongdoing or perhaps questionable actions relating to fraud on the civil side, et cetera, it is Congress' responsibility to see to it that we do not have the kind of interference and meddling which really gets into the abuse of power. There is that fine line.

That, I think, is our prerogative. That is not something that can wait indefinitely; a reasonable period of time, if he wants to speak to Mr. McCormally, fine. If he wants to subpoena him, fine. But we have a right to know, and the public has a right to know sooner, rather than much later. That is the only point I make.

Mr. RIEGLE. Mr. President, let me address that, as well. As you know, we had the hearing, now a couple of weeks ago, when the Treasury officials were in. What I have done since that time is kept the committee record open. I have kept it open precisely so that any other questions that should be asked and answered, which fall within the scope of our oversight, can be done. I have prepared a series of questions myself to be sent to the Treasury Department, to fill out the facts and the information I think we need to have as it relates to questions that arose.

Because that committee record is open as of this moment, I think that any people to whom the questions would be addressed are under an obligation to respond accurately and fully, and I expect that they will do so.

I think any question that you wish to raise on these points can properly be submitted to them, and I will keep the record open in order to get those responses. I think that falls within the scope of the way our procedure works and how we get answers to questions that arise. So, in any event, I think that also is an avenue that is available at this moment that I suggest to the Senator.

COMMUNITY DEVELOPMENT BANKING AND FINANCIAL INSTITUTIONS ACT OF 1993

The Senate continued with the consideration of the bill.

Mr. RIEGLE. Mr. President, in a moment, after I have completed giving a summary of it, a managers' amendment will be coming, in my behalf and on behalf of Senator D'AMATO, representing both sides of the committee. This managers' amendment contains a number of improvements and refinements and additions to the bill as it has been laid down. All of these provisions have been agreed to by Senator D'AMATO and by me.

I want to briefly describe the most important of those changes. Before I do, I ask unanimous consent that a longer summary of the managers' amendment be printed in the RECORD now along with the text of the amendment.

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

SUMMARY OF MANAGERS' AMENDMENT

AMENDMENTS TO TITLE I—COMMUNITY DEVELOPMENT AND CONSUMER PROTECTION

Subtitle A: Community Development Banking and Financial Institutions Act—

Permits a State agency to apply for assistance if there are no existing community development financial institutions in the State or other entities that have the capacity.

Requires an assisted organization to keep records on gender, race, etc. of persons served by the organization.

Allows CDFIs to use Federal funds to meet matching requirements in limited circumstances. The Administrator of the Fund could reduce the match by 50 percent, or permit funds provided under certain Federal grant programs to be used to meet part of the match requirement, in certain hardship cases. Further, rural institutions with less than $100,000 in assets may receive up to $25,000 without a non-Federal match. No more than 25 percent of the total funds awarded by the Fund may be matched under these discretionary standards.

Requires the Fund to consult with tribal governments when evaluating a CDFI serving an Indian reservation, requires a CDFI serving a reservation to coordinate community development efforts with tribal governments, and mandates a study on barriers to private lending on Indian reservations.

Makes several technical corrections to S. 1275 as reported by the Banking Committee.

Subtitle B: Home Ownership and Equity Protection (Consumer Protection for High Cost Mortgages)—

Exempts "reverse mortgages" from Subtitle B and provides more appropriate disclosures for such mortgages. "Reverse Mortgages" are mortgages where funds are advanced but the principal and interest are not payable until the premises are sold, the consumer moves, or the consumer dies.

TITLE II—SMALL BUSINESS CAPITAL FORMATION

Subtitle A: Small Business Loan Securitization—

Changes tax language to "sense of the Senate" that small business loan investment conduits should be taxed like real estate conduits.

Allows equipment leases by small businesses, as well as loans to small businesses, to be securitized.

Subtitle B: Small Business Capital Enhancement

Permits a political subdivision of a State, as well as a State, to establish an eligible Capital Access Program, if it has a population in excess of the population of the least populated State, or if the Secretary of HUD determines has the capacity to participate in the program.

Grandfathers eligibility of certain State Capital Access Programs. Provides that if a State statute, enacted prior to the date of enactment of this title, authorized a participating financial institution to count contributions and interest earned thereon as assets of the institution, the institution may continue to do so.

TITLE III—PAPERWORK REDUCTION AND REGULATORY IMPROVEMENT

Modifies the audit requirement in section 36(i) of the FDI Act so that well-capitalized, well-managed institutions with CAMEL ratings of 1 or 2 and assets over $9 billion may meet audit committee requirements if comparable functions are provided at the holding company level and, at the same time, no large bank customers sit on the holding company audit committee.

Clarifies joint regulatory authority to implement any regulations on limited bank liability for foreign branch deposits.

Streamlines broadcast disclosures for radio advertising of consumer leasing.

Repeals duplicative lending limit for loans collateralized by securities.

Extends for 5 years interlocks that were grandfathered under the Depository Institution Management Interlocks Act.

Clarifies that well-capitalized institutions need not register as deposit brokers.

Requires the regulatory authorities to take into account the size and activities of

financial institutions and not to cause undue reporting burdens in connection with revisions of the risk-based capital standards.

Eliminates the statutory provision requiring specific board of directors approval before a mortgage or home equity line of credit is made by a financial institution to an officer of that institution. The overall borrowing caps contained in the insider lending statutory provisions and regulations would still apply to these extensions of credit.

Modifies the civil liability provisions of the Truth in Savings law to eliminate statutory damages but not to eliminate actual damages for advertising mistakes.

Amends the Truth in Savings law to expand its scope to include business accounts for unincorporated nonbusinesses.

Modifies the Expedited Funds Availability Act to give the Federal Reserve Board greater flexibility to extend the check hold period for local checks if there are "significantly increased check losses" due to the funds availability requirement under the permanent schedule now in law.

Modifies the requirements of Section 132 of FDICIA to give regulatory agencies more discretion on asset quality, earnings and market valuation standards and to allow the agencies to issue guidelines instead of regulations.

Modifies the contemporaneous recordkeeping of Section 13 of the Federal Deposit Insurance Act of deposits by public entities at failed banks.

Clarifies that bankers' banks can provide correspondent banking services to their members.

Mr. RIEGLE. Mr. President, I will do this quickly, and I want everybody to be on notice as to these modifications.

First, the managers' amendment makes a few changes to the community development bank provisions of title I. Under the managers' amendment, a State agency may apply for assistance as a community development financial institution if there is no existing community development financial institution in the State, and no entity within the State that has the capacity to become a community development financial institution.

As a general rule, the bill requires institutions receiving assistance to match those funds with private capital. The managers' amendment allows institutions to use other forms of Federal assistance to meet the matching requirements in limited circumstances.

The managers' amendment also requires an institution receiving assistance to keep data on the individuals utilizing the services of the assisted institution. This will ensure that low-income residents of the investment areas are adequately served. The amendment requires the new fund to consult with native American tribal governments when evaluating a CDFI serving an Indian reservation, requires a CDFI serving a reservation to coordinate community development efforts with tribal governments, and mandates a study of barriers to lending on Indian reservations.

In subtitle B of title I, the provision strengthening consumer protections for high cost mortgages, the Managers' Amendment exempts so-called reverse mortgages from the bill's definition. Reverse mortgages are arrangements whereby homeowners receive payments over time, with a balloon repayment due at the end. These are sometimes used by elderly homeowners, who make ends meet in their later years by tapping into the equity they have built up in their homes. Recognizing that these transactions serve a legitimate purpose for older Americans, the managers' amendment provides more appropriate, special disclosures for reverse mortgages.

Title II of S. 1275 contains two provisions designed to make it easier for small businesses to raise and borrow capital. The first, small business loan securitization, includes a section providing that entities that pool and securitize small business loans be taxed in the same way as conduits that securitize residential mortgages. To comply with constitutional requirements on the origin of tax bills, the managers' amendment changes the bill's language to sense-of-the-Senate language. The managers' amendment also permits equipment leases to be included in pools with small business loans.

Subtitle B of title II provides Federal assistance to State small business lending programs. The managers' amendment allows a political subdivision of a State, as well as a State, to establish an eligible capital access program. This will allow New York City, Akron, OH, and Milwaukee, WI, all of which have capital access programs, to apply for Federal matching funds. The managers' amendment also grandfathers certain existing State capital access programs that do not exactly conform to the requirements of the bill, such that they remain eligible to participate.

Finally, title III of the bill contains more than 20 provisions designed to reduce the paperwork required of banks and thrifts and to improve the regulation of those institutions. The managers' amendment contains more than a dozen additional provisions in this area. These include: Requiring bank regulators to consider the size and activities of financial institutions, and to tailor reporting burdens accordingly; repealing a duplicative, inconsistent lending limit for loans collateralized by securities; clarifying that well-capitalized institutions need not register with the FDIC as deposit brokers; allowing well-capitalized, well-managed institutions with assets of over $9 billion to meet statutory audit committee requirements at the holding company level in certain circumstances; streamlining disclosure requirements for radio advertising of consumer leasing; and eliminating statutory damages from the civil liability provisions of the Truth in Savings Act related to advertisements.

As I say, the provisions of this managers' amendment, which are supported both by me and by Senator D'AMATO, will improve each title of the bill.

I do not know if my colleague has any comment he wants to make on that at this point.

Mr. D'AMATO. I have none.

AMENDMENT NO. 1523

(Purpose: To make a series of technical and other amendments)

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

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Michigan [Mr. RIEGLE], for himself and Mr. D'AMATO, proposes an amendment numbered 1523.

Mr. RIEGLE. I ask that further reading of the amendment be dispensed with.

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

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. RIEGLE. I ask unanimous consent, then, that the managers' amendment be adopted at this point.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

So the amendment (No. 1523) was agreed to.

The PRESIDING OFFICER. Who seeks recognition?

The Chair recognizes the Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that I may be allowed to speak as if in morning business for about 10 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Alaska is recognized for 10 minutes as if in morning business.

Mr. MURKOWSKI. Mr. President, I thank the Chair and my colleagues.

WHITEWATER

Mr. MURKOWSKI. Mr. President, on March 9, the majority leader stated that those Republicans, like myself, who want Congress to conduct hearings into the Whitewater matter, are engaging only "in partisan politics at its worst," and that such hearings risk "fatal damage" to the special counsel's ongoing investigation. Our leader then said that we have an important oversight responsibility but we must defer that responsibility at the request of the special counsel. The leader invoked the name and arguments of the less than illustrious Lawrence Walsh, former special prosecutor of the Iran-Contra investigation, as authority for Congress to defer hearings pending the outcome of the special counsel's investigation.

Mr. President, I certainly admire our majority leader. I think he is doing an extraordinary job as he has always done, but I do not at all admire Lawrence Walsh. It is obvious that Mr. Walsh would want to blame Congress for his dismal record. He cost the taxpayers over $35 million over a period of 6 years and came up with almost nothing. I for one pray that Mr. Fiske will not be another Lawrence Walsh. If he becomes one, then we will look foolish by standing idly by at the behest of another branch of Government, watching the taxpayers' money being wasted.

No, Mr. President, I am not going to rely on the weak authority of Lawrence Walsh. Instead, I look to recent history, as well as the Watergate experience, to guide my argument that Congress can and should engage in appropriate oversight at the same time a special counsel does his work.

Mr. President, if we can go back to 1973 and 1974, we recall Senator Sam Ervin and Senator Howard Baker. They led their committee through months of hearings into a myriad of complex issues that have become known today as Watergate. The committee took testimony from those who were also targets of special counsels Archibald Cox and later Leon Jaworski, who became special counsel after the President fired Mr. Cox. But unlike the recent, ill-fated work of Mr. Walsh, the special counsel in Watergate succeeded in convicting numerous officials for substantive offenses. This was accomplished even though Congress was deeply involved in both Senate and House oversight and impeachment hearings.

More recently, Mr. President, in 1992, Congress conducted investigations into the Banco Nationale, BNL bank scandal. The Senate Select Committee on Intelligence, which I was a member of for 8 years and was ranking member, worked for months to learn whether the CIA misjudged Justice Department prosecutors or withheld important information in the prosecution of the BNL bank official in Atlanta. During the same period, the House Banking Committee, under Chairman GONZALEZ was unrelenting in its zeal to hold hearings on BNL and became particularly excited over this issue during the height of the Presidential campaign. In fact, excitement was so high that a special counsel was appointed by Attorney General Barr to look into many of the same issues we were investigating in the Committee on Intelligence. We did not stop our inquiry though, Mr. President, after Judge Lacey was appointed special counsel. We simply did our thing and he did his thing. I do not recall our majority leader objecting to this simultaneous activity during the 1992 Presidential campaign.

Mr. President, if Republicans are being accused of politicking because we are asking for Whitewater oversight investigations, then our friends on the other side of the aisle must be inclined to blush a little bit when they look into the mirror of history. Who called for those silly and costly hearings to look into the so-called October surprise? I know of few Republicans who wanted to look into that nonsense. But at a time, you will recall, when George Bush was riding high in public opinion polls following the victory against Iraq, and there was an unrelenting drumbeat of demand for congressional hearings into whether Ronald Reagan's campaign urged the Iranians to delay the release of American hostages until after the 1980 election. This drumbeat for hearings came 11 or 12 years after the alleged incident and it was so unrelenting that the Foreign Relations Committee eventually agreed to spend hundreds of thousands of dollars on worthless hearings. There was no "October surprise." Nor was there any political surprise in all this thrashing around, because there was only one motivation to hold hearings, to tweak the Republicans.

Can Congress engage in oversight during an investigation by a special counsel? Of course we can. We are certainly able to set our agenda, establish our timetable for hearings, determine issues relating to immunity for witnesses, decide when to subpoena documents, and control all the other facets involved in oversight hearings. We can do all this by conferring with special counsel. We can accommodate legitimate concerns of witnesses and others. We do not have to get tangled in the operations of a grand jury. As I saw firsthand when I was vice chairman of the Intelligence Committee, a special counsel and an aggressive oversight committee can do their work simultaneous by being considerate of the special needs of each other. We did in the BNL investigation, even when a criminal prosecution was pending in Atlanta.

What we must not do is abdicate our constitutional responsibilities. This is a Government of three equal branches. Mr. Fiske and Attorney General Reno work for the executive branch. We serve in the legislative branch. Mr. Fiske should not dictate my actions, nor those of the Democrats in this body. I seriously doubt whether the majority leader or any Senate Democrat would defer investigating a serious matter if a special counsel in a Republican administration asked them to do so.

So let us not all be so pious. Let us understand that history shows that we can do our work at the same time special counsels do theirs. Sam Ervin, Howard Baker, and Leon Jaworski did. Senator BOREN and I did along with Judge Lacey. I have every confidence that Senator D'AMATO, Senator RIEGLE, and Mr. Fiske can do the same thing.

I do not rely on Lawrence Walsh to support a contrary view. He is looking for excuses for his failures. We are looking for answers to Whitewater.

Finally, Mr. President, as a final thought, I am becoming somewhat troubled by the rather ugly nature of the discussion of the Whitewater matter.

Those of us who want to know the facts about Whitewater and the failed savings and loan are accused of engaging in politics at its worst.

Those of us who do not want Congress to abdicate its legitimate role in oversight are being accused of threatening the work of the special counsel. We are even told that the special counsel dictates the timing of our work, not us.

But, what disturbs me even more are the personal attacks by the chairman of the Democratic Party, David Wilhelm, against three Members of the Senate: Senator D'AMATO, who is here on the floor, Senator GRAMM of Texas, and Senator DOLE, the Republican leader. Mr. Wilhelm asserted that none of these Senators should ask questions about Whitewater because he implied that they have engaged in some unethical behavior.

Senator D'AMATO has called Wilhelm's comments despicable, and indeed they are. Senator DOLE told Wilhelm to file an ethics complaint if he has evidence of misconduct. That is an appropriate comment, of course, he will not do it, because he does not have such evidence.

In statesmen-like responses, both Majority Leader MITCHELL and Speaker TOM FOLEY have been critical of Wilhelm's statements, and they have distanced themselves from those gratuitous attacks by the head of the Democratic Party.

But, Mr. President, it is astounding to me that the head of the Democratic Party has attempted to intimidate Members of the Senate. I can only assume Mr. Wilhelm seeks to silence the three Senators, otherwise why would he have made such a vicious attack? Or, was he merely attempting to deflect attention away from the White House by using whatever tactic he could or whatever is handy?

I am afraid such attempts at intimidation will not work. None of the Senators Mr. Wilhelm attacked will be silenced. In fact, as Senator D'AMATO wrote to Mr. Wilhelm: "You can be sure that I will now redouble my efforts to get to the bottom of this Whitewater-Madison scandal."

Let us also not forget how we all learned about the meetings between RTC officials and the White House: We did not learn about them from the White House. We did not learn about the meetings from the general counsel of the Treasury Department. We did not learn about them from the press. We did not learn about these meetings from Mr. Wilhelm. We did not learn about them from the Justice Depart-

ment. No, we learned about them through the efforts of Senator D'AMATO and Senator RIEGLE and the Banking Committee hearings, as we should.

The fact that at least three meetings took place between the regulators and White House staff ultimately led the President finally to request a special counsel. In fact, he had no other choice. These meetings simply could not be explained without embarrassment.

No, Mr. President, the proof of the value of oversight is the discovery of the meetings at the White House. Senator D'AMATO's persistence should be commended. Instead, his character is attacked by the head of the Democratic Party.

Mr. Wilhelm, save your attacks. They will not work. Whitewater will not go away until all facts are known. You can try to intimidate those who have dared learn the truth, but ultimately the American public will demand to know. That is how democracy works, Mr. Wilhelm.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. D'AMATO. Mr. President, I was unaware of the fact that my friend and colleague, Senator MURKOWSKI from Alaska, was going to make these remarks, and I must thank him.

I think he has articulated my position. I think it should be the position of all Members, Democrats, and Republicans, that no Member should be attacked, he or she personally should not be attacked, on a personal basis because they may make a request that any of us agree or disagree with.

We can oppose, whether it is my request or anybody else's, but if we are going to begin to engage or countenance or support this kind of vicious, ugly smear, that is beneath us, certainly beneath the dignity of this Senate.

I am not generally described as a shrinking violet, but I have to tell you that I think that kind of a political smear goes back to the days of the dirty tricks, and this smearing will not keep me quiet. I will persist.

I am not the issue. The issue is whether my request for hearings has any validity.

It is not the messenger who should be attacked. If the message is not one which people agree with; fine, take it up. But if we are going to get into the business of going after the messenger, or going after, in this case, a Senator who feels it is his obligation—in spite of the fact that we become lightning rods, I understand the realities of political combat. I understand fair play and I understand rough-and-tumble play.

But I just suggest to those who would attempt to move into that, that we do the process a great disservice. Whether you agree with what my request is or disagree, there are ways to make known your opposition and to articulate all of our positions without getting into the personal attacks.

So I thank my friend who, again, early on—when there were very few others who saw the merit and now are attempting to just get the facts—loaned himself in his efforts personally to coming down to the floor and support bringing out and gaining access to the facts and the information.

So, again, I thank my friend from Alaska.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. RIEGLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

COMMUNITY DEVELOPMENT BANKING AND FINANCIAL INSTITUTIONS ACT OF 1993

The Senate continued with the consideration of the bill.

Mr. RIEGLE. Mr. President, if I may have, we have two amendments to send to the desk. I am going to send them one after the other. I am going to send them en bloc, and I am going to ask unanimous consent that they be adopted on that basis.

Let me just make a brief description of each. They have both been cleared with my ranking member, Senator D'AMATO.

AMENDMENT NO. 1524

(Purpose: To make amendments relating to consumer protections for certain mortgage loans)

Mr. RIEGLE. The first amendment I am going to send to the desk contains a number of improvements to subtitle B of title I of the bill, the Home Ownership and Equity Protection Act.

Significant concerns have been expressed about this legislation by other Senators and the lending industry. To address these concerns, Senator D'AMATO and I have prepared this comprehensive amendment. I will briefly describe the most important of those changes.

I ask unanimous consent that a summary of the amendment be printed in the RECORD.

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

SUMMARY OF RIEGLE-D'AMATO AMENDMENT TO TITLE I, SUBTITLE B, THE HOME OWNERSHIP AND EQUITY PROTECTION ACT

Revises the entire subtitle to eliminate the term "High Cost Mortgage."

Treats credit insurance consistently with other sections of the Truth in Lending Act.

Permits balloon payment structures on mortgages covered by the legislation, provided the loan is at least 5 years in length.

Allows lenders to charge points and fees on refinancing, but directs Federal Reserve to address abuses in this area.

Allows lenders to charge prepayment penalties on loans covered by the legislation for 1 year.

Insulates assignees from liability if the loan documents do not indicate such potential liability.

Mr. RIEGLE. Mr. President, many have objected to the stigma attached to the loans covered by the legislation. In response to those concerns, this amendment revises the entire subtitle to eliminate the term "high cost mortgage."

Likewise, some Senators have expressed concerns that the prohibitions in the bill reported by the committee were overly broad and would capture credit transactions that were not unfair. Our amendment tailors these prohibitions to focus on the truly problematic issues. Rather than prohibiting balloon payment loans, for instance, the amendment prohibits balloons only on short term loans—those less than 5 years in length—that most often trap unwitting borrowers. These changes, combined with the regulatory authority provided to the Federal Reserve to waive the prohibitions on mortgages that are in the interest of the borrower, should ensure that this legislation productively addresses the problem of reverse redlining without restricting traditional credit flows.

The provisions of this amendment, which are supported by both me and by Senator D'AMATO, will improve the Home Ownership and Equity Protection Act. I will now yield to Senator D'AMATO if he cares to comment on the amendment, and then ask unanimous consent that the amendment be adopted.

I send that amendment to the desk and ask that it be held until I send the second amendment, and then I will ask that they be adopted en bloc.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. RIEGLE], for himself and Mr. D'AMATO, proposes an amendment numbered 1524.

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

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

The amendment reads as follows:

On page 78, line 23, strike "The term 'high cost mortgage' means" and insert "A mortgage referred to in this subsection means".

On page 78, line 25, insert ", a reverse mortgage transaction," before "or a".

On page 79, line 22, insert "and" after the semicolon.

On page 79, strike lines 23 through 25.

On page 80, line 1, strike "(D)" and insert "(C)".

On page 80, line 14, strike "for high cost mortgages".

On page 80, line 19, strike "high cost mortgages" and insert "mortgages referred to in subsection (aa)".

On page 80, beginning on line 20, strike "high cost" and insert "such".

On page 81, line 3, strike **"HIGH COST"** and insert **"CERTAIN"**.

On page 81, line 7, strike "high cost mortgage" and insert "mortgage referred to in section 103(aa)".

On page 82, line 22, strike "high cost mortgage" and insert "mortgage referred to in section 103(aa)".

On page 83, beginning on line 1, strike "the high cost mortgage" and insert "a mortgage referred to in section 103(aa)".

On page 79, line 25, strike "and"

On page 80, line 8, strike "." and insert "; and

(E) such other changes as the Board determines to be appropriate."

On page 83, line 5, strike "high cost" and insert "such".

On page 83, strike lines 14 through 19.

On page 83, line 20, strike "(4) EXCEPTION.—A high cost mortgage" and insert "(3) EXCEPTION.—A mortgage referred to in section 103(aa)".

On page 83, line 24, strike "90 days" and insert "1 year".

On page 84, line 1, strike "high cost mortgage" and insert "mortgage referred to in section 103(aa) having a term of less than 5 years".

On page 84, beginning on line 5, strike "high cost mortgage" and insert "mortgage referred to in section 103(aa)".

On page 84, line 10, strike "high cost mortgage" and insert "mortgage referred to in section 103(aa)".

On page 84, line 16, strike "high cost mortgage loan" and insert "mortgage".

On page 85, strike lines 11 through 15, and insert the following:

"(2) PROHIBITIONS.—The Board, by regulation or order, shall prohibit acts or practices in connection with—

"(A) mortgage loans that the Board finds to be unfair, deceptive, or designed to evade the provisions of this section; and

"(B) refinancing of mortgage loans that the Board finds to be associated with abusive lending practices, or that are otherwise not in the interest of the borrower.".

On page 85, strike the item immediately following line 20, and insert the following:

"129. Requirements for certain mortgages.".

On page 85, beginning on line 24, strike "high cost mortgage, as defined" and insert "mortgage referred to".

Beginning on page 87, line 14, strike all through page 88, line 6, and insert the following:

"(d) RIGHTS UPON ASSIGNMENT OF CERTAIN MORTGAGES.—

"(1) IN GENERAL.—Any person who purchases or is otherwise assigned a mortgage referred to in section 103(aa) shall be subject to all claims and defenses with respect to that mortgage that the consumer could assert against the creditor of the mortgage, unless the purchaser or assignee demonstrates, by a preponderance of the evidence, that a reasonable person exercising ordinary due diligence, could not determine, based on the loan documentation required by this title, that the mortgage was in fact a mortgage referred to in section 103(aa). The preceding sentence does not affect a consumer's rights under sections 125, 130, or any other provision of this title.

"(2) LIMITATION ON DAMAGES.—Notwithstanding any other provision of law, relief provided as a result of any action made permissible by paragraph (1) may not exceed—

"(A) with respect to actions based upon a violation of this title, the amount specified in section 130; and

"(B) with respect to all other causes of action, the sum of—

"(i) the amount of all remaining indebtedness; and

"(ii) the total amount paid by the consumer in connection with the transaction.

"(3) OFFSET.—The amount of damages that may be awarded under paragraph (2)(B) shall be reduced by the amount of any damages awarded under paragraph (2)(A).

"(4) NOTICE.—Any person who sells or otherwise assigns a mortgage referred to in section 103(aa) shall include a prominent notice of the potential liability under this subsection as determined by the Board.".

On page 88, line 13, strike "high cost".

On page 88, line 14, strike "(as defined" and insert "referred to".

On page 88, line 15, strike "Act, as" and insert "Act (as".

AMENDMENT NO. 1525

(Purpose: To promote free trade in financial services)

Mr. RIEGLE. Mr. President, the second amendment that I am now proposing is the Fair Trade in Financial Services Act of 1994, which was recently reported by the Banking Committee.

Fair trade in financial services legislation has passed the Senate three times before. The amendment we are considering this morning was introduced on October 7, 1993, on a bipartisan basis by a majority of the members of the Banking Committee. It is designed to give U.S. negotiators new leverage to obtain the same equality of competitive opportunity for U.S. financial firms operating in foreign markets that we extend to foreign firms in our markets. On October 26, 1993, the committee held a hearing at which S. 1527 received united administration support, as well as support from the financial services industry. And on February 10, 1994, the committee reported out this legislation by a vote of 17 to 2.

The act builds on provisions of the 1988 Omnibus Trade and Competitiveness Act that require the Treasury Department to identify countries that deny U.S. financial firms de facto national treatment, meaning equality of competitive opportunity and effective market access. If negotiations to obtain national treatment fail to succeed, the act allows but does not require the Secretary of the Treasury, the U.S. negotiator on trade in financial services, to publish in the Federal Register a determination that a given country discriminates against U.S. financial institutions.

Following any such publication, the Treasury Secretary may, after consultation with the U.S. Trade Representative and the Secretaries of State and Commerce, recommend to the appropriate Federal financial services regulator that it deny applications filed by banking or securities firms from the discriminatory country. Such denials would only affect opportunities for future expansion in the U.S. market and would not force foreign financial firms to shrink their existing operations. The bill is designed to give U.S. negotiators new leverage to open foreign financial markets, not close our own.

President Clinton in February announced the principles that would guide trade policy in his administration. One such principle he said:

* * * will say to our trade partners that we value their business, but none of us should expect something for nothing. We will continue to welcome foreign production and services into our markets, but insist that our products and services be able to enter theirs on equal terms.

That is precisely the guiding principle on which the Fair Trade in Financial Services Act is based.

The role of the United States in an increasingly global economy magnifies the importance of making sure that U.S. financial firms are not discriminated against in their operations abroad. This is important not only for the financial institutions themselves, but also for U.S. exporters in general. Deputy U.S. Trade Representative Rufus Yerxa, at the committee's October 26, 1993, hearing on S. 1527 stated:

* * * it's been demonstrated by all of the studies we've done about our trade relationships in the world, that there is a clear relationship between exports and finance and investment. That is, where we've been able to obtain greater access to investment markets and to the markets for finance and financial services, we have also expanded our trade. These are all part of a seamless web in international business * * *. Removal of trade and investment barriers without removal of barriers to U.S. banks and securities firms will limit the ability of all U.S. companies to compete in the world market.

At a time when it is crucial for American industry to export in order to reverse the massive current account deficits that have accrued in the last decade, our Government must ensure industry is not impeded by foreign market barriers to our financial services firms.

On January 26, 1994, Senator D'AMATO and I received a joint letter from Secretary Bentsen and Ambassador Kantor urging "swift enactment of the Fair Trade in Financial Services Act" because it is "an essential component of our strategy" to open foreign financial markets to U.S. institutions. This legislation is critical to the success of U.S. negotiators in both the ongoing negotiations under the auspices of the General Agreement on Tariffs and Trade [GATT], as well as the stalled United States-Japan Framework for a New Economic Partnership discussions.

Under GATT, financial services are included within the General Agreement on Trade in Services [GATS], which establishes a multilateral framework of principles and rules for trade in financial services. However, the commitments made by many countries to open their markets to U.S. financial institutions under that framework were less than the United States had hoped for. The United States, therefore, has taken a most-favored-nation [MFN] exemption for banking and other financial services including insurance, but will suspend it for 6 months after the GATT Agreement goes into effect.

Until that time, negotiations will continue within the GATS framework.

In their January 26 letter, Ambassador Kantor and Secretary Bentsen explained why the passage of the Fair Trade in Financial Services Act is needed to help complete a successful GATT agreement on financial services. In that letter they stated:

We agreed on a framework for trade in financial services but did not obtain the full commitments on market access we had sought. However, the financial services agreement provides for continuing negotiations within the GATT context to seek improved commitments. In the event we are not able to achieve sufficient progress in these negotiations, this legislation [Fair Trade in Financial Services] will help ensure that we will have incentives to encourage other countries to liberalize in the future. The success of this effort will provide increased competitive opportunities for U.S. financial services and enhance their ability to facilitate U.S. exports.

I urge my colleagues to heed the administration's plea for swift enactment of this legislation. I also ask unanimous consent that a copy of the letter be printed in the RECORD.

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

DEPARTMENT OF THE TREASURY,
Washington, DC, January 26, 1994.

Hon. DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: We are writing to urge swift enactment of the Fair Trade in Financial Services legislation. The Administration supports the objectives of the legislation as introduced and will continue to work closely with Congress to complete the final details. We believe that the original intent of S. 1527 and HR 3248 provides an effective foundation for legislation.

The passage of this important legislation is a priority matter for the Administration, and an essential component of our strategy to continue multilateral negotiations to open foreign financial markets to U.S. financial institutions.

The Administration is very pleased with the results of the recently completed Uruguay Round of multilateral negotiations conducted under the auspices of the General Agreement on Tariffs and Trade (GATT). The lowering of trade barriers achieved there will help ensure a continued and equitable expansion of world in the years ahead.

In financial services the outcome was more modest. We agreed on a framework for trade in financial services but did not obtain the full commitments on market access that we had sought. However, the financial services agreement provides for continuing negotiations within the GATT context to seek improved commitments. In the event that we are not to achieve sufficient progress in these negotiations, this legislation will help ensure that we will have incentives to encourage other countries to liberalize in the future.

The success of this effort will provide increased competitive opportunities for U.S. financial services and enhance their ability to facilitate U.S. exports.

This Administration has clearly stated its objective to open foreign financial markets. Fair Trade in Financial Services legislation will complement our multilateral, bilateral and regional efforts to gain access to foreign markets on the basis of national treatment and equality of competitive opportunity. The proposal would give the authority to act to the Treasury Department, after appropriate interagency consultation and subject to the specific direction of the President.

It is our view that enactment of the Fair Trade in Financial Services legislation is needed at the earliest possible time to safeguard the progress we achieved in the Uruguay Round and to support additional market opening talks, both within the GATT framework and on a bilateral basis.

Thank you for your attention to this matter which is so important to America's financial firms. We look forward to working with you to achieve early enactment of this critical legislation.

Sincerely,

LLOYD BENTSEN,
Secretary of the Treasury.
MICHAEL KANTOR,
U.S. Trade Representative.

I send that amendment to the desk as well.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. RIEGLE], for himself and Mr. D'AMATO, proposes an amendment numbered 1525.

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

The PRESIDING OFFICER. Without objection it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. RIEGLE. I ask unanimous consent that the two amendments be adopted en bloc.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, let me say I strongly, strongly support this amendment because I believe it is absolutely essential for our financial institutions to have the ability to compete fairly abroad, and this legislation accomplishes exactly that. It says to those governments who are practicing policies of excluding or keeping our financial services industry from doing their work abroad, from truly being able to compete freely, that they, too, will find we will restrict those who are here from expanding. It is fair play, and that is the essence of free trade. Free trade that goes one way and there is no fairness to it does not make sense.

I have been given to understand that one of my colleagues, a Republican on the Banking Committee, objects to the inclusion of this amendment. So on his behalf I will ask the distinguished manager of the bill and my colleague, the chairman of the Banking Committee, if he will withhold that amendment. I will say this. I ask that the member be given an opportunity to come down and take whatever position he wants to on this amendment—if he wants to amend the amendment, if he wants to oppose the amendment—whatever he wants to do. I think we should give him a fair opportunity. If he does not come down within a reasonable time, I will no longer, then, carry that objection. If someone has objection to this, to our going forward, come forth and state why, let us get it out and let us do whatever has to be done.

At this time I ask my colleague if he would withhold. I have every intention of supporting it as strongly as I possibly can.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Mr. President, I thank the Senator from New York. I will, then, on the basis of his request to separate the two amendments, leave the second of the two at the desk and not ask we act on it at this time. I think that is a reasonable request. I think the colleague's rights should be protected and properly are being protected by Senator D'AMATO, and I respect that.

I also appreciate the fact the Senator is prepared to move ahead on this once we have had an opportunity for somebody to come down and present their objection directly.

Let me now revise my request. I ask unanimous consent that the first amendment I sent to the desk now be incorporated into the bill.

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

The question is on agreeing to the amendment.

The amendment (No. 1524) was agreed to.

Mr. RIEGLE. We are at a point, then, where we will leave the second amendment there for now. I must say we are very much of a mind. We want to move this bill through and finish it as early as possible today. So I hope if anybody has any amendments they want to offer, any comments they want to make, they will come to the floor at this time and do so, so we can expedite the completion of the bill.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The Senator from Michigan.

Mr. RIEGLE. Mr. President, I have another amendment ready to offer now, and this is probably a suitable time to do it.

The PRESIDING OFFICER. The Chair would advise the Senator from Michigan the amendment now pending before the Senate is amendment No. 1525.

Mr. RIEGLE. I ask unanimous consent that amendment be temporarily laid aside.

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

AMENDMENT NO. 1526

(Purpose: To make amendments relating to the Comptroller of the Currency)

Mr. RIEGLE. Mr. President, I send an amendment to the desk together with Senator D'AMATO, to ensure that the Office of the Comptroller of the Currency [OCC] has much the same independent authority as the Office of Thrift Supervision [OTS]. The amendment only provides the OCC with the same authority already given to the OTS.

Specifically, the amendment: Authorizes the OCC to follow the same procedures as the OTS in reporting to Congress; clarifies that the Comptroller of the Currency has the same independent authority as the Director of the OTS over agency staff and functions; gives the OCC the same independent litigating authority as the OTS.

The OTS currently has each of the above authorities. A number of independent agencies have considerably more authority. The administration in its bank regulatory consolidation proposal also provides independent authority to the new agency that would conduct Federal bank and thrift regulation.

I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. RIEGLE], for himself and Mr. D'AMATO, proposes an amendment numbered 1526.

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

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

The amendment is as follows:

At the appropriate place in title III of the bill, insert the following:

SEC. . INCLUSION OF COMPTROLLER OF THE CURRENCY; CLARIFICATION OF REVISED STATUTES.

(a) PUBLIC LAW 93-425.—Section 111 of Public Law 93-495 (12 U.S.C. 250) is amended by inserting "the Comptroller of the Currency," after "Federal Deposit Insurance Corporation,".

(b) REVISED STATUTES.—

(1) SECTION 5240.—The third paragraph of section 5240 of the Revised Statutes (12 U.S.C. 482) is amended by inserting "or section 301(f)(1) of title 31, United States Code," after "provisions of this section".

(2) SECTION 324.—Section 324 of the Revised Statutes (12 U.S.C. 1) is amended by adding at the end the following: "The Comptroller of the Currency shall have the same authority over matters within the jurisdiction of the Comptroller as the Director of the Office of Thrift Supervision has over matters within the Director's jurisdiction under section 3(b)(3) of the Home Owners' Loan Act.".

(3) SECTION 5239.—Section 5239 of the Revised Statutes (12 U.S.C. 93) is amended by inserting at the end the following new subsection:

"(d) AUTHORITY.—The Comptroller of the Currency may act in the Comptroller's own name and through the Comptroller's own attorneys in enforcing any provision of this title, regulations thereunder, or any other law or regulation, or in any action, suit, or proceeding to which the Comptroller of the Currency is a party.".

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I commend Senator RIEGLE, because it really was the Senator and his staff who developed this initiative as it relates to this amendment.

I do not care whether it is a Republican administration or Democratic administration, these independent agencies should be truly independent. Consequently, this amendment addresses exactly the kinds of situations that we are concerned about, that if there is a course of action that should be pursued as it relates to undertaking a lawsuit, it gives the independent regulator the ability to do that without going to Justice. It also gives the independent agency the ability to come in and give testimony before us that is not censored.

What is the sense of having testimony that has to be approved, which seeks changes, if the regulator has to submit that first to the executive branch to get their sign-off on it? Then we in the Congress do not get the true feelings of the people who are out there in the field, out there on the battle line.

So what the Senator has done with this amendment is removed that barrier. It will give us in the Congress and our committees the ability to get that information directly, uncensored, in the right way so we can make the proper determinations.

I would have gone even further to grant the banking agencies—all of the banking agencies, including the Federal Reserve Board and the FDIC—independence from Justice Department control. I also would have removed the OMB from interfering with OCC rulemaking authority. However, in the spirit of compromise, I agreed to this more limited amendment suggested by Senator RIEGLE.

So I applaud his efforts. I am pleased to join in sponsoring this amendment. I urge its adoption.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1526) was agreed to.

Mr. RIEGLE. Mr. President, I move to reconsider the vote and move to lay that motion on the table.

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

The Senator from Michigan.

Mr. RIEGLE. We are ready to move forward on the bill, so again I invite Members who want to be heard on this matter or have amendments or points to make to come to the floor now so we can try to conclude action as early today as possible.

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

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

Mr. DODD. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is amendment 1525.

Mr. DODD. Mr. President, I ask unanimous consent that the pending amendment be temporarily laid aside for the purpose of considering another amendment.

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

AMENDMENT NO. 1527

(Purpose: To authorize the minting of coins to commemorate the 1995 Special Olympics World Games)

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

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD] proposes an amendment numbered 1527.

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

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

The amendment is as follows:

On page 160, between lines 6 and 7, insert the following:

SEC. 334. COMMEMORATION OF 1995 SPECIAL OLYMPIC WORLD GAMES.

(a) COIN SPECIFICATIONS.—

(1) ONE DOLLAR SILVER COINS.—

(A) ISSUANCE.—The Secretary of the Treasury (hereafter in this section referred to as the "Secretary") shall issue not more than 800,000 $1 coins, which shall weigh 26.73 grams, have a diameter of 1.500 inches, and shall contain 90 percent silver and 10 percent copper.

(B) DESIGN.—The design of the coins issued under this section shall be emblematic of the 1995 Special Olympics World Games. On each such coin there shall be a designation of the value of the coin, an inscription of the year "1995", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(2) LEGAL TENDER.—The coins issued under this section shall be legal tender as provided in section 5103 of title 31, United States Code.

(3) NUMISMATIC ITEMS.—For purposes of section 5132(a)(1) of title 31, United States Code, all coins minted under this section shall be considered to be numismatic items.

(b) SOURCES OF BULLION.—The Secretary shall obtain silver for the coins minted under this section only from stockpiles established under the Strategic and Critical Materials Stock Piling Act.

(c) SELECTION OF DESIGN.—The design for the coins authorized by this section shall be selected by the Secretary after consultation with the 1995 Special Olympics World Games Organizing Committee, Inc. and the Commis-

sion of Fine Arts. As required by section 5135 of title 31, United States Code, the design shall also be reviewed by the Citizens Commemorative Coin Advisory Committee.

(d) ISSUANCE OF THE COINS.—

(1) QUALITY OF COINS.—The coins authorized under this section may be issued in uncirculated and proof qualities.

(2) MINT FACILITY.—Not more than 1 facility of the United States Mint may be used to strike any particular quality of the coins minted under this section.

(3) COMMENCEMENT OF ISSUANCE.—The coins authorized under this section shall be available for issue not later than January 15, 1995.

(4) SUNSET PROVISION.—No coins shall be minted under this section after December 31, 1995.

(e) SALE OF THE COINS.—

(1) SALE PRICE.—The coins issued under this section shall be sold by the Secretary at a price equal to the sum of the face value of the coins, the surcharge provided in paragraph (4) with respect to such coins, and the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(2) BULK SALES.—The Secretary shall make bulk sales at a reasonable discount.

(3) PREPAID ORDERS.—The Secretary shall accept prepaid orders for the coins authorized under this section prior to the issuance of such coins. Sales under this subsection shall be at a reasonable discount.

(4) SURCHARGE REQUIRED.—All sales shall include a surcharge of $10 per coin.

(f) GENERAL WAIVER OF PROCUREMENT REGULATIONS.—No provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this section. Nothing in this subsection shall relieve any person entering into a contract under the authority of this section from complying with any law relating to equal employment opportunity.

(g) DISTRIBUTION OF SURCHARGES.—The total surcharges collected by the Secretary from the sale of the coins issued under this section shall be promptly paid by the Secretary to the 1995 Special Olympics World Games Organizing Committee, Inc. Such amounts shall be used to—

(1) provide a world class sporting event for athletes with mental retardation;

(2) demonstrate to a global audience the extraordinary talents, dedication, and courage of persons with mental retardation; and

(3) underwrite the cost of staging and promoting the 1995 Special Olympics World Games.

(h) AUDITS.—The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of the 1995 Special Olympics World Games Organizing Committee, Inc. as may be related to the expenditure of amounts paid under subsection (g).

(i) FINANCIAL ASSURANCES.—

(1) NO NET COST TO THE GOVERNMENT.—The Secretary shall take all actions necessary to ensure that the issuance of the coins authorized by this section shall result in no net cost to the United States Government.

(2) ADEQUATE SECURITY FOR PAYMENT REQUIRED.—No coin shall be issued under this section unless the Secretary has received—

(A) full payment therefore;

(B) security satisfactory to the Secretary to indemnify the United States for full payment; or

(C) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.

Mr. DODD. Mr. President, I rise to offer S. 1860, the 1995 Special Olympics World Games Commemorative Coin Act, as an amendment to S. 1275, the Community Development, Credit Enhancement, and Regulatory Improvement Act of 1993.

I introduced this legislation in February with strong bipartisan support. This bill now has 50 cosponsors. This bill authorizes the minting of 800,000 limited-edition $1 silver coins, at no net cost to the Federal Government. The funds will be used to stage a world-class sporting event in Connecticut for these very special athletes.

Through the years, Special Olympics has become one of the largest and most successful sports and volunteer organizations in the world. Today, there are nearly $1 million Special Olympic athletes worldwide and nearly 450,000 in the United States alone.

In addition to more than 6,500 participating athletes, it is estimated that the 1995 Special Olympics world games will attract a half-million spectators, 45,000 volunteers, and more than 1,500 representatives from national and international media.

An event of this magnitude requires considerable planning, organization, and financial resources. This no net cost bill would raise up to $8 million to help underwrite the cost of staging the 1995 Special Olympics World Games.

Twenty-five years ago, Eunice Kennedy Shriver founded Special Olympics with the premise that bringing people together—those with and without mental retardation—will break down existing barriers and result in acceptance, understanding, and new relationships.

Mr. President, the people of Connecticut are already gearing up for the celebration of the 1995 games. Each of the towns and cities from around the State is being paired with a specific participating country, and these communities will be opening their hearts and homes to these visitors. Athletes and their families will spend several days relaxing, adjusting, and soaking in the hospitality of the host cities prior to the start of the games.

More than 6,500 athletes from every corner of the globe and every State in the Union will then travel to New Haven, CT, to compete for the love of sport and the thrill of participation. This is one event in which winning is not everything. These sometimes forgotten athletes are given the chance to show us all what true sportsmanship is all about.

I would like to thank the chairman of the Banking Committee, Mr. RIEGLE, and also Mr. D'AMATO for moving this piece of legislation so quickly.

Finally, I would like to take this opportunity to express my gratitude to Sargent and Eunice Shriver, our former colleague, Gov. Lowell Weicker, and the entire World Games organizing committee for their commitment to Special Olympics and the success of the 1995 Special Olympics World Games.

I urge my colleagues to support this important legislation and honor the tremendous spirit of the Special Olympics.

I appreciate the support of the distinguished Senator from New York and the distinguished Senator from Michigan, and I urge approval of the amendment.

Mr. RIEGLE. Mr. President, I am pleased to support S. 1860, the 1995 Special Olympics World Games Commemorative Coin Act, as an amendment to S. 1275.

S. 1860, introduced by Senator DODD, authorizes the minting of a $1 coin to commemorate the 1995 Special Olympics World Games. I strongly support the minting of this coin which will augment the fundraising efforts for the international event which will be hosted by the State of Connecticut.

The surcharges collected from the sale shall be used to provide a world class sporting event for athletes with mental retardation; to demonstrate to a global audience the extraordinary talents, dedication, and courage of persons with mental retardation; and underwrite the cost of staging and promoting the 1995 Special Olympics World Games.

The World Games will bring together special athletes from around the world for 9 days of international sport competition. Mentally retarded adults and children will compete in the Olympic Games with the assistance of coaches, parents, friends and countless volunteers.

This international event will, no doubt, touch a record number of people. In a world where hopes are often dashed by crises of the day, special olympians inspire us with their spiritual and physical strength and their moral value. They are, in fact, everyday profiles in courage.

More than 6,500 special olympic athletes from over 130 countries will bring spectators together for 9 days. The Special Olympics bring out the best in all involved. I firmly believe that the Special Olympics World Games commemorative coin would be a wonderful remembrance of the experience. I consider this a unique and thrilling event and believe it warrants a commemorative coin. I support the efforts of the 1995 Special Olympics World Games organizing committee and all those who have worked so long and hard to prepare for this spectacular event and can think of no better way to do this than to wholeheartedly support this amendment at this time.

Mr. D'AMATO. Mr. President, I rise today to add my support for adding the

1995 Special Olympics World Games Commemorative Coin Act, as an amendment to this bill.

I, along with most of the world, watched in awe the Winter Olympics. Each of the athletes had a personal story of how they overcame obstacles like injuries, economic problems, losses of loved ones, and so many of the athletes from the former Communist countries saw such changes in the political makeup of their nations that they were forced to leave their training areas and coaches to continue their dream of competing in the Olympics.

However, not one of those athletes has overcome as many obstacles as those competing in the Special Olympics. Everyone of us has seen the look of determination and pride in the eyes of a special olympian as they cross the finish line, whether it be in first place or last place. Many of these youngsters and adults have been told their whole lives that they couldn't compete or play, but the Special Olympics allow them not only to participate, but they are able to shine. July 1995 in New Haven, CT, will be the time and place for these exceptional athletes to show the world what they got. For the athletes, families, coaches, and thousands of volunteers, these Olympics will be an experience of a lifetime.

I am proud to have been an original cosponsor of this coin bill. The legislation calls for the minting of 800,000 silver dollar coins. The coins will be minted at no net cost to the Government.

I would like to commend my colleague on the Banking Committee, Senator DODD, on not only introducing this bill, but his hard work on gathering 50 cosponsors so quickly. I also would like to thank my colleague, the esteemed chairman of the Banking Committee, Senator RIEGLE, for agreeing to allow this bill to be incorporated into the manager's amendment. Most of all, I commend Sargent and Eunice Shriver and my former colleague, Gov. Lowell Weicker, for their dedication to ensure the success for the Special Olympics World Games. The Special Olympics World Games would not be able to happen without their immeasurable and constant support.

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

Mr. RIEGLE. Mr. President, I am going to ask that we defer momentarily as this is being checked out on a generic basis on the Republican side. We should have an answer on that momentarily, and assuming that is affirmative, then I will urge adoption of the amendment.

So at this point, 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. RIEGLE. 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. RIEGLE. I have received notification that the amendment has been cleared on both sides, and so I urge adoption of the amendment.

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

The amendment (No. 1527) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. RIEGLE. I thank the Chair. I thank the Senator from Connecticut.

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. BOND. 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. BOND. Mr. President, I want to thank and commend Chairman RIEGLE and our ranking member, Senator D'AMATO, for pulling together S. 1275, the Community Development, Credit Enhancement, and Regulatory Improvement Act of 1993.

I support this measure, along with the managers' amendment, as a significant piece of bipartisan legislation that addresses a number of issues that are really key to the committee, issues of community development banking, small business capital formation, bank paperwork reduction, and regulatory relief. These are areas of tremendous importance to me personally, and to the people in my State. While in some cases I do not believe the bill goes far enough, it does reflect the legislative process, which requires bipartisan cooperation and compromise.

I will highlight a couple of particular aspects of the legislation which I support. Subtitle A, the Community Development Banking and Financial Institutions Act, is a significant improvement over the President's initial proposal on community development banking. The subtitle recognizes the important contributions that financial institutions can provide to distressed communities by allowing banks and other entities to form "community partnerships" with Community Development Financial Institutions, or CDFI's. Funding under the act is limited to the partner that qualifies as a CDFI. Banks, however, will receive credit under the Community Reinvestment Act for participating in the partnership.

Moreover, a consortium of banks or bank holding companies may own a CDFI so long as no single parent owns 25 percent or more of the voting shares of the subsidiary. CRA credit will be available for bank participation.

Mr. President, that is something that I have worked on for some time. A number of smaller bankers in my State have said, "We want to perform our responsibilities under the Community Reinvestment Act, but we are so small that we would like to join and pool our efforts with others, so we can have a greater impact." This, in effect, would permit them to do so.

I emphasize that including traditional financial institutions in the community development banking proposal is critical, because it will provide the expertise of banks to CDFI's and help make available mainstream conventional banking practices to distressed and financially underserved communities.

I also highlight an amendment that I cosponsored in the committee with my colleagues, Senators DOMENICI, KERRY, and MOSELEY-BRAUN, which has been included in the managers' amendment. This amendment would allow up to 5 percent of amounts appropriated to CDFI's to be provided to organizations for the purpose of the wholesale purchase of loans from CDFI's or to otherwise provide liquidity to CDFI's. Basically, this will help to provide additional capital to CDFI's and should help to greatly expand the availability of credit through CDFI's to financially distressed or underserved communities.

Next, I strongly support subtitle B, the Home Ownership and Equity Protection Act, of title I. This is a revised version of S. 924, a bill Senator D'AMATO and I introduced. This legislation addresses concerns where some high-rate lenders have used mortgages for high-cost loans for home improvements or credit consolidation to take advantage of unsophisticated, low-income, and very often elderly homeowners. That measure in this bill protects borrowers through a combination of increased disclosure to consumers, a new 3-day waiting period, and substantive prohibitions against loan terms that have been particularly troublesome. In addition, the managers' amendment makes several improvements to this subtitle to ensure that legitimate businesses will not be adversely affected.

Title II of the bill addresses small business capital formation by allowing the private sector to develop a secondary market for small business loans. That is something that Senator D'AMATO has long been a champion of. These are important provisions that are designed to help make credit available to small businesses to create jobs. Small business, as we know, is the backbone of our Nation's economy, and it is high time we took steps to ensure the availability of credit to these institutions.

Title III of the bill provides a number of provisions designed to reduce paper-

work and regulatory burdens on financial institutions. While I do not believe the bill as reported by the committee goes far enough, the managers' amendment adds significantly to bank regulatory relief. I urge my colleagues to endorse these provisions and also to support other regulatory relief amendments which may be offered to the bill. If we are going to get credit out, as we must, to the underserved areas of this country, regulatory relief is a vitally important part of the reform process.

This title is designed to reduce regulatory and paperwork burdens on financial institutions through measures for agencies to review and streamline rules and regulations, coordinate examinations, modernize reporting, and establish a regulatory appeals process. The title also contains a number of provisions to improve existing regulations by repealing outmoded, duplicative, and unnecessary statutory requirements. It also requires studies of the impact of risk-based capital standards and the payment of interest on sterile reserves.

I want to highlight one amendment of mine that was included—and, again, I thank the managers—in their amendment. This amendment provides additional flexibility of bankers' banks to provide correspondence services, and it increases the lending limit for loans secured by securities from 10 percent of capital to 15 percent of capital. This will allow the bankers' banks to grow. In my State and other States which serve many of the small institutions, it will make them much more effective providers of credit in their community, and it will improve the service and the credit they provide.

I am most grateful to Senator D'AMATO and his staff for the help and insertions into the managers' amendment. I also note my thanks to the chairman and ranking member for all their hard work on this legislation. I urge my colleagues to support S. 1275. Since we have not seen too many people opposing S. 1275, I assume that the chairman and the ranking member have been extremely persuasive. I add my support for their strong statements in behalf of the bill.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. KOHL. Mr. President, I rise today to express my strong support for S. 1275, the Community Development, Credit Enhancement, and Regulatory Improvement Act. Let me begin by commending the managers of the bill—Chairman RIEGLE and Senator D'AMATO—for their work on this important measure. They have crafted a comprehensive, balanced, and effective piece of legislation that will help communities and businesses help themselves.

Let me tell you why I support this legislation. First, the community development fund created by this bill will help community banks and credit unions provide credit to the businesses that build and sustain communities. As a former businessman, I know well that communities are built on jobs. Jobs that are provided by community based businesses. And the community development fund will help traditional lenders and financial institutions provide job creating credit where it is most needed.

Furthermore, this legislation will achieve that goal by utilizing existing community banks, credit unions and other financial institutions, rather than creating massive new Federal bureaucracies. In my own State, Mr. President, most of our bankers are community bankers. They live in the communities where their banks are located, they know their neighbors, and they know the businessmen and businesswomen who invest in their communities. In Wisconsin, bankers invest in their communities not only because it makes good business sense, but also because they are a part of the community. So I commend the managers for recognizing what we in Wisconsin know well: that community bankers are part of the solution, and not part of the problem.

But this bill does more. This legislation also recognizes the need to ensure an adequate flow of credit to job creating small businesses. The provisions on securitization of small business loans represent an important first step toward that goal. As we all know, small businesses create most of the new jobs in this country, and this provision will provide much needed assistance to the very people who lay the foundation for successful community development.

Finally, this bill will help traditional lenders free up additional resources by providing relief from unnecessary and wasteful regulations. While we all agree that fair credit, safety and soundness and other legitimate concerns need to be addressed, it is clearly apparent that unnecessary regulatory burdens make it difficult for financial institutions to focus their efforts on their primary activity which is lending money to creditworthy consumers and businesses. The regulatory relief measures in this legislation represent an important first step toward reducing the burden that affects not only bankers, but the communities that they are attempting to serve.

So, once again I commend the managers of the bill for their efforts, and I urge the swift adoption of this bill. I yield the floor.

Mr. MITCHELL. Mr. President, I would like to commend you and the Banking Committee on the bill you have brought to the floor today. This legislation will provide a much needed economic boost to depressed rural and urban communities by providing assistance to new and existing community development financial institutions [CDFI's].

I would like to ask the chairman to clarify an issue for me. Four organizations in Maine—the Androscoggin Valley Council of Governments, the Eastern Maine Development Corporation, the Kennebec Valley Council of Governments and the Northern Maine Development Commission intend to form a consortium with a statewide banking interest to create a CDFI pending passage of this legislation. Each of these organizations is an Economic Development District designated by the Economic Development Administration.

These organizations represent areas that cover nearly 80 percent of Maine's territory and 60 percent of its population. These are areas that exceed national and Maine average unemployment rates and poverty levels, and consequently fall far behind in per capita income. The organizations I have mentioned monitor the state of the economy in their geographic areas, and correspondingly, develop new initiatives and modify existing programs that address the needs of their local citizens.

Mr. President, it is my understanding that this legislation would preclude agencies or instrumentalities of Federal, State, or local government from being CDFI's. I am concerned that because three of the four organizations I have mentioned carry out functions which give them status as agencies of Government and they might be precluded from participating in this initiative. Could the chairman clarify how these types of institutions can participate in this program?

Mr. RIEGLE. I would be pleased to clarify for my colleague the roles that State, local, regional or quasi-governmental agencies can play in this initiative. While governmental entities may not apply directly for assistance as CDFI's, they may participate in several other ways.

First, a governmental entity—or a bank—can submit a joint application for assistance with a CDFI called a community partnership. A community partnership is an agreement between a CDFI and a community partner to provide development services and loans or equity investments to an investment area or a targeted population. An agreement will specify the functions that the CDFI and the community partner will each perform to achieve the partnership's goals. For example, a CDFI and a local government could agree to rehabilitate several apartment buildings for low-income families. The CDFI could provide renovation and

mortgage financing, while the city could acquire the property, make site improvements, or offer afterschool programs for children who are residents. A community partnership is intended to marry the resources of a CDFI with government and other community organizations.

Second, a governmental entity could invest in a CDFI or provide grants to assist in meeting Federal matching requirements. In the scenario you have described involving the organizations that operate in Maine, these entities could create a new CDFI by investing, making grants, and providing expertise and technical assistance. Assuming this CDFI meets the requirements set forth in S. 1275 and the banking interest does not own more than 25 percent of the CDFI's stock, it would be eligible to apply for fund assistance. By providing matching funds or serving as an investor, a governmental entity could play a key role in setting the priorities of the CDFI. For example, a State industrial development authority could provide funds to match a Federal equity investment. In exchange for the matching funds, the CDFI could agree to operate a microenterprise lending program to serve unemployed residents of a rural county that has lost jobs due to plant closing.

Mr. MITCHELL. Mr. President, in addition to their designation as Economic Development Districts, the four organizations I have mentioned carry out many other important functions as regional planning commissions and councils of government. These multiple roles are necessary to effectively serve the needs of rural areas. Thus, these organizations have developed a wealth of expertise in serving the needs of rural communities and bring resources that individual small towns typically do not possess. Can the distinguished chairman clarify the manner in which the expertise and resources these organizations can be tapped in establishing a CDFI?

Mr. RIEGLE. I thank my distinguished colleague for raising this important question. In fact, in my home State of Michigan, officials in Wayne County are working to establish a CDFI. As in Wayne County, governmental entities can assist in establishing a CDFI by providing planning, financial, and technical assistance, but most importantly—by providing leadership and getting other organizations and private investors on board in supporting a local CDFI.

The purpose of this legislation is to create a national network of independent, market-oriented institutions that have the ability to respond quickly and efficiently to market opportunities in distressed communities. Governmental entities, while very effective in promoting community development in many circumstances, generally speaking, they are not flexible enough to respond to quickly changing economic forces.

CDFI's are a new hybrid-type of organization that have been found to be highly effective in restoring market forces in distressed communities. They combine the market orientation of forprofits with the commitment to distressed communities typical of government and nonprofits. CDFI's are not intended to supplant the activities of government—they will complement them. In communities that already have CDFI's, these organizations work effectively in partnership with government. They are another tool to help localities eradicate poverty.

Mr. MITCHELL. I appreciate the support of the chairman in clarifying the intent of this legislation. I look forward to the passage of this bill.

CDFI MATCHING REQUIREMENTS

Mr. WELLSTONE. I would like to commend the chairman of the Banking Committee for his leadership in developing this important legislation. As a cosponsor of S. 1275, I am extremely pleased the chairman has been able to bring it to the floor, and I look forward to voting in favor of its passage.

I would like to thank the chairman—for myself and on behalf of our colleagues Senators LEAHY, DASCHLE, PRYOR, WOFFORD, and FORD—for his willingness to include in the manager's amendment a provision that will help ensure rural applicants to the Community Development Financial Institutions [CDFI] Fund have an equal chance to participate in the program. I would like to thank, as well, the ranking minority member of the Banking Committee, Senator D'AMATO, for his cooperation in arriving at acceptable language.

As the chairman knows, the new provision will allow rural applicants to the CDFI fund who face severe constraints on raising private matching funds to utilize funds from two Department of Agriculture rural economic development programs for a portion of their match. The programs are USDA's Intermediary Relending Program and the Rural Business Enterprise Program. The money from these programs would be considered as non-Federal for this purpose.

As the chairman also knows from the letter our colleagues and I sent, our intention was to overcome any inadvertent bias in the CDFI program that might have put rural applicants at a disadvantage, despite the regional diversity directive contained in the bill. I am gratified he has agreed to make that adjustment.

This exception to the matching requirements should provide flexibility for applicants who are working in rural communities with very limited resources.I would suggest that when regulations are drafted to implement the provision of the legislation concerning matching requirements, particular attention be paid to the criteria used to determine whether an applicant is severely constrained, and therefore eligible to make use of the reduced match. I look forward to having the opportunity to comment on such draft regulations. it was my intention and that of the other signatories of the letter urging this provision, that factors such as the following would be taken into account when considering rural applicants—the relative availability of matching funds from private sector sources; the relative economic distress of the community to be served; and whether the applicant would target investment to a particularly disadvantaged population or a community that is losing population.

Could the chairman indicate whether he shares my understanding of the manner in which the matching requirements will operate given the changes in the manager's amendment? I would also ask the chairman whether he agrees that the criteria I suggest for determining whether applicants are severely constrained in raising matching funds are reasonable?

Mr. RIEGLE. I would like to thank my distinguished colleague from Minnesota for his kind remarks's I would also like to explain what the matching requirements of the Community Development Financial Institutions [CDFI] Fund are and why they are important. The intent of this initiative is to establish a national network of market-responsive institutions that are specifically dedicated to community development. There are many existing institutions that have grown up from the urban and rural grassroots and been successful in promoting revitalization. One of the greatest impediments to the expansion of existing or creation of new CDFI's is the availability of investment capital. The CDFI fund is created for the purpose of providing patient capital to enable CDFI's to grow. however, it is equally important, if these institutions are to be responsive to the market, that private and other local funds be leveraged and invested in CDFI's. Thus, the fund requires CDFI's to come up with a local match from non-Federal sources.

Generally speaking, CDFI's must provide one dollar in matching funds for each dollar of fund assistance. The fund has some discretion to adjust the match if it finds that some types of institutions have a greater capacity to leverage Federal dollars. The fund also has the discretion to lower the match for some institutions that face severe constraints on available sources of matching funds. The fund may reduce the match for up to 25 percent of the funds available in any fiscal year in two ways: One, it can reduce the match by up to 50 percent; or two, it can allow funds from the Community Development Block Grant Program, the Intermediary Relending Program, and

the Rural Business Enterprise Program to be used for up to 60 percent of the match.

I appreciate Senator WELLSTONE's remarks concerning the factors that the Fund should take into consideration in determining what constitutes severe constraints. I believe his suggestions are reasonable and appropriate. I urge the fund administrator to consider these factors and others that address the constraints experienced by our nation's poorest communities. I appreciate and am sympathetic to Senator WELLSTONE's concerns about rural communities. I believe Senator WELLSTONE's amendment will help many people located in both distressed rural and urban communities by recognizing the disparities that often exist in attracting capital.

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

The PRESIDING OFFICER (Mr. LIEBERMAN). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FEINGOLD. 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. FEINGOLD. Mr. President, I ask unanimous consent to speak as in morning business.

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

HUMAN RIGHTS IN COLOMBIA

Mr. FEINGOLD. Mr. President, I rise to address a serious situation which exists with a key Latin American ally of the United States. I am speaking of Colombia. Colombia is widely recognized as one of the most stable democracies in the hemisphere. It has a traditional civilian and democratically elected government. Colombia is the largest recipient of United States aid in the hemisphere and a critical element in our drug strategy. Colombia is also a country close to the hearts of many people from Wisconsin. My own Dane County has a Colombian sister city, Apartado. Madison, WI is the home of a leading Colombian human rights organization, the Colombian Support Network. I am indebted to these fine Americans for their tireless efforts to uphold the principles of human dignity which should be the foundation of every country including Colombia and the United States.

I know my Senate colleagues understand the troubles which President Gaviria has faced in the last 4 years in his struggles with drug cartels and guerrilla forces. The Colombian people are a spirited and courageous people with a passion for their beliefs. Whether or not their struggles are channeled for good depends on whether their government sustains an environment for legitimate social processes. As allies, I believe that Colombia and the United States need to be truthful with each other—even when the truth maybe difficult to face.

The truth is that there is an increasing intensity of violence that pervades all parts of Colombian society. Human rights violations are widespread; government forces as well as leftist guerrillas and drug lords are guilty of the most heinous acts of murder, kidnapping, and other forms of terror. In spite of many significant reforms under President Gaviria, I'm sorry to say that there appears to be more promises than progress. I believe that Colombian violence is not only a concern for Colombians but for all their regional neighbors. It would be foolish and shortsighted for the United States to overlook such dangers in our own hemisphere. The health and well-being of Colombia is a national interest to the United States.

Although Colombia has been a stable democracy, I too often hear Colombians describe their society in oligarchic terms. That worries me because history teaches that the forces of democracy are not kind to oligarchies and that the resulting struggle is often violent. A Colombian sociologist recently likened the violence in his country to jungle vegetation that grows on weakened social structures. By that metaphor, their structure must be weak indeed because the violence in Colombia is staggering.

Their rate of violent deaths, as documented by any number of international organizations, is among the highest in the world—and growing. In 1992, there were 28,000 murders including over 100 massacres in which four or more people were killed. The 1993 statistics have reached 30,000. The portion of these murders that is best known is related to narcotrafficking. The Medellin cartel of the late Pablo Escobar was notorious for its violent practices. Experts consider the remaining Cali cartel to be more sophisticated but let us not kid ourselves about the willingness of criminals, no matter how sophisticated, to shed blood for their greed.

I know my colleagues are aware of President Gaviria's struggle against narcotrafficking, and with the substantial and—I might add—increasing aid of the United States. As we consider the administration's budget proposals for an additional $80 million of foreign aid to fight drugs, I believe we must also look at President Gaviria's other struggle—the one with leftist guerrillas throughout Colombia. Early in his administration, President Gaviria made significant gestures of reconciliation to these guerrilla forces. Negotiations reached a high point in June 1991 but then the situation deteriorated as guerrilla violence increased. By November 1992, things were so bad that a frustrated President Gaviria seemed to abandon his efforts to achieve broad negotiated settlements. He declared virtual war against the terrorists, murderers, and kidnappers, against that handful of deranged fanatics who have not read in the newspapers the sorry story of the end of communist totalitarianism. Colombian defense spending in 1993 was more than twice their 1990 level. Many outside experts, including the GAO, have warned that today we are unable to prevent Colombia's use of our antinarcotics foreign aid in their war with the guerrillas. Why are such distinctions important, many will ask? There are two reasons. In the first place, we have very limited resources and competing priorities; the administration has placed its Colombian drug strategy high on the list because of Colombia's close relationship to our drug problems at home. We must make every dollar count toward that goal.

I have a second concern as well. Much of Colombian violence is committed by drug lords and guerrillas but as much can be attributed directly or indirectly to the government itself and its escalating war with the guerrillas. I have here, Mr. President, Amnesty International's latest study of this political violence. In their view:

> Although the Colombian government may not itself have instituted policies which have resulted in systematic human rights violations, it is clearly bound by national and international law to ensure the armed forces act within the law. The government's failure to take decisive action to bring those responsible for widespread abuses to justice and to demonstrate that further human rights violations will not be tolerated is more than a tragic omission; it fuels the cycle of violence.

Those are tough words. Let me speak briefly to some of the facts behind the words. To begin with there are several groups who have been associated with this violence: the Colombian military itself, their National Police, and paramilitary groups who receive some levels of clandestine government support but who operate outside of their authority. Let me make myself clear; when I speak of the Colombian military, I am not saying that the President or the Minister of Defense are directly behind this violence. These are abuses committed by individual members of these organizations. My point is that the government has created a climate which—to restate it in Amnesty's words—a climate which fuels the cycle of violence.

One example occurred in the past year in the course of an army counterguerrilla operation. Last November, the government announced that an army battalion commander had been discharged because of reports that his troops had massacred 13 people. It turns out, this officer—a commander who ought to set an example for his troops—had been implicated in another massacre in 1988 in which 21 plantation workers died. In that case a warrant

was issued for his arrest but he was never arrested or brought to trial. His punishment was a promotion. Maybe he did set an example after all. This kind of impunity undermines authority and encourages overzealous behavior in operations which are ripe for human rights abuses. According to Amnesty International, impunity is a phenomenon which continues today unabated.

Mr. President, it is worth understanding why counter-guerrilla operations are so ripe for abuses. The nature of guerrilla warfare makes it hard to tell the good guys from the bad guys. In too many cases government forces just stop trying to identify those noncombatants—the innocents protected around the world by international law. As the saying goes, they "fight the guerrillas by removing the water from the fish." We all know what that means. In Colombia it is common for the army or paramilitary units to enter a rural village and give all the villagers three simple choices; help fight guerrillas, leave the village or face torture and death. As a result many of Colombia's cities face swelling ranks of peasant refugees who are traumatized and destitute.

Ironically, the expansive Colombian military justice system effectively precludes civil jurisdiction in such cases. The Colombian constitution even contains a doctrine of due obedience that protects those operating under orders. We also remember the doctrine of due obedience. It is in some ways reminiscent of Nuremberg.

Let me conclude, Mr. President, by turning my attention to the plight of those peasant refugees of the guerrilla war and others among the poorest of Colombia's urban population. Again the Colombian Government has created a climate which fuels the cycle of violence. Many Colombian cities have death squads who, to use their own words, "eliminate and eradicate, by whatever means, all those elements not fit to live in society such as bandits, pickpockets, and drug addicts." That was a motto of a more selective death squad. Others have included prostitutes, homosexuals, vagrants, street children, and even trash collectors. According to Amnesty International, most of what some Colombians call "social cleansing of disposable people" appear to be carried out by police agents many of whom are contracted by local traders seeking to protect their economic interests.

Amnesty has provided a gripping example. In June of 1992, the Colombian State Council, their highest judiciary body, ruled that two police agents had killed an individual and ordered the Ministry of Defense to pay damages to each of his parents. The Ministry of Defense rejected the ruling and in their statement said, "at no time was evidence presented that the police force or the public administration were at fault, hence there is no case for the payment of any compensation by the nation." So far, so good. But they went on to add that there was no case "particularly for an individual who was neither useful nor productive, either to society or to his family, but who was a vagrant whose presence nobody in the town wanted."

Mr. President, I believe this level of disdain for the dignity and worth of the least of our brethren undermines the significant progress which Colombia has made on paper. In the words of Amnesty International, "the failure to ensure respect for human rights and the rule of law cannot be compensated for by the introduction of numerous largely ineffectual measures ostensibly designed to safeguard human rights, but which in reality have mainly served to protect the government's national and international image."

Frankly, Mr. President, I believe those of us concerned with social problems at home can learn much from the Colombian experience. But I must point out that the biggest distinction which presently separates our two countries is our respect here for the rule of law. Colombia has spent 37 of its past 44 years under some form of a state of emergency during which time constitutional guarantees have been side-stepped. President Gaviria has had his country under these conditions since 1992. The Human Rights Commission of the Organization of American States has called upon President Gaviria to reserve these states of emergency for only the most serious matters and to use routine measures to deal future internal disturbances—as yet to no avail.

Mr. President, I close in search of ways in which we can help the government and the people of Colombia. I would like to see the administration exert every effort to encourage a cease fire on the parts of the guerrillas and of the government and to return to negotiations. I would also challenge the administration and the Colombian Government to seek innovative and practical solutions to the "end-use monitoring" problem in order to ensure both countries that our military aid provided for fighting drugs is only used for that purpose. With a cease fire in place, we could also be more confident that our aid provided for fighting drugs is only used for that purpose. And finally, I urge the administration to insure that all contacts with members of the Colombian Government reflect the highest respect for the rule of law and human dignity.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

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

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

RESTORATION OF BYRNE FORMULA GRANTS

Mr. GORTON. Mr. President, Edward Byrne was a young New York City policeman killed in action by drug lords in the 1980's. His heroism inspired the greatest crime fighting tool against drug traffickers that State and local law enforcement have ever known: the Edward Byrne Memorial State and Local Law Enforcement Assistance Program. Since the program was created in 1988, the Byrne granters have provided State and local law enforcement agencies across the country a fighting chance against well-organized, sophisticated, and violent illegal drug operation rings.

You would think that in his tough talk on crime, the President would have remembered this heroic officer whose name has done more to take dope pushers off our streets than has any other. But the President has proposed that we eliminate funding for the Byrne grants. At a time when our families and neighborhoods need effective law enforcement more than ever, we can't afford to forget this successful program.

Let me tell you what the Byrne grants have meant to my State of Washington.

In Yakima, the Lower Valley Narcotics Task Force, called the Law Enforcement Against Drugs or LEAD Task Force, was established by a $350,000 Edward Byrne grant. Most of the annual grant financed the wages of a nine-detective operation coordinated by Washington State Patrol officers. Basic equipment from notepads to chairs was borrowed or donated to the outfit. The LEAD task force received a $100,000 cut last year and subsequently lost two detective positions.

Despite this minimum amount of support, the LEAD task force has arrested 191 people, seized 23,152 grams of cocaine, 108.8 grams of heroin, 99,670 grams of marijuana, 1,500 marijuana plants, 208.9 grams of LSD, 175 grams of methamphetamines, and over 100 weapons. More than half of those arrested were upper level distributors of narcotics. In 1992, the task force, working with the Yakima County sheriff's office, conducted a drug trafficking investigation that resulted in 17 arrests and convictions.

The Spokane Regional Drug Task Force dismantled a cocaine distribution ring in 1992 which had been responsible for smuggling over 40 kilograms in the Spokane area. The task force arrested 10 people, seized $75,000

in cash, 11 vehicles, a lake cabin, and over $700,000 of assets in Hawaii. Another cooperative investigation with the FBI seized 5,358 marijuana plants worth approximately $10 million and resulted in the arrests of another 10 individuals.

The Thurston County Task Force arrested a multikilogram cocaine dealer who was eventually sentenced to 25 years in jail; $1 million in assets was seized.

The Tri-City Metro Drug Task Force conducted 454 cases in 1992 resulting in 231 arrests.

In 1993, the Mason County West Sound Narcotics Enforcement Team conducted an undercover operation focusing on youth gangs called Operation Rock-and-Roll. Fifty people were arrested and gang participation in the areas was reduced significantly.

The Tacoma Narcotics Task Force was responsible for busting a major methamphetamine distribution network in 1993 seizing more than 100 pounds of ice.

This represents only a small fraction of the impact that these task forces have had on stopping the flow of drugs from distributors to our school grounds. From Grays Harbor County to Okanogan County and from Whitman County to Bellingham, these multijurisdictional task forces are the primary source of drug interdiction in Washington State. Considering the millions in assets seized annually and the prevention of drug abuse, the Byrne grant program in Washington State is among the wisest investments of Federal taxpayer money.

Amazingly, most of these task forces operate on Federal contributions of less than $200,000 a year.

Designed to provide State and local flexibility and control over law enforcement strategies, Byrne money is distributed directly to all States on a population-based formula. I would like to submit for the RECORD a summary of amounts each State received in fiscal year 1994. States or localities must match up to 25 percent of the cost of a program and no more than 10 percent of the formula grant to the State can be used for administrative purposes. From there, nearly two-thirds passes through to local law enforcement and on to the front lines where the money can be used for 20 different law enforcement activities including demand reduction education programs; multijurisdictional task forces that integrate Federal, State, and local drug law enforcement agencies and prosecutors; programs designed to target clandestine drug labs; community and neighborhood crime prevention programs; and white-collar crime and organized crime.

As drug dealers adapt to new law enforcement tactics, these funds are a primary source for innovation and experimentation to keep the bad guys on the run.

Of all the activities permitted under the Byrne grants, the multijurisdictional task forces are among the most cost effective and productive in the fight against crime. In my State of Washington, a total of 21 multijurisdictional task forces, the drug prosecution assistance program, and several community policing programs were funded with Byrne grants totalling $8.2 million in fiscal year 1993. More than half of that amount was dedicated toward multijurisdictional task forces with the Washington State Patrol playing an important role as coordinator and supervisor of many of the teams. In fiscal year 1994, the total State allocation was decreased by 14 percent. An additional 10 percent is currently being withheld due to the State's noncompliance with HIV reporting requirements provided in section 1804 of the Crime Control Act of 1990.

Despite these cutbacks, uncommon cooperation among State and local law enforcement has made Washington State's task forces renowned for their efficiency and effectiveness.

Since it received $500 million in fiscal year 1992, the Byrne program received dramatic decreases to $423 million in fiscal year 1993 and $358 million in fiscal year 1994. While States and localities were adjusting to this substantial cutback in Federal law enforcement assistance, no one was prepared for the administration's dismaying recommendation this year to eliminate the Byrne grants altogether.

After all, this was the President who promised to add 100,000 new cops on our streets. This President was a former Governor who said he understood the effectiveness of the Byrne grant to States, cities, and towns. Unfortunately, law enforcement officials across the country are shaking their heads in disbelief as they hear about page 97 of the fiscal year 1995 budget summary for the Department of Justice which reads:

> The elimination of the Byrne formula grants is requested in order to support expansion of Juvenile Justice Program crime prevention activities and provide some of the funding necessary for the Department to maintain its primary Federal law enforcement responsibilities. Further, the administration believes that the many new State and local assistance programs provisions, offered by the pending Crime Control and Law Enforcement Act, will more than offset the loss of the Byrne Program formula grants. These new State and local programs, authorized in the crime bill, will include grants for community policing, criminal history records upgrades, boot camps, drug courts for youthful and nonviolent offenders, and drug treatment in prisons and jails.

In other words, the administration is saying again "don't worry, you're covered."

The last time we heard that, the President tried to sell a health care package that was equally difficult to understand as an actual improvement. Law enforcement has a right to be skeptical.

First, few would argue with the need for more juvenile justice assistance programs. Our children face enormous challenges and increasingly are becoming both victims and assailants in violent crime. In Washington State, violent crimes by youths have doubled in the last decade despite a 3 percent decrease in the overall youth population.

To think that eliminating the main defense against drug trafficking will not erode our efforts on behalf of children is absurd. Juvenile justice programs and narcotics task forces are part of the same effort and cannot be traded off against each other.

Second, it is not clear what the administration means by "funding necessary for the Department to maintain its primary Federal law enforcement responsibilities." That could mean anything from ethics briefings for the White House to salaries and expenses of a special prosecutor. Since much of the Byrne money goes to multijurisdictional task forces that include Federal law enforcement and pursue interstate drug traffickers, it is hard to believe that these are not considered primary Federal law enforcement responsibilities.

Third, law enforcement personnel cannot reasonably rely on the administration's belief that the pending Crime Control and Law Enforcement Act will more than offset the loss of the Byrne Program formula grants. Considering the fact that there is a $16 billion difference between the Senate-passed crime bill, and the House bill currently in the House Judiciary Committee, few can know what, if anything, will emerge from a Senate-House conference comparable to the Byrne grants. In any case, the administration displays a complete lack of appreciation for the role of the multijurisdictional task forces when it suggests that boot camps, drug courts for youthful and nonviolent offenders, and drug treatment in prisons and jails can replace their effectiveness. The Byrne grants fund programs with proven success. We cannot trade one for the other.

Fourth, the administration seems to neglect the substantial sum, nearly $2 billion according to some estimates, that these multijurisdictional task forces generate in seized assets.

Finally, the President's enthusiasm over hiring 50,000 new officers perplexes many of those in and outside of law enforcement. In doing so, he suggests that eliminating experienced narcotics officers who are primarily responsible for drug interdiction before the drugs get to the cities, can somehow be justified by hiring rookie cops in the big cities for a period of 3 years. What makes for a great photo opportunity with big city mayors is simply a horrible policy. It exemplifies an administration run by a campaign mentality, instead of the public interest.

Mr. President, we desperately need new police officers in our cities, but not at the expense of law enforcement in rural areas. In taking from rural task forces to pay for new city police, the President is blatantly suggesting we rob Peter to pay Paul when both are obviously needed.

Perhaps the reason for the administration's hostility to the Byrne grants is simpler. According to an article in the February 28, 1994, issue of the Legal Times:

Reno has long complained about the amount of Justice Department dollars over which the department has little control. Reno aides say she believes the money is often doled out in an ad hoc manner, without the benefit of a well-coordinated national strategy. "Our view is that it makes sense to target these dollars where they are needed most rather than through a formula program," says Justice Department spokeswoman Julie Anbender.

If the Federal Government had a history of wiser spending habits than State governments, this argument would be persuasive. Instead, it simply sounds like a turf war for control over taxpayer dollars that most Americans would like to see spent at the State or local rather than the Federal level. Governors and local law enforcement are usually more qualified to determine where dollars are needed most than a Federal bureaucracy.

I urge my colleagues to listen to those on the front line. Last December, I met with representatives of the Washington State Association of Sheriffs and Chiefs of Police to discuss law enforcement needs in Washington State. I highly recommend to my colleagues a similar meeting if they want to know the truth about the impact of eliminating the Byrne grants. According to the Washington State Patrol, loss of the Byrne grants would be devastating. An impact analysis claims that:

Interjurisdictional cooperation would be greatly impaired;

Loss of BJA funding would cause approximately 80 percent of the multijurisdictional task forces to disband. The effectiveness of the remaining 20 percent would be greatly reduced;

Rural areas would suffer the most because they do not have funds to replace lost federal dollars; and

Drug control strategy is adversely impacted if task forces fold. Traffickers will move into areas where there is a lower law enforcement presence.

In the real world, the loss of the Byrne Grant Program is disturbing to many and frightening to those in the field. Imagine yourself as a narcotics smuggler. You hear through your contacts that the DEA office is closing due to budget cutbacks. Good news. You notice that the FBI is reassigning agents away from your area due to a hiring freeze. Good news. You see that fewer State patrols are doing drug investigation because of cuts in the State budget. Good news. You read that the local police force lost a vote in the city council to hire additional narcotics officers. Good news. Finally, you hear on the radio that the President has recommended elimination of those pestering task forces that have been trailing you. You win. There is no effective effort to stop your poisonous trade. The future looks good.

Mr. President, there is an awful lot of good news these days for drug dealers. And that is bad news for our children, our neighbors, our schools, and our Nation. Drugs shatter young lives and they strip them of the American dream. In the coming days, I and thousands of police officers across the country will be reminding the President and the Congress about Officer Edward Byrne.

We will try our best beginning with the budget resolution to ensure adequate funding for the task forces which we cannot afford to sacrifice. I urge my colleagues to join me in this effort all the way through the appropriations process. The Edward Byrne Task Forces are claiming substantial victories in the war against drugs. The drug lords would like us to surrender, but our children's future demands that we keep fighting until we have won.

Mr. President, I ask unanimous consent that the tables to which I referred earlier be printed in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

[Dollars in millions]

Formula grant program allocation of funds	Fiscal year 1994 State allocation	Percentage to be passed through to local jurisdictions
Alabama	$5,827,000	50.95
Alaska	1,595,000	21.97
Arizona	5,465,000	61.04
Arkansas	3,756,000	54.87
California	37,704,000	63.15
Colorado	5,033,000	58.82
Connecticut	4,808,000	36.96
D.C.	1,597,000	100.00
Delaware	1,717,000	26.87
Florida	16,980,000	61.56
Georgia	8,946,000	53.39
Hawaii	2,278,000	46.45
Idaho	2,167,000	52.41
Illinois	14,765,000	64.51
Indiana	7,647,000	56.78
Iowa	4,248,000	40.79
Kansas	3,904,000	47.49
Kentucky	5,373,000	32.30
Louisiana	6,007,000	51.92
Maine	2,368,000	41.59
Maryland	6,748,000	44.47
Massachusetts	8,048,000	36.64
Michigan	12,149,000	53.10
Minnesota	6,237,000	70.29
Mississippi	4,012,000	52.52
Missouri	7,088,000	58.22
Montana	1,878,000	58.56
Nebraska	2,810,000	60.36
Nevada	2,477,000	62.01
New Hampshire	2,220,000	51.46
New Jersey	10,184,000	57.67
New Mexico	2,780,000	42.23
New York	22,502,000	63.29
North Carolina	9,055,000	41.36
North Dakota	1,653,000	56.16
Ohio	14,032,000	64.42
Oklahoma	4,725,000	45.41
Oregon	4,445,000	46.98
Pennsylvania	15,216,000	64.83
Rhode Island	2,093,000	41.76
South Carolina	5,192,000	42.53
South Dakota	1,743,000	47.16
Tennessee	6,886,000	48.78
Texas	21,950,000	65.60
Utah	3,057,000	49.76
Vermont	1,575,000	25.11
Virginia	8,500,000	30.04
Washington	7,020,000	60.25
West Virginia	3,056,000	47.93
Wisconsin	6,866,000	61.98
Wyoming	1,451,000	54.95
Puerto Rico	6,095,000	0.00
Virgin Islands	1,016,000	0.00
Guam	1,054.000	0.00
American Samoa/Northern Mariana Islands	1,002,000	0.00
Total	358,000,000	

[1] American Samoa (67%)–$671,340, Northern Mariana Islands (33%)–$330,660.

Note.—State population figures are based on Bureau of Census estimates as of July 1, 1992. Territory population figures are based on Bureau of Census 1990 Census as of April 1, 1990.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

MAGNIFICENT

Mr. MATHEWS. Mr. President, I rise this afternoon to say one word in celebrating the life and mourning the passing of Frank C. Gorrell, one of Tennessee's most eminent statesmen and celebrated citizens. That word is—magnificent.

I cannot say magnificent as Frank Gorrell did, and he said it often, every time anyone asked how he was or how things were going. But I do not need to imitate his thundering good cheer and contagious conviction. The halls of the Tennessee legislature will always echo with his voice and his trademark reply—magnificent.

Frank died March 12. That is a simple fact, as are the bare facts of all our lives. And, as is always the case, the facts do not capture the quality of his service to Tennessee and the caliber of commitment that he brought to every task.

He was a gifted attorney and senior partner in one of the South's most prominent law firms. He served as Lieutenant Governor of Tennessee for 5 years and a State senator for 9. He once said that he left public office because people were starting to call him a politician. Any of us would be honored to be called a politician if we could be compared to Frank Gorrell.

Even when Frank left public office, he never left public service. He remained an earnest advocate for public interests and was confidant to Tennessee's highest State leaders, including Gov. Ned McWherter, Vice President AL GORE, and Senator JIM SASSER.

I knew him in all those roles, but I knew him best as my friend. He was a bear-sized man who was as large as life in every way. Above all, he had a competitor's heart. He loved the contest, and he loved to win. The bigger the battle the better he liked it, and Frank brought on some of the biggest battles in the history of Tennessee's legislature. But after the fight was done, he was ready to embrace his adversary and carry on for the good of Tennessee.

Tennessee is diminished by his death. The support and sympathy of all Tennesseans go out to his wife Candy, his sons Frank III and Rick, and each member of his family.

The man who succeeded Frank, Tennessee's current Lieutenant Governor, John Wilder, summarized Frank's life best. He said, "The tragedy of life is not death but a failure to live, and Frank lived until he died to the fullest."

That he surely did. Magnificent, Frank. We will all miss you.

Mr. President, I yield the floor.

Seeing no one seeking recognition, 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. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

COMMUNITY DEVELOPMENT BANKING AND FINANCIAL INSTITUTIONS ACT OF 1993

AMENDMENT NO. 1528

(Purpose: To authorize a study of the effects on small business concerns in the forest products industry of designating the northern spotted owl as a threatened species)

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

The PRESIDING OFFICER. Would the Senator seek consent to set aside the pending amendment?

Mr. PACKWOOD. I ask unanimous consent to set aside the pending amendment.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Oregon [Mr. PACKWOOD] proposes an amendment numbered 1528.

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

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

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . STUDY OF EFFECT OF THE NORTHERN SPOTTED OWL ON SMALL BUSINESS CONCERNS.

(a) DEFINITIONS.—For purposes of this section—

(1) the term "Administrator" means the Administrator of the Small Business Administration; and

(2) the term "small business concerns" has the same meaning as in section 3 of the Small Business Act.

(b) FINDINGS.—The Congress finds that—

(1) a critical and worsening timber supply shortage exists within the social and economic area that generally corresponds to the range of the Northern spotted owl, including Western Oregon, Western Washington, and Northern California, as a consequence of various actions by the Federal Government aimed at stabilizing and recovering the Northern spotted owl as well as other species thought to be associated with old-growth forests; and

(2) numerous small business concerns rely for their livelihood on the adequate harvest of timber from Federal and non-Federal lands within the range of the Northern spotted owl and related species.

(c) BUSINESS STUDY.—The Administrator shall conduct a study that analyzes—

(1) the nature and extent of economic losses to small business concerns in the forest products industry that have occurred subsequent to the designation of the Northern spotted owl as a threatened species pursuant to section 4 of the Endangered Species Act of 1973, or that are reasonably likely to occur in the future as a result of present trends;

(2) the ability of small business concerns to recoup the fair market value of equipment and other property employed in the harvest and processing of timber prior to the listing of the Northern spotted owl as a threatened species; and

(3) the ability of small business concerns in the affected area to offer alternative products or services for which there is a ready or likely suitable market.

(d) REPORT.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this section, the Administrator shall submit a report of the results of the study conducted under subsection (c) to the President and to the relevant committees of the Senate and the House of Representatives.

(2) OPTIONS.—The report shall include options for Congress and the President for compensating small business concerns for economic losses and for promoting business transition and diversification.

(3) CONSULTATION.—In preparing the report, the Administrator shall consult with small business concerns in the forest products industry, and shall solicit comments from the public.

Mr. PACKWOOD. Mr. President, this is a simple amendment and it calls for a study. It does not call for expenditure of any money other than what the study may cost.

It is an amendment to require the Small Business Administration to conduct a study of the effects of the northern spotted owl on small business concerns.

Numerous small business concerns rely for their livelihood on the adequate harvest of timber from Federal and private lands in the range of the northern spotted owl. This amendment will require the Small Business Administration to analyze the ability of small business concerns to recoup the fair market value of equipment used in the harvest and processing of timber prior to the listing of the northern spotted owl.

The Small Business Administration will also analyze the ability of small business concerns to offer alternative products or services for which there is a ready or likely suitable market.

Not later than 6 months after the enactment of this amendment, the Small Business Administration must submit a report of its findings.

Mr. President, the market for used sawmill and logging equipment has become saturated since the spotted owl was listed as a threatened species.

This equipment is selling for a fraction, a very small fraction of its fair market value at the time the spotted owl was listed as a threatened species.

The Clinton administration proposes an economic and community assistance program that will provide modest assistance through the Rural Development Administration and Economic Development Administration. I support that.

But, Mr. President, I am afraid that barely scratches the surface. That is why I am calling on my colleagues to support the amendment which directs the Small Business Administration to fully analyze the need for assistance and the adequacy of current and proposed Federal programs.

It is my hunch that the Small Business Administration will find an enormous gap between what is needed and what may become available for the future.

Let me use a couple examples if I might, Mr. President.

Sawmills. You hardly think in terms of used equipment as a sawmill, but a used sawmill will sell now for about 5 percent of its former market value. There is no timber. A sawmill is of no use if there is no timber. The best you can do is scrap it and hopefully use the equipment that is in it at some other mill that may have access to timber someplace else in the country.

Or you are an independent contracting log truck driver. You own your own truck—and this is very common. You own usually one truck. You repair it yourself; you work 8, 10, 12 hours a day hauling logs under contract. The log truck is not good for anything else. You do not use it to haul asphalt. You do not use it to deliver bread. You use it to haul logs.

When the Federal Government, because of the Endangered Species Act and the spotted owl, stops the harvest of logs, you, through no fault of your own, have lost in essence all of the value of your truck.

So all I am asking with this amendment is that the Small Business Administration do a study of these effects. I am not asking that money be appropriated. I am not asking that the Federal Government buy the trucks or buy the mills. I am simply asking that we have a study so that we might know

the effect in, and they are usually rural areas—small town areas, might know the effect of these Federal actions on these small businesses.

I thank the Chair. I hope that the amendment would be adopted.

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. PACKWOOD. 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. PACKWOOD. Mr. President, I ask unanimous consent that Senator GORTON be added as a cosponsor of the pending amendment.

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

TITLE I, SUBTITLE B

Mr. D'AMATO. Our amendment includes language directing the Federal Reserve Board to prohibit acts or practices in connection with mortgage lending that it finds to be associated with abusive lending practices or otherwise not in the interest of the borrower. I believe it would be helpful if we took this time to elaborate on this provision and how we intend it to be applied by the Federal Reserve.

Mr. RIEGLE. Certainly. I am extremely concerned about evidence that I have received indicating that lenders are repeatedly refinancing home equity loans, rolling the borrower from one loan into another. In the process, the lender extracts points and fees on each new loan while extending little in the way of new money.

I am including for the RECORD a case that I have received from the National Consumer Law Center as an example. In this instance, an elderly Massachusetts couple wound up refinancing their loan 8 times in 39 months. Each refinancing included a prepayment penalty of 6 months interest as well as other fees. They finally repaid the loan through yet another refinancing with a different lender. By the end of the process, they had received a total of $48,630. For use of that amount, they paid $85,410.

In the version of subtitle B of title I of S. 1275 reported by the Banking Committee, we attempted to address this problem by preventing lenders who refinanced loans covered by the legislation from charging points or fees on any portion of the loan refinanced. The lender could only charge points on new money originated.

This approach is problematic, however, as it eliminates the incentive for a lender to refinance even when the terms of the new loan are clearly more advantageous to the borrower. Even worse, it seemingly encourages refinancings that enlarge the outstanding balance in order to generate fee income.

Given these problems, we have removed this restriction from the legislation and replaced it with a directive to the Federal Reserve Board. The directive instructs the Board to prohibit "acts or practices with regard to refinancings of mortgages that the Board finds to be associated with abusive lending practices."

To illustrate such practices, I have included for the RECORD a flyer that was sent to the elderly Massachusetts couple to whom I have already referred. As I mentioned, this couple refinanced their loan eight times in 39 months, incurring prepayment penalties and fees each time. The flyer shows how the lender encouraged these transactions. In bold type, the solicitation offers to the borrower a "$5,000 guaranteed increase to your loan." What the borrower receives, however, is not a $5,000 increase, but a new loan that generates $5,000 in new money. At the same time, the transaction generates prepayment penalties on the old loan, as well as origination fees on the new loan.

The directive also instructs the Board to prohibit practices associated with refinancing that are "otherwise not in the interest of the borrower." As you are aware, we gave considerable thought to preventing the charging of points and fees on any refinancing that is not in the interest of the borrower in this legislation. We abandoned this language for fear that a vague standard in this area would lead to endless litigation. I would expect, however, that the Board could identify standards that could be applied. Clearly, there are refinancings that are undoubtedly in the interest of the borrower. When a 15-percent mortgage is replaced with a 10-percent mortgage of similar term with no points and fees, the borrower is certainly better off.

At the same time, however, there are also refinancings that clearly are not in the interest of the borrower. Lenders who convince borrowers to pay substantial prepayment penalties and origination fees in order to obtain new loans on substantially similar terms and without significant new money originated are simply rolling the borrower to generate fee income.

These sorts of practices must be stopped. We have attempted to draw bright lines in this legislation in order to minimize any impact on the rest of the mortgage market. In areas that did not lend themselves to clear statutory tests, we instead have relied on the Board to address abusive lending practices. There should be no mistake about our intentions, however. These abusive lending practices are going on, and we want them stopped. I expect that the Board will act as we have and stop unscrupulous lenders from strip mining the equity out of borrowers' homes.

Mr. D'AMATO. I have one other question. The bill provides for civil penalties for failure to comply with any requirement under section 129 of truth in lending. Would a violation of a Federal Reserve Board regulation promulgated under section 129 constitute a violation for which civil liability may be found?

Mr. RIEGLE. Absolutely, it is well established that a violation of a regulation promulgated under a statutory provision is a violation of a requirement under that provision.

Mr. D'AMATO. I thank the chairman for his explanation. I agree with his analysis.

Mr. RIEGLE. I ask unanimous consent that flyers and a case study of the Massachusetts couple to which I previously referred be printed in the RECORD.

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

CASE STUDY—MR. AND MRS. H

Mr. H is 77 years old and Mrs. H is 70. They have lived in their home in Mattapan, Massachusetts for 25 years. In September 1986, the H's entered into the first in a series of seven high interest rate mortgage loans with Financial Enterprises Corporation. The H's were referred to FEC by a loan broker because they sought to consolidate their car loan and a credit card bill. At the time, they owned their $140,000 home free and clear of liens.

The September 1986 mortgage was at an initial rate of 16.5% and was purportedly for the amount of $20,650. Of the $20,650 proceeds of the loan, $800 was paid to Bernard Shuster as an attorney fee and $700 was paid to the loan broker. Bernard Shuster was president and chief operating officer of the company. The loan note contained a penalty of six months interest in the event of prepayment during the loan term.

Almost immediately after the loan was made and at all times during the course of dealing between the H's and FEC, FEC sent the H's monthly notices informing them they were eligible for guaranteed new loans for additional small amounts of cash. The notices did not inform the H's that the new loans would require a prepayment of their prior loan with a resulting prepayment penalty. Copies of some of the advertisements are attached.

In response to the advertisements the H's went to FEC for the following series of refinancings:

a. On December 31, 1986, the H's obtained additional cash in the amount of $1,553.21. In addition, the principal paid in the new loan included a prepayment penalty of six months interest and an attorney fee of $500 paid to Bernard Shuster for a total new obligation of $23,000 at 16.5% interest.

b. The H's went to FEC for refinancing on February 5, 1987 and obtained additional cash in the amount of $10,091.62. In addition, the new loan included a prepayment penalty of six months interest and an attorney fee of $250 payable to Bernard Shuster for a total new obligation of $33,700 at 16.5% interest.

c. The H's went to FEC for refinancing on September 1, 1987 and obtained additional cash in the amount of $5,083.68. In addition, the new loan included a prepayment penalty of six months interest and an attorney fee of $500 payable to Bernard Shuster for a total new obligation of $39,400 at 16.5% interest.

d. The H's went to FEC for refinancing on September 9, 1988 and obtained additional

cash in the amount of $4,382.48. The new loan included a prepayment penalty of six months interest and an attorney fee of $500 payable to Bernard Shuster for a total new obligation of $45,000. At the time of this transaction, the initial interest rate for the loan increased to 17% even though prevailing interest rates had decreased.

e. The H's went to FEC for refinancing on March 16, 1989 and obtained additional cash in the amount of $3,296.45. The new loan included a prepayment penalty of six months interest and an attorney fee of $500 payable to Bernard Shuster for a total new obligation of $50,000. At the time of this transaction, the initial interest rate for the loan increased to 18.5% even though prevailing interest rates had decreased.

f. The H's final loan with FEC for refinancing was made on June 26, 1989. They obtained additional cash in the amount of $5,072.53. The new loan included a prepayment penalty of six months interest and an attorney fee of $850 payable to Bernard Shuster and a $125 fee for document preparation for a total new obligation of 57,800 at 18.5% interest.

Copies of the loan disclosures for each transaction are attached. Between each refinancing the H's made all payments due on the loans as scheduled. Nevertheless, due to prepayment penalties invoked by FEC, at the time of each and every refinancing, the principal claimed due on the prior loan was actually greater than the principal loaned by FEC to the H's in that prior loan. For example, even though the H's made 12 payments on the September 1, 1987 loan before refinancing on September 9, 1988, FEC claimed that the balance owed on the prior loan had increased from an initial balance of $39,400 to $40,117.52, presumably because of prepayment penalties. FEC repaid itself that amount in the refinancing of September 9, 1988.

By bifurcating the loan transaction into seven transactions, FEC not only benefitted by invocation of hidden prepayment penalties which consecutively ratcheted up the principal of each loan, but also, FEC principal Bernard Shuster collected $3,900 in attorney fees for work performed which would not have been due in a single transaction.

Sometime after June 26, 1989, FEC gave the H's name to a loan broker without their authorization. The broker called the H's out of the blue and offered to arrange a loan for them at a lower rate than their loan with FEC. In November, 1989, that loan broker arranged a mortgage loan for the H's with a third party lender. FEC, after invoking additional prepayment penalties, was paid at least $64,800 from the proceeds of that loan.

Over a thirty-nine month period, FEC advanced the H's no more than $48,629.97. Over that same period, FEC was repaid at least $85,410.14. (By way of comparison that payback on a 39 month loan of that size would have an effective APR of 38%.) Each and every transaction between the H's and FEC was fully secured by a mortgage taken by FEC on the H's residence. The H's residence had a fair market value in excess of $140,000. By June 26, 1989, FEC held seven open mortgages. (Retention of open but paid mortgages has long been used in the industry to scare off companies willing to provide alternate financing at lower rates. See *Bookhart* v. *Mid-Penn Consumer Discount Co.*, 559 F. Supp. 208 (E.D. Pa 1983)). None of the abusive loan terms in the series of transactions can be justified by market forces, because full security based on the value of the H's residence meant that FEC could obtain repayment by foreclosure if the H's couldn't pay. (FEC, has in fact, commenced approximately 250 foreclosures in Massachusetts and has threatened many more.)

Although the series of transactions started out with relatively modest payments of $310.54, the final transaction involved payments of more than $1,000, an amount which exceeded 60% of the H's fixed income. Although the H's made payments for several years on the last in the series of transactions, (because Mr. H returned to manual labor), payments could not be made after Mr. H became too disabled to work. The third party lender which paid off FEC is now foreclosing.

[Flyer No. 1]

YOU QUALIFY FOR A $5,000 GUARANTEED INCREASE IN YOUR LOAN

DEAR VALUED CUSTOMER: Now that the Fall is approaching, we are pleased to offer you a guaranteed addition to your present loan—to use in any way you see fit.

This is the ideal time to make those final improvements to your home before the winter arrives. You may need to upgrade your heating system, obtain a new roof, new siding, insulation or replacement windows.

Or . . . perhaps you would like to purchase a car, consolidate your outstanding debts or pay for the coming year's tuition costs . . . We will increase your present loan for any worthwhile reason.

This exceptional offer is valid only to you for 60 days upon receipt of this letter. If you would like to take advantage of this offer please call Steve Burns at our toll free number 1-800-538-6900.

If you satisfy some basic conditions, we can have the money in your hands in days.

Sincerely,

STEVE BURNS,
Financial Enterprises.

[Flyer No. 2]

YOU QUALIFY FOR A $7,500 GUARANTEED INCREASE IN YOUR LOAN

DEAR VALUED CUSTOMER: Now that the Spring is approaching, we are pleased to offer you a guaranteed addition to your present loan—to use any way you see fit.

This is an excellent opportunity to get additional cash that can make your life better . . . major home improvements, remodeling, vacation or almost any personal or business reason where extra cash can help. And best of all, you can receive additional funds in three business days!!!

Or . . . perhaps you would like to purchase a car, consolidate your outstanding debts or pay for the coming year's tuition costs. We will increase your present loan for any worthwhile reason.

This exceptional offer is valid only to you for 60 days upon receipt of this letter. If you would like to take advantage of this offer please call Steve Burns on our toll-free number, 1-800-538-6900.

If you satisfy some basic conditions, we can have the money in your hands in days.

Sincerely,

STEVE BURNS,
Financial Enterprises Corp.

Mr. WOFFORD. Mr. President, I support the Community Development Banking and Financial Institutions Act. I believe it will spur lending in underserved areas and I believe it will help the private sector to create jobs.

The manager's amendment to S. 1275 includes an amendment, the Rural Capital Formation Amendment, that I and Senator LEAHY have proposed. The purpose of this amendment is to make sure that the benefits of this legislation are felt in our rural communities. It will specifically give new and small rural community development banks more flexibility in meeting the matching requirements.

I thank the committee chairman, the distinguished Senator from Michigan, and the ranking member, the distinguished Senator from New York for their assistance and cooperation.

Mr. RIEGLE. Mr. President, I thank the distinguished Senator from Pennsylvania for his support and his attention to the capital needs of our Nation's rural communities. I am pleased to have worked with Senator WOFFORD and Senator LEAHY in making this improvement to the legislation.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DODD. 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. DODD. Mr. President, I ask unanimous consent that I may be able to proceed as in morning business for 10 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. PACKWOOD. Mr. President, I am not going to object. My amendment is pending.

I ask unanimous consent to add Senator HATFIELD as a cosponsor of my amendment.

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

Mr. PACKWOOD. I have no objection to the Senator speaking.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. I thank the Chair.

(The remarks of Mr. DODD pertaining to the introduction of S. 1939 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DODD. 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. PACKWOOD. 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. PACKWOOD. Mr. President, I withdraw the amendment that I have previously offered.

The PRESIDING OFFICER. The amendment is withdrawn.

The amendment (No. 1528) was withdrawn.

AMENDMENT NO. 1529

(Purpose: To authorize a study of the effects on small business concerns in the forest products industry of designating the northern spotted owl as a threatened species)

Mr. PACKWOOD. Mr. President, I send to the desk another amendment that may have the wrong number on it. I think it has the same number as the other amendment.

The PRESIDING OFFICER. Without objection, the pending amendment will be set aside.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon [Mr. PACKWOOD] proposes an amendment numbered 1529.

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

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . STUDY OF EFFECT OF THE NORTHERN SPOTTED OWL ON SMALL BUSINESS CONCERNS.

(a) DEFINITIONS.—For purposes of this section—

(1) the term "Administrator" means the Administrator of the Small Business Administration; and

(2) the term "small business concerns" has the same meaning as in section 3 of the Small Business Act.

(c) BUSINESS STUDY.—The Administrator, in consultation with the Secretary of the Interior, shall conduct a study that analyzes—

(1) the nature and extent of economic losses to small business concerns in the forest products industry that have occurred as a result of the designation of the Northern spotted owl as a threatened species pursuant to section 4 of the Endangered Species Act of 1973, or that are reasonably likely to occur in the future;

(2) the ability of small business concerns to recoup the fair market value of equipment and other property employed in the harvest and processing of timber prior to the listing of the Northern spotted owl as a threatened species; and

(3) the ability of small business concerns in the affected area to offer alternative products or services for which there is a ready or likely suitable market.

(d) REPORT.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this section, the Administrator and the Secretary of the Interior shall submit a report of the results of the study conducted under subsection (c) to the President and to the relevant committees of the Senate and the House of Representatives.

(2) OPTIONS.—The report shall include options for Congress and the President for compensating small business concerns for economic losses and for promoting business transition and diversification.

(3) CONSULTATION.—In preparing the report, the Administrator and the Secretary of the Interior shall consult with small business concerns in the forest products industry, and shall solicit comments from the public.

Mr. PACKWOOD. Mr. President, there is a slight change. I am indebted to both Senator BAUCUS and Senator CHAFEE and their staffs for calling this to my attention. We made a slight change in the bill. The findings have been stricken out, and the findings, of course, are not critical to the bill. Then we have added the words, after "Administrator," referring to the Small Business Administrator, in various places, "in consultation with the Secretary of the Interior."

And on page 2 of the bill, line 25, the wording has been changed from "* * * forest products industry that have occurred subsequent to the designation"—that has been changed to "* * * forest products industry that has occurred as a result of the designation."

And those are the only changes in the bill, other than other references to the Secretary of the Interior acting in conjunction with the Small Business Administrator.

I am delighted Senator BAUCUS and Senator CHAFEE called this to my attention.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. RIEGLE. 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. RIEGLE. Mr. President, I ask unanimous consent that the pending amendment be set aside.

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

AMENDMENT NO. 1523, AS MODIFIED

Mr. RIEGLE. Mr. President, I want to send an amendment to the desk that will address an earlier amendment, amendment No. 1523, which was previously agreed to.

I now want to send an amendment to the desk that will modify amendment No. 1523.

I might just say, by way of explanation, this is to conform to the changes that Senator SHELBY and Senator MACK have sought and that we have worked out on a bipartisan basis within the committee.

The PRESIDING OFFICER. Without objection, the amendment will be so modified.

The modification is as follows:

On page 20 of the Riegle amendment, No. 1523, strike out lines 11 and 12 and insert between lines 17 and 18 the following:

(3) The appropriate Federal banking agency may require an institution with total assets in excess of $9,000,000,000 to comply with this section notwithstanding the exception provided by this subsection, if it determines that such exemption will create a significant risk to the affected deposit insurance fund if applied to that institution.".

On page 25 of the Riegle amendment, No. 1523, strike lines 8–14 and insert the following:

SEC. 337. INSIDER LENDING.

(a) LOANS TO EXECUTIVE OFFICERS BY MEMBER BANKS.—Section 22(g)(2) of the Federal Reserve Act (12 U.S.C. 375a(g)(2)) is amended by striking "With the specific prior approval of its board of directors, a member" and inserting "A member".

(b) EXTENSIONS OF CREDIT TO EXECUTIVE OFFICERS, DIRECTORS, AND PRINCIPAL SHAREHOLDERS OF MEMBER BANKS.—Section 22(h)(8) of the Federal Reserve Act (12 U.S.C. 375b(h)(8)) is amended—

(1) by striking "MEMBER BANK.—For" and inserting the following: "MEMBER BANK.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), for"; and

(2) by adding at the end the following:

"(B) EXCEPTION.—The Board shall have the authority by regulation to suspend the applicability of any or all of this subsection, except for the provisions of paragraph (2), with respect to any individual who is a director or an executive officer of a subsidiary of the company that controls the member bank, if the Board finds that such individual does not actually participate in major policymaking functions of the member bank.".

On page 132 of the committee substitute strike lines 21 and 22 and insert the following:

"(2) in subparagraph (C), by striking "and its composite condition was found to be outstanding;" and inserting "and its composite condition—

"(i) was found to be outstanding; or

"(ii) in the case of an insured depository institution that has total assets of less than $175,000,000, was found to be outstanding or good;".

Mr. RIEGLE. Mr. President, I urge the adoption of the amendment, as modified.

The PRESIDING OFFICER. The Chair would rule that it is implicit within the consent. The Chair would rule that that action has taken place; that the modification has been agreed to.

Mr. RIEGLE. All right. So that now we have perfected the underlying amendment with the change just sent to the desk.

The PRESIDING OFFICER. The Senator is correct.

Mr. RIEGLE. I move to reconsider the vote by which the amendment, as modified, was agreed to.

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1530

(Purpose: To improve reporting requirements on monetary instruments and transactions)

Mr. RIEGLE. Mr. President, I now rise on behalf of Senator BRYAN and Senator BOND to ask unanimous consent that the Anti-Money Laundering Act be included as an amendment to this bill. The language is modeled after S. 1664. I now send that amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. RIEGLE], for Mr. BRYAN, for himself, Mr. BOND, Mr. RIEGLE, and Mr. D'AMATO proposes an amendment numbered 1530.

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

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

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. RIEGLE. Mr. President, I urge the adoption of the amendment.

Mr. BOND. Mr. President, I rise today in support of this amendment to add S. 1664, the Anti-Money Laundering Act of 1993, to S. 1275. This amendment will reduce the number of currency transaction reports which banks have to file under the Bank Secrecy Act. Senator BRYAN, Chairman RIEGLE, and I introduced S. 1664 on November 17, 1993.

I believe that this bill, added to S. 1275, the Community Development, Credit Enhancement and Regulatory Improvement Act of 1993, will help relieve bank regulatory burden, improve compliance under the Bank Secrecy Act, and better money laundering deterrence efforts.

Action must be taken to relieve the banking industry of the burden of unreasonable regulatory requirements it now faces. The bank regulators currently require all kinds of burdensome compliance reports, activities and documents that cost significant amounts of time and resources. Consequently, banks, are generating too many reports and other paperwork of questionable value, instead of making loans.

In particular, to help combat money laundering, banks have to file a Currency Transaction Report [CTR] for all currency transactions over $10,000. The American Bankers Association estimates that it cost banks almost $130 million to file 9.2 million CTR's with the Internal Revenue Service in 1992. The utility to the Government of this massive number of reports has yet to be proven.

This amendment will help to reduce drastically the number of useless CTR's which are filed with the Government, thus reducing, in part, bank regulatory burden. The Anti-Money Laundering Act of 1993 would create mandatory exemptions for transactions between depository institutions, transactions with any U.S. Government or agency, and transactions with any business or category of business where CTR's have little or no value for law enforcement purposes. In addition, Treasury would have the discretion to exempt transactions between a depository institution and its qualified business customers who most frequently engage in transactions which are subject to reporting requirements under the Bank Secrecy At.

I am well aware of the serious problem this situation has created for the banking industry and have been in consultation with my colleagues on the Senate Banking Committee to find solutions. Bank regulatory reform is one of my highest priorities. I also consider it a key to economic growth.

A companion bill, H.R. 3235, has already been acted on in the House. I ask my colleagues for their support on this bipartisan measure to relieve bank regulatory burden.

Mr. BRYAN. Mr. President, I want to acknowledge with respect to the pending amendment the work of several of my colleagues who have made this amendment possible.

I ask unanimous consent that the chairman of the committee, Senator RIEGLE; the ranking member, Senator D'AMATO; and my senior colleague, Senator REID, be added as cosponsors to the amendment.

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

Mr. BRYAN. Mr. President, I appreciate that.

STATEMENT ON THE ANTI-MONEY LAUNDERING ACT OF 1994

Mr. President, Senator BOND, Senator RIEGLE, Senator D'AMATO, and I are offering an amendment to S. 1275, the Community Development Credit Enhancement, and Regulatory Act of 1993 which will greatly improve our efforts to combat money laundering.

This amendment will reduce the number of currency transaction reports banks are required to file, while making the process more effective at identifying suspicious customer transactions.

This amendment is based on the text of S. 1664 and a House companion bill (H.R. 3235) introduced by Congressman GONZALEZ.

I want to commend Congressman GONZALEZ for his leadership in this area.

Yesterday, the Senate Banking, Housing, and Urban Affairs Committee held a hearing on this antimoney laundering legislation.

The testimony gave compelling evidence as to why this measure is necessary.

The Department of Treasury, General Accounting Office and various industry groups testified in favor of the legislation. The Bank Secrecy Act is widely viewed as an important part of the Federal Government's efforts against money laundering, particularly as it relates to the drug trade.

In theory, Federal investigators use currency transaction reports [CTR's] to identify large cash transactions which are the results of illegal activity.

While Federal antimoney laundering enforcement has had some successes, there are serious problems with the current system. One of the major problems investigators face is the sheer volume of CTR's filed—10 million annually—more than they could ever hope to have the resources to investigate fully.

A study conducted on behalf of the Independent Bankers Association of America [IBAA] found that community bank employees spent over 2 million hours each year complying with the Bank Secrecy Act.

The study calculated the compliance costs at nearly $60 million.

The excessive number of reports filed, many of which clearly have no bearing on Federal money laundering enforcement, place a great strain on both Federal investigators and the business which must file the CTR's.

Filing CTR's consumes many hours of valuable employee time and requires substantial investments in equipment and tracking systems.

Generally, financial institutions and other businesses subject to the Bank Secrecy Act willingly absorb the expense of filing CTR's as part of the cost of doing business, and part of their responsibility in controlling money laundering.

There is, however, a limit to the burden that these private businesses can be expected to bear.

In addition, the Federal Government has a responsibility to ensure that the efforts of the businesses filing CTR's are not wasted, and that the requirements of the Bank Secrecy Act produce useful information which can lead to tangible results in money laundering enforcement.

The amendment we are introducing today will both increase the effectiveness of the Bank Secrecy Act and reduce its burden on private businesses.

Our amendment establishes a system of exemptions under which transactions that are clearly of no interest for law enforcement purposes, such as transactions between banks, or between a bank and a Government agency, do not trigger CTR's.

It also provides institutions the option of developing a list of regular business customers who, with the approval of the Treasury Department, would also be exempt from CTR's.

The amendment requires the Secretary to implement rule changes which will reduce the volume of CTR's filed by depository institutions by at least 30 percent, a goal which we believe could be easily met by careful implementation of the new system of exemptions.

In addition to reducing the overall volume of unnecessary CTR's, the amendment closes a number of loopholes which launderers are using to get around the current detection system.

Mr. President, the Bank Secrecy Act has a laudable goal: to fight money laundering.

Unfortunately, the current regulations for reporting cash transactions are a bureaucratic maze, creating confusion and inefficiency in both financial institutions and law enforcement agencies.

The reforms we are proposing in this measure will go a long way to both reducing unnecessary paperwork while, at the same time, expanding the effectiveness of our Federal money laundering enforcement efforts.

Mr. President, this amendment accomplishes two purposes which we all can support. It deals with strengthening provisions in the antimoney-laundering statutes to require that some areas which are currently exempted and have provided loopholes—which has been difficult for the law enforcement community—are added to the law; and the testimony from the Treasury Department and others expressing their support of those strengthening provisions to eliminate existing loopholes.

In addition, Mr. President, also it addresses a concern with respect to the preparation of the currency transaction report. Under the current law with respect to financial institutions, currency transactions which exceed $10,000 generate under the law what is called a CTR, or currency transaction report.

This enables law enforcement to monitor certain types of activity and to thereby ferret out money laundering. Unfortunately, this effort has been hampered because the generation of these CTR's has simply overwhelmed the ability of the law enforcement community to effectively monitor. Currently, some 10 million currency transaction reports are generated each year.

The testimony is that about 40 percent of those reports deal with regular, well-established businesses that in no way address the concern that the bill in its original form, enacted some years ago, was designed to address. Nevertheless, there are many people that are required to generate these CTR's that contribute to this overwhelming volume.

This amendment mandates the reduction in the volume of currency transaction reports by 30 percent within a period of 6 months after the law goes into effect. So that provides areas which are standard exemptions, all fully approved and supported by Treasury, and a category of discretionary exemptions, the effect of which enhances the law enforcement community to monitor those transactions, which may raise questions of possible illegal activity, and also to lighten the burden on the financial community which currently estimates the cost of preparing each one of these reports to be about $3 to $4 a copy.

As I have indicated previously, this currently results in some 10 million of these reports going into a data processing center in Detroit. That is simply beyond the ability of the law enforcement community to effectively and adequately monitor.

I want to acknowledge again the support of the distinguished chairman of this committee, who appears as a cosponsor, and the distinguished ranking member, who also appears as a cosponsor, Senator DODD, who was an original primary cosponsor with me.

I am pleased that this amendment has been cleared on both sides of the aisle and will be adopted.

I yield the floor.

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

The amendment (No. 1530) was agreed to.

Mr. D'AMATO. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. RIEGLE. 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. RIEGLE. With no amendments or speakers present who want to continue this debate at this time, I will now ask unanimous consent to speak as if in morning business on a different subject for a period not to exceed 5 minutes.

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

COMPREHENSIVE HEALTH CARE REFORM

Mr. RIEGLE. Mr. President, I have on regular occasion come to the floor to present stories of individuals and families in Michigan who are facing a health care crisis of one kind or another to illustrate how serious the problems are in this area that face people and why we need comprehensive health care reform.

Today, I want to share the story of Ralph and Lennell Tucker who live in Detroit, MI. In March last year, the family was forced to drop their private health care coverage policy because the monthly premium increased by 50 percent. It went from $530 a month to over $800 a month for family coverage.

Now, Ralph Tucker is 50 years old and a former employee of the Mercury Paint Co. in Detroit. In 1991, he was diagnosed with kidney failure and was forced to leave his job because of his disability. He did not qualify for retirement benefits so he did not receive retiree health coverage. The Tuckers were covered under Ralph's health policy while he was working. When he left the job, they maintained the policy by paying the premiums themselves at the cost of which I noted, $530 a month, which is a heck of a large bill to have to pay each month.

When a person leaves a job that offers health insurance, Federal law now requires the health insurance company to offer the employee the same insurance rates that the business paid, but only for a limited period of time. When that period ended last year, the insurance company raised the rates they charged the Tuckers to the $800 figure for each month. Now, that is half of their entire monthly income, and so as everyone would understand, the Tuckers just were not able to afford to spend half their income to maintain that health insurance coverage, and so they had to discontinue their coverage.

Now, Ralph does receive Social Security disability benefits and Medicare coverage because of his kidney condition. Unfortunately, the Medicare benefit does not cover the entire cost of his dialysis treatments, nor does it cover the cost of prescription drugs.

Ralph's wife, Lennell, is 48 years old and also suffers from disabling conditions that prevent her from working. In 1985, she was working in a nursing home as a nurse's assistant when she suffered a stroke. Her employer did not offer health insurance, but then she was covered under her husband's policy. Lennell tried to go back to work, but her condition only worsened. In addition to having a stroke, she suffers from hypertension and rheumatoid arthritis and needs medication to control her conditions.

Lennell and Frank have a 16-year-old son named Ricardo. He is dependent upon his parents for support. Ricardo is healthy but his parents do worry that if anything were to happen to him, they would not be able to pay for his care. So in this case the mother and the son do not have any health insurance coverage at all, and Ralph is forced to rely on his Medicare coverage, which obviously does not do the job.

The Tucker family is trying to do the best they can to cover their medical and other costs of living, but it is extremely difficult to survive on the small Social Security check that Ralph receives each month. The family's total monthly income is $1,625. Because they no longer have prescription drug coverage to help with the cost of their medicines, the Tuckers often ration their medications to try to make them last longer. If they took the full dosages that their doctors want them to take, their medications alone would cost $800 to $1,000 a month, more than half their income.

So you can see in this situation, if they tried to continue their health insurance coverage at $800 a month, pay the $800 a month in addition for the medicines they need, that is their entire monthly income without putting one piece of bread on the table, paying any utility bills, buying any clothes, or any of the necessities of life we all face.

For a few months, they struggled to try to pay as much as $500 a month for medications they needed as a family. But in addition to drug costs, each

month the Tuckers have a balance of $300 they must pay to the dialysis facility in order to get the treatment Ralph needs just to stay alive. Because they could not afford to continue to spend a total of $800 a month, or half their income, on both medication and the kidney dialysis, they have had to, again, cut their medication use and now they are spending $575 a month on just medicines alone, or fully 35 percent of their income.

Lennell delays going to her physician because of the cost of the visits and tries to manage her high blood pressure by monitoring it at home. She regularly asks her physician to send her medication samples because she cannot afford to properly fill the prescriptions she needs.

I say, Mr. President, the Tuckers and all Americans deserve the security of guaranteed, affordable health care coverage that will meet their basic health needs. Both Ralph and Lennell were hard workers and were forced to leave their jobs because of devastating, and now chronic, medical problems. They do not want these medical problems, but life brings these things our way and that has happened to them and countless other millions across the country.

Because our current health care system does not guarantee everyone health care coverage at a price they can afford, this family is suffering each day without the proper care and treatment that they need. It is not right in America today, not for the Tuckers or anybody else, to be in that situation.

We need health care reform to make sure no family has to forgo and be without the medical treatment they need because they are either too sick to be able to work in order to earn the income to pay the bill, or because they do not have any other means to get the insurance or the medicines they need to try to maintain their health as best they can.

So we very much need national health care reform. I am proud that the President has taken the lead on this issue, to take the issue to the country and to try to force change into place, change that is clearly needed for families like this. This story could be any family story depending upon the circumstances that might strike a given family.

I am confident that we can work this problem through if we decide it is important enough for the people of America. They want us to do it. They are asking us to do it. It is one of the reasons they elected a new President a year ago—to put us into a position to be able to have major health care reform to provide affordable health care coverage to our people, and with it, the medicines people need to maintain their health and well-being.

Mr. President, I yield the remainder of my time and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

COMMUNITY DEVELOPMENT BANKING AND FINANCIAL INSTITUTIONS ACT OF 1993

The Senate continued with the consideration of the bill.

Mr. RIEGLE. 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. RIEGLE. Mr. President, let me inquire of the Chair. Is the amendment earlier offered by Senator PACKWOOD at the desk?

The PRESIDING OFFICER. Senator PACKWOOD's amendment is the pending question.

Mr. RIEGLE. I am prepared to support that amendment, and we are prepared to move that amendment at this time. So I ask that we do so. I ask the Chair to put the question.

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

The amendment (No. 1529) was agreed to.

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

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. RIEGLE. 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. LIEBERMAN. Mr. President, I rise today in strong support of subtitle B of the Community Development, Credit Enhancement, and Regulatory Improvement Act of 1993. Subtitle B creates the Small Business Capital Enhancement Program which I had the privilege of coauthoring with the chairman of the Banking Committee, Senator RIEGLE, Senator STEVENS, and Senator DODD. Mr. President, this provision is designed to bridge the credit gap and make bank financing more readily available to the countless number of small businesses and entrepreneurs presently unable to secure financing with conventional lending institutions.

Mr. President, this program represents a new and innovative market-based approach to small business lending. It will enable banks to extend credit to firms which have previously been unable to obtain commercial financing. It will do so with a minimum of regulatory oversight and without sacrificing safety, soundness, or conventional credit analysis. It will focus on small loans from a diverse assortment of companies. And, the program will accomplish all this with a negligible amount of Government resources and with no hidden governmental liability.

Mr. President, smaller and newer businesses, by definition, provide a greater degree of risk for financial institutions than do large businesses. Banks routinely assess and cover against different degrees of risk in a variety of ways—by charging fees, increasing interest rates, or through portfolio diversification. This, in combination with recent concerns over safety and soundness stemming from bank and savings and loan failures, and the devaluation of collateral due to the economic recession has resulted in small businesses finding themselves either unable to secure financing at any cost, or priced out of the market by high interest rates, short terms, and excessive demands for collateral.

Alternative sources of funding such as public markets, venture capital firms, or institutional investors provide little relief to the small business. New securities or initial public offerings [IPO's], particularly for smaller and riskier issues, have had and will continue to have difficulty attracting investors. On the other hand, venture capital firms remain focused on high-tech companies that offer prospects of relatively higher and faster returns on investment. This is complicated by the fact that venture capital—whether equity or debt—has been falling off significantly in recent years. Finally, institutional investors such as insurance companies or pension funds can provide financing to smaller firms, but because of complex capital and fiduciary obligations have never focused on developing the systems for evaluating credit risks or growth potential of individual smaller enterprises. Thus, the relative unavailability of both long term debt and equity capital has left many small businesses in a so-called credit gap—the unavailability of financing at any cost, or at costs or terms beyond a small firm's ability to service.

Mr. President, small firms are realizing that previously bankable loans, or loans which were considered on the margin are less and less likely to be approved by commercial financial institutions. This is particularly alarming in light of recent surveys which show that commercial banks have been and remain the most important supplier of debt capital and financial services to the small business sector in the United States.

Since small firms remain the primary creator of new jobs and new inno-

vations in the United States, and since small firms remain the primary place for employee training, this credit gap has profound implications over time for the economy, productivity growth, employment, personal income, and eventually our standard of living.

The U.S. Small Business Administration addresses part of this problem through the 7(a) loan guarantee program by providing guarantees of up to 90 percent of loans made to qualified small businesses by private lenders. While the loan-by-loan guarantee approach is generally regarded as very successful, and has proven to be an invaluable tool for lenders and borrowers alike, it is also clear that it has not filled the credit gap created by events of the past decade. The Small Business Capital Access Program is intended to augment, not replace, the SBA 7(A) guarantee program or any other loan program administered by the Government.

The Small Business Capital Enhancement Program is based on a portfolio insurance concept rather than the traditional loan-by-loan guarantee process. In other words, as opposed to current programs where government provides a guarantee for each individual loan, this program provides a reserve or guarantee on a portfolio of loans. This will enable banks to evaluate risk on a pooled or shared basis and apply an actuarial approach to small business credit analysis. The result will be banks making far more small business loans with far fewer Federal dollars.

In 1986, the State of Michigan, under the leadership of former Governor Blanchard, implemented a similar program which has provided loans to over 2300 loans, for a total of more than $116 million in financing, and has resulted in a leverage ratio—that is total government obligation to total lending—of more than 23:1.

Here's how the program works:

For each bank participating in the program, a special reserve fund would be established to cover future losses from a portfolio of loans which the bank makes under the program. The reserve fund would be owned and controlled by State government, but earmarked in each participant bank's name. Thus each bank participating in the program would have its own separate earmarked loss reserve.

Payments would be made into a bank's earmarked reserve each time the bank makes a loan under the program. The borrower would make a premium payment of between 1½ to 3½ percent of the loan amount and the financial institution would match the payment. The State government would then match that payment. To make this program less onerous on the states, the Federal Government will reimburse the states for half of their contribution. So under this four part matching system, a bank could have anywhere from a 6 percent to a 14 percent loan loss reserve on the portfolio.

If a bank makes a portfolio of loans under the program, it might have a reserve equal to, for example, 10 percent of the total amount of that portfolio. In such a situation, the bank could sustain a loss rate of up to 10 percent on that portfolio and still be completely covered against loss. This gives the bank the ability to absorb a higher loss rate—perhaps 5, 6 or 7 percent—than it could tolerate on its conventional loans—usually 1 or 2 percent. Since this arrangement offers the bank a higher degree of coverage against loss than normally available, the institution may be able to offer more favorable interest rates and terms to small businesses.

The bank, however, must still be prudent in making loans under this program since it is completely at risk for any losses that exceed the coverage provided by the reserve. Because of this incentive for prudence, there will be little need for strict regulatory supervision. The bank would decide whether or not and under what terms and conditions to make a loan.

The limited need for regulatory oversight is a critical component in the implementation of this program. Unlike other Government loan programs which require strict oversight due to the Government's large hidden liability which is inherent in any guarantee program, the Capital Enhancement Program has a limited Government liability—at most, 3½ percent of a loan or a portfolio of loans. This compares to traditional guaranteed lending programs where the Government's exposure is as high as 85% of the loan amount.

Also worth noting is the program's built-in bias for small business loans. Because this concept is based on insuring a portfolio of loans as opposed to one loan, there is a structural incentive to build a large portfolio of diverse and smaller loans.

Thus, through this arrangement of shared risk, the Small Business Capital Enhancemenet Program would encourage banks that have been cutting back on commercial lending to extend credit to those small firms most affected by the credit crunch.

Mr. President, this program has strong state support. Small Business Capital Enhancement Programs have already been established in Arkansas, Indiana, Connecticut, Colorado, Delaware, Massachusetts, Minnesota, New Hampshire, Oklahoma, Oregon, Utah, Vermont, and West Virginia.

Mr. President, the continuing lack of credit for small businesses is strangling our economy and further impeding economic recovery. Credit is the fuel of economic growth. Without credit, businesses cannot grow; without business growth, jobs can not be created; and without job creation this economy will never fully recover. It's as simple as that. The Small Business Capital Enhancement Program will significantly expand lending to small businesses which will, in turn, create jobs and help put us on the road to economic growth.

AMENDMENT NO. 1531

Mr. RIEGLE. Mr. President, I rise to offer an amendment on behalf of Senator METZENBAUM and myself. The amendment will insure that negative information regarding checks in a consumer credit report includes the date, original payees, and amounts of those checks.

This amendment has been agreed to by Senator D'AMATO.

I send the amendment to the desk, and after it is read I will ask for its adoption.

The PRESIDING OFFICER. Without objection, the pending amendment will be set aside.

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Michigan [Mr. RIEGLE] for himself and Mr. METZENBAUM proposes an amendment numbered 1531.

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

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the appropriate place, insert:

SEC. . Section 609(a) of the Fair Credit Reporting Act (15 U.S.C. 1681g(a)) is amended by adding after paragraph (3) the following:

"(4) The dates, original payees, and amounts of any checks upon which is based any negative information about the consumer included in the file at the same time of the disclosure."

Mr. RIEGLE. Mr. President, I ask that the amendment be agreed to.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment

The amendment (No. 1531) was agreed to.

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

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1532

Mr. RIEGLE. Mr. President, I now send to the desk an amendment on behalf of Senators BAUCUS and WALLOP and ask it be incorporated into the bill.

This amendment changes the CDFI selection criteria to require the fund to

take into consideration communities that have experienced a sudden and significant loss of employment since the 1990 census or experienced a major dislocation in its primary employment base.

I ask unanimous consent that the amendment that is now pending be set aside so that we can take up consideration of the Baucus-Wallop amendment, which I now send to the desk.

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

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Michigan [Mr. RIEGLE], for Mr. BAUCUS, for himself and Mr. WALLOP, proposes an amendment numbered 1532.

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

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 56, line 24, strike "or";

On page 57, line 4, after ";" insert "or"; and

On page 57, between lines 4 and 5, insert:

"(c) in a community that has experienced a sudden and significant loss in total employment since the 1990 census or a major dislocation in its primary employment base.".

Mr. RIEGLE. Mr. President, I ask that the amendment be agreed to.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 1532) was agreed to.

Mr. D'AMATO. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. RIEGLE. 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. RIEGLE. Mr. President, let me say for the benefit of colleagues, we have made great progress on this bill today. We have resolved almost every outstanding issue. There are a few issues we anticipate dealing with and resolving tomorrow, and then I believe we shall be able to finish the bill.

MORNING BUSINESS

Mr. RIEGLE. Mr. President, I now ask unanimous consent 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.

A TRIBUTE TO JUDGE MYRON WAHLS

Mr. LEVIN. Mr. President, on Sunday, March 20, 1994, Orchestra Hall in Detroit, MI will resonate with the sounds of three jazz greats, Lionel Hampton, Dorothy Donegan, and Joe Williams. This special concert was organized as a tribute to Michigan Court of Appeals Judge Myron "Mike" Wahls, a truly fine jazz pianist in his own right.

Mike Wahls is special, admired for his hard work on the bench and in the community. He is being honored for that devotion to the law and his community, and for his courage, determination, and good humor in the face of adversity. Mike is waging a battle against a serious illness, but he is not spending a lot of time feeling sorry for himself. He goes about his business and lives his life with grace and dignity, and is a true role model and inspiration for others in how to live with strength, and dignity, and fulfillment.

Mike Wahls has a wonderful family, a multitude of admiring friends and supportive peers. I am proud to join them all in paying tribute to him. And on Sunday, when he goes on stage at the end of the concert to jam with Hampton, Donegan, and Williams, Orchestra Hall will reverberate with the sounds of joyous music, and the audience will be smiling and laughing with Mike Wahls.

TRIBUTE TO EDDIE McGLOIN

Mr. LEVIN. Mr. President, on March 18, 1994, five of Hamtramck, MI's finest athletes from past years will be inducted into the Hamtramck Sports Hall of Fame. At the same time, one of them, Eddie McGloin, will be awarded the E.M. Conklin Humanitarian Award. This award is given to a Hamtramck High School alumnus who has demonstrated excellence in leadership, guidance, and administrative skills.

Eddie McGloin is winning this award because of a long involvement in athletics and a broad career in education, government work, and political activism.

Eddie earned varsity letters in track, cross country, and boxing at Hamtramck High and was also a Golden Gloves boxer and a college boxing champion. He boxed when he was in the Air Force and even enjoyed a brief professional career.

He was a counselor in the Detroit Public School System and worked in employee relations with the U.S. Post Office in Michigan and Illinois. He also worked for the Housing and Urban Development department in Detroit and Buffalo. He received a Superior Accomplishment Award from the Postmaster-General and a Citizen Achievement Award from WWJ.

Eddie worked for two of Michigan's finest public figures, G. Mennen Williams and Phil Hart, and I am proud to say he also worked in my campaigns as a most valuable volunteer.

Mr. President, I am happy to see such a fine person, and I must add, a good friend, honored in such a special way by his alma mater and his community.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt stood at $4,549,059,128,033.88 as of the close of business on Tuesday, March 15. Averaged out, every man, woman, and child in America owes a part of this massive debt, and that per capita share is $17,448.67.

By the way, Mr. President, I began these daily reports on the Federal debt about 25 months ago, on February 21, 1992. Every day since, the CONGRESSIONAL RECORD has carried what we call the "boxscore" identifying the Federal debt down to the penny.

On February 21, 1992, the exact Federal debt stood at $3,982,449,525,016.30. As I mentioned a few moments ago, the exact Federal debt, down to the penny, as of yesterday, March 15, stood at $4,549,059,128,033.88.

If there is anyone who wants to figure out how much the Federal debt has increased during the past 25 months, I will save you the time: It has increased by $566,609,603,071.58.

And the Senate has just rejected a proposed constitutional amendment that would have required a balanced Federal budget.

COMMENDING MARTIN BUSER, BIG LAKE, AK

Mr. MURKOWSKI. Mr. President. I rise today to commend Martin Buser of Big Lake, AK for winning the Iditarod Trail Sled Dog Race for the second time in 3 years.

In winning the gold of the Iditarod in record time, Martin Buser takes his place with other historic Alaskan athletes, including Tommy Moe, the recent gold-medal winner for America in the Olympic men's downhill.

The Iditarod Trail Sled Dog Race is without any doubt the most difficult challenge any athlete could undertake. The trail, winding for more than 1,000 miles through North America's most rugged wilderness from Anchorage to Nome, crosses mountains, forests, muskegs, and open savannahs. Hazards to both humans and dogs include not only the physical challenge of the race, but more exotic experiences, such as avoiding charging moose and angry grizzlies.

Buser crossed the finish line in Nome, on the shores of the ice-covered Bering Sea, at 10:02 p.m. yesterday. His win sets a new record for the race of 10 days, 13 hours, and 2 minutes, more than 2½ hours faster than the old record set last year by another Alaskan, Jeff King of Denali Park.

79-059 O—97 Vol. 140 (Pt. 4) 21

The Iditarod is an annual testimony to the strength and stamina possible to both humans and dogs, and to the peerless spirit of competition and good sportsmanship. It celebrates a unique partnership of determination, cooperation and conditioning between each racer and his or her dogs.

The Iditarod Trail was first marked as a dog team postal carrier route in 1910. The race was started as an annual event in 1967, to commemorate a life-saving relay race with time in 1925, when mushers along the trail cooperated to deliver critically needed diptheria serum in time to save the residents of Nome from an epidemic. I am proud to have played a hand in helping the founders of the race, Joe Redington and Dorothy Page, obtain financing for that first race.

THE HOWARD STERN CASE

Mr. D'AMATO. Mr. President, I rise to call attention to one of the most outrageous examples of bureaucratic abuses I have seen during my time in the Senate. The Big Brother in this instance is the Federal Communications Commission [FCC]. The manner in which this agency has dealt with one of my constituents, Infinity Broadcasting Corp., is simply unacceptable. It is a situation that everyone who respects our first amendment freedoms and due process in administrative proceedings must be concerned about.

Infinity Broadcasting Corp., is a publicly traded New York company that is the country's largest company whose business is owning and operating radio stations. They have been in business for 20 years. Upon completion of pending acquisitions, they will own 25 radio stations in 13 major markets, including stations in every one of the top 10 markets. There are many diverse formats on their stations, including rock, country, oldies, all-talk, and all-sports.

This sorry situation that I bring to the Senate's attention involves a recent attempt by Infinity to purchase a Los Angeles radio station. According to news reports, the Commission held up that sale because it did not like the content—the content—of one of Infinity's programs. It apparently did not matter to the FCC that the program in question would not even air on the station Infinity wanted to purchase.

Now, the FCC clearly does not like this program—"The Howard Stern Show." The program is not everyone's cup of tea. I have been on it. I like Howard. But I know some people get offended by some of the things he says on it. That is OK. This is the United States of America. If they do not like it, they can turn it off or turn the dial.

I am not here to debate the merits of Howard Stern. If you like him, you like him. If you do not, you do not. What I do know is that if the Federal Communications Commission, or any citizen in America, thinks that what Stern or anyone else says on the air is indecent, they can file a complaint. There are procedures for adjudicating those complaints. That is the way it should be. If Howard Stern, or Infinity, or anyone else, breaks the law, they should be punished.

That is not what happened here though. And that is what bothers me greatly. What happened here was that because the Federal Communications Commission did not like this particular show, the Commission took revenge on Infinity, a publicly traded company with thousands of shareholders, by holding up the sale of the Los Angeles station to Infinity. A sale like this usually requires 60 days' turn-around at the Commission. This one has taken 271 days so far, and still has not been resolved.

In fact, one Commissioner this past New Year's Eve day, Commissioner James H. Quello, told the New York Times that Infinity's KRTH acquisition would be "delayed indefinitely" because, he claimed, the Commission disapproved of Mr. Stern. As it turned out, the New York Times never checked with the other two Commissioners, who the following week repudiated the story and said that Commissioner Quello did not speak for them. But the harm had already been done—as this one Commissioner must have known. Infinity's stock price had dropped $200 million—about 1 percent of its value over 3 trading days—and Infinity was forced to pay millions more in penalties for the delay to complete the purchase of the Los Angeles radio station.

Now if a member of the Federal Communications Commission feels the content of a show is indecent there are steps that can be taken. That is OK. Those ways protect basic first amendment principles and the due process rights contained in the Communications Act and the FCC's own internal proceedings. Maybe this case got a lot of publicity because it involved a controversial entertainer. But precisely because it did involve controversy, the constitutional concerns become even more real. After all, often the law is not made in cases involving the most perfect of parties. The constitution was written to protect all the different voices in the "marketplace of ideas". The way I read the first amendment, dislike or disagreement with content is clearly not sufficient to punish Infinity in its other, unrelated business dealings.

But here the Commission did just that. The Infinity case highlights an impermissible joining of two FCC proceedings that, as I understand it, are supposed to be kept separate—the sale of a broadcast license and the issuance of notices of apparent liability [NAL's], which is the Commission process for adjudicating indecency complaints. That this improper joining occurred over the enforcement of the indecency standard is particularly troubling. The FCC needs to be particularly careful in this area in light of the due process principles and first amendment concerns articulated by two unanimous D.C. Court of Appeals decisions. In both decisions, the court struck down the foundations of the FCC's enforcement schemes, which should tell it something.

While four notices have been issued against Infinity, it is my understanding that Commission issuance of such a notice of apparent liability along with a proposed fine to a broadcaster does not constitute any determination that there has been a violation of the indecency standard. The Commission has found Infinity violated the indecency standard only once, and it issued a $6,000 fine for that one broadcast 4 years ago. The other cases are still pending at the FCC. Infinity has not yet been able to challenge the $6,000 fine in court, which it has told the FCC it intends to do. In each case, Infinity has denied any violation.

It is these nonfinal notices of apparent liability that the FCC is using for proposing unprecedented fines now totaling over $1 million. And according to news reports—and this gets to the heart of what is wrong—the Commission has also used these same nonfinal notices as its basis for delaying Infinity's purchase of new radio stations. This appears to be in direct contravention of section 504(c) of the Communications Act, which provides basic due process guarantees to each licensee.

Section 504(c) states:

> In any case where the Commission issues a notice of apparent liability looking toward the imposition of a forfeiture under this chapter, that shall not be used, in any other proceeding before the Commission, to the prejudice of the person to whom such notice was issued, unless (i) the forfeiture has been paid, or (ii) a court of competent jurisdiction has ordered payment of such forfeiture, and such order has become final.

Here there is no final court order on the indecency cases, yet the FCC is using these cases as a basis for delaying the acquisition of another station. This is one of the most blatant examples of abuse of regulatory power, arrogance and—yes—regulatory lawlessness that I can remember. Deliberately delaying a decision on an acquisition because of nonfinal notices of apparent liability is in direct violation of section 504(c) of the Federal Communications Act, which was passed by Congress specifically to ensure that due process rights of licenses are protected. Should an FCC Commissioner be above the law? How can we demand licensees follow the law if the FCC does not?

The Federal Communications Commission has an obligation to comply with the direction of a Federal court

and abide by the requirements of the Communications Act and the first amendment. It's that simple. If one or more Commissioners believe an indecency standard has been violated, there are administrative procedures for adjudicating such complaints. But they may not use their personal reactions—or incomplete enforcement proceedings—to penalize program content, or impede or delay a company from doing business and acquiring new broadcast property. Yet that appears to be precisely what happened here.

This is a particularly worrisome form of administrative browbeating. If it can be done to Infinity because of one show, it can be done to any company tomorrow based on the content of a different program with which the Commission does not agree. Maybe tomorrow it is Rush Limbaugh or G. Gordon Liddy. Or maybe Jerry Brown or Lynn Samuels or even some of my colleagues who offer commentaries. Who knows whom it will be? I do not like some of the things I hear on the radio. But that does not matter, because this is the United States.

So where do these guys at the Federal Communications Commission get off doing this? I find myself agreeing with a newspaper I do not often agree with. As the Washington Post stated in a recent editorial:

[The Infinity] case points up a dangerous aspect of government using its licensing and regulatory powers on a part of the press to try to force changes in editorial content. . . . Censorship is arbitrary, and Congress should start thinking hard about getting government out of it.

I ask unanimous consent that this editorial be placed in the RECORD at the conclusion of my remarks.

That is exactly right. It would be a sad thing if the Congress of the United States has to get involved in setting straight something that should be so basic.

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

[From the Washington Post, Jan. 15, 1994]

THE HOWARD STERN CASE

Federal Communications commissioner Andrew Barrett and a source close to Commissioner Ervin Duggan have told Post staff writer Paul Farhi that no, there has never been any agreement to delay or block the purchase of three radio stations by Howard Stern's employer, Infinity Broadcasting Corp. That's good—because there has never been any justification for doing so. In fact there is no justification for what the FCC has done to Infinity already—which has been to hit the company with more than $1.2 million in fines for alleged violations by Mr. Stern of FCC strictures on "language that describes in terms patently offensive as measured by community standards . . . sexual or excretory activities or organs." As Nicholas Lemann wrote on the opposite page Thursday, the whole Infinity-Stern case points up a dangerous aspect of government using its licensing and regulatory powers on a part of the press to try to force changes in editorial content.

What the commission has been doing—and the possibility that it could still move to wreck a $170 million purchase because of what Howard Stern says on the air—is censorship. Though access to the broadcast airwaves is limited and therefore has been treated as a matter for close government regulation, the enormous growth in available television channels for programming, as well the proliferation of radio stations, makes an even stronger case against the old programming requirements that the FCC made up in the name of "fairness" and "diversity" in program content.

Mr. Stern's program can hardly be described as everyone's idea of acceptable entertainment—to put it mildly—but the same could be said about many other talk shows that are readily available on the air at any time of day. Censorship is arbitrary, and Congress should start thinking hard about getting government out of it.

Commissioner Duggan has said that "the idea that we are just sitting on" Infinity's applications to buy stations "is just not accurate. It's premature to say we are blocking the purchases." It shouldn't even be premature. The FCC should make it dead wrong.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 3:59 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1933. An act to authorize appropriations for the Martin Luther King, Jr. Federal Holiday Commission, to extend such Commission, and to support the planning and performance of national service opportunities in conjunction with the Federal legal holiday honoring the birthday of Martin Luther King, Jr.

H.R. 2815. An act to designate a portion of the Farmington River in Connecticut as a component of the National Wild and Scenic Rivers System.

The message also announced that the House has passed the following bill and joint resolution, each with amendment, in which it requests the concurrence of the Senate:

S. 375. An act to amend the Wild and Scenic Rivers Act by designating a segment of the Rio Grande in New Mexico as a component of the National Wild and Scenic Rivers System, and for other purposes.

S.J. Res. 56. Joint Resolution to designate the week beginning April 12, 1993, as "National Public Safety Telecommunicators Week."

The message further announced that the House disagrees to the amendment of the Senate to the bill (H.R. 2884) to establish a national framework for the development of school-to-work opportunities systems in all States, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. FORD of Michigan, Mr. KILDEE, Mr. WILLIAMS, Mr. GOODLING, and Mr. GUNDERSON as the managers of the conference on the part of the House.

The message also announced that the House insists upon its amendments to the bill (S. 1284) to amend the Development Disabilities Assistance and Bill of Rights Act to expand or modify certain provisions relating to programs for individuals with developmental disabilities, Federal assistance for priority areas activities for individuals with developmental disabilities, protection and advocacy of individual rights, university affiliated programs, and projects of national significance, and for other purposes, disagree to by the Senate, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. DINGELL, Mr. WAXMAN, Mr. BROWN of Ohio, Mr. MOORHEAD, and Mr. BLILEY as the managers of the conference on the part of the House.

MEASURES REFERRED

The following measures were read the first and second times by unanimous consent, and referred as indicated:

H.R. 1933. An act to authorize appropriations for the Martin Luther King, Jr. Federal Holiday Commission, to extend such Commission, and to support the planning and performance of national service opportunities in conjunction with the Federal legal holiday honoring the birthday of Martin Luther King, Jr.; to the Committee on the Judiciary.

H.R. 2815. An act to designate a portion of the Farmington River in Connecticut as a component of the National Wild and Scenic Rivers System; to the Committee on Energy and Natural Resources.

MEASURES PLACED ON THE CALENDAR

The following measure was ordered placed on the calendar:

H. Con. Res. 218. Concurrent Resolution setting forth the congressional budget for the U.S. Government for the fiscal years 1995, 1996, 1997, 1998, and 1999.

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–2336. A communication from the Transition Manager of the U.S. Enrichment Corporation, transmitting, pursuant to law, the report for the period July 1, 1993 to September 30, 1993; to the Committee on Energy and Natural Resources.

EC–2337. A communication from the Deputy Associate Director for Compliance of the Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of offshore lease revenues; to the Committee on Energy and Natural Resources.

EC–2338. A communication from the Deputy Associate Director for Compliance of the Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of offshore lease revenues; to the Committee on Energy and Natural Resources.

EC–2339. A communication from the Secretary of Energy, transmitting, pursuant to law, the report of the viability assessment of the domestic uranium mining and milling industry for calendar year 1992; to the Committee on Energy and Natural Resources.

EC–2340. A communication from the Secretary of Energy, transmitting, a draft of proposed legislation entitled "Nuclear Waste Disposal Funding Act"; to the Committee on Energy and Natural Resources.

EC–2341. A communication from the Secretary of the Interior, transmitting, pursuant to law, the report on compensatory royalty agreements for oil and gas involving unleased Government lands during fiscal year 1993; to the Committee on Energy and Natural Resources.

EC–2342. A communication from the Chairperson of the Northeast Interstate Low-Level Radioactive Waste Commission, transmitting, pursuant to law, the report for the period July 1, 1992 through June 30, 1993; to the Committee on Energy and Natural Resources.

EC–2343. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, the report on progress on Superfund implementation in fiscal year 1993; to the Committee on Environment and Public Works.

EC–2344. A communication from the Chairman of the Advisory Committee on Reactor Safeguards, Nuclear Regulatory Commission, transmitting, pursuant to law, the report on the Safety Research Program; to the Committee on Environment and Public Works.

EC–2345. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, the report on the NRC fee policy review; to the Committee on Environment and Public Works.

EC–2346. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report on the prospective drug utilization review demonstration projects; to the Committee on Finance.

EC–2347. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report on the evaluation of the Municipal Health Services Program demonstration; to the Committee on Finance.

EC–2348. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report on a study of payments for ambulance services under Medicare; to the Committee on Finance.

EC–2349. A communication from the Manager of Operations of the Czech and Slovak American Enterprise Fund, transmitting, pursuant to law, the annual report for fiscal year 1993; to the Committee on Foreign Relations.

EC–2350. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report of a Presidential determination relative to the Government of Eritrea; to the Committee on Foreign Relations.

EC–2351. A communication from the Assistant Legal Adviser (Treaty Affairs), Department of State, transmitting, pursuant to law, a report of the texts of international agreements and background statements, other than treaties; to the Committee on Foreign Relations.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM—403. A resolution adopted by the House of Legislature of the Commonwealth of Puerto Rico relative to the U.S. Navy in Vieques; to the Committee on Energy and Natural Resources.

POM—404. A resolution adopted by the Legislature of the Virgin Islands relative to Pollyberg Gardens; to the Committee on Energy and Natural Resources.

POM—405. A resolution adopted by the Legislature of the Virgin Islands relative to George Simmonds Terrace; to the Committee on Energy and Natural Resources.

POM—406. A resolution adopted by the Legislature of the State of Louisiana; to the Committee on Environment and Public Works.

"A CONCURRENT RESOLUTION

"Whereas, Congress enacted the Oil Pollution Act of 1990 in order to prevent shipping accidents and to ensure that there would be adequate money immediately available to respond to oil pollution discharges, especially those discharges occurring in the ocean; and

"Whereas, the Act increased from $36,000,000 to $150,000,000 the amount of financial responsibility that must be demonstrated by offshore exploration and production facilities; and

"Whereas, the definition of "offshore" in the Act covers facilities in, on, or under the navigable waters of the United States; and

"Whereas, the Louisiana Legislature is concerned that this definition may be interpreted to apply to all marinas, port authorities, utility companies, gas stations, trucking companies, railroads, pipelines, farms, and airports in almost every area of Louisiana; and

"Whereas, the potential effect on the Louisiana economy could be severe because it is unlikely that any but the largest companies will be able to demonstrate the $150,000,000 of financial responsibility required under the Act; and

"Whereas, the broad coverage of the Act is well beyond the historical purview of the Minerals Management Service, United States Department of the Interior, which enforces the Act; and

"Whereas, the Louisiana Legislature agrees with the requirements of the Act to the extent that they relate to large companies conducting offshore activities on the outer continental shelf, but does not agree that the same financial responsibility requirements should apply to small companies that are only indirectly related to offshore activities: Therefore be it

"*Resolved*, That the Legislature of Louisiana urges the United States Congress to amend the Oil Pollution Act of 1990 to the extent that the financial responsibility requirements of persons involved in oil operations more closely reflect the relative risks of those operations: Be it further

"*Resolved*, That in particular, facilities on the outer continental shelf should be the only facilities subject to the kind of high financial responsibility requirements now contained in the Act: Be it further

"*Resolved*, That a copy of this Resolution be transmitted to the honorable Al Gore, Vice President of the United States and President of the United States Senate; the Honorable Thomas S. Foley, Speaker of the United States House of Representatives; and the Louisiana Congressional Delegation."

POM–407. A concurrent resolution adopted by the Legislature of the State of Arizona; to the Committee on Finance.

"A CONCURRENT MEMORIAL

"Whereas, small businesses are extremely vulnerable in times of economic difficulty; and

"Whereas, self-employed individuals may be willing to forgo medical insurance coverage for themselves and their dependents as a cost-saving measure; and

"Whereas, medical insurance for individuals is typically extremely expensive, further reducing its availability; and

"Whereas, the current twenty-five per cent federal income tax deduction for medical insurance costs of self-employed individuals (section 162(1) of the Internal Revenue Code) will terminate December 31, 1991.

"Wherefore your memorialist, the House of Representatives of the State of Arizona, the Senate concurring, prays:

"1. That the Congress of the United States enact legislation extending a full deduction of medical insurance costs of self-employed individuals in computing federal income tax.

"2. That the Secretary of State of the State of Arizona transmit copies of this Memorial to the President of the United States Senate, the Speaker of the United States House of Representatives and each Member of the Arizona Congressional Delegation."

POM–408. A resolution adopted by the Council of the City of St. Marys, Ohio relative to unfunded Federal mandates; to the Committee on Governmental Affairs.

POM–409. A resolution adopted by the Legislature of the State of Nebraska; to the Committee on the Judiciary.

"LEGISLATIVE RESOLUTION 319

"Whereas, the United States remains the destination for millions of immigrants attracted by the freedoms of liberty, equality, and expression; and

"Whereas, while the right of expression is a principal freedom protected by the United States Constitution, very narrowly drawn limitations on expression in specific instances have long been recognized as legitimate means of maintaining public safety and decency; and

"Whereas, certain actions, while relating to an individual's right to freedom of expression, nevertheless raise issues concerning public order; and

"Whereas, the flag of the United States is a recognized national symbol: Now, therefore, be it

"*Resolved by the Members of the Ninety-Third Legislature of Nebraska, second session:*

"1. That the Legislature encourages the Congress of the United States to consider an

amendment to the United States Constitution, to be ratified by the states, specifying that Congress and the states shall have the power to prohibit the physical desecration of the flag of the United States.

"2. That the Clerk of the Legislature transmit a copy of this resolution to the Speaker of the House of Representatives and the President pro tempore of the Senate of the United States, to all members of the Nebraska delegation to the Congress of the United States, and to the President of the United States."

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. ROTH:

S. 1934. A bill to amend the Immigration and Nationality Act to facilitate the apprehension, detention, and deportation of criminal aliens, and for other purposes; to the Committee on the Judiciary.

By Mr. LAUTENBERG (for himself, Mr. WELLSTONE, and Mr. FEINGOLD):

S. 1935. A bill to prohibit lobbyists and their clients from providing to legislative branch officials certain gifts, meals, entertainment, reimbursements, or loans and to place limits on and require disclosure by lobbyists of certain expenditures; to the Committee on Governmental Affairs.

By Mr. McCAIN (for himself and Mr. INOUYE):

S. 1936. A bill to provide for the integrated management of Indian resources, and for other purposes; to the Committee on Indian Affairs.

By Mr. DODD:

S. 1937. A bill to amend the Community Services Block Grant Act to establish a new Community Initiative Program to carry out economic development activities in economically distressed communities, to make other amendments to the Act, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

S. 1938. A bill to amend the Low-Income Home Energy Assistance Act of 1981 to authorize appropriations for fiscal years 1996 through 1999, remove impediments to the exercise of States discretion to shape their programs and to concentrate their resources on those with the greatest home energy needs, and for other purposes; to the Committee on Labor and Human Resources.

S. 1939. A bill to authorize the establishment of a free-trade area in the Western Hemisphere; to the Committee on Finance.

By Mr. BRADLEY:

S. 1940. A bill to amend the Congressional Budget Act of 1974 to require that the allocations of budget authority and budget outlays made by the Committee on Appropriations of each House be agreed to by joint resolution and to permit amendments that reduce appropriations to also reduce the relevant allocation and the discretionary spending limits; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have 30 days to report or be discharged.

By Mr. BUMPERS (for himself, Mr. SIMON, Mr. CONRAD, Mr. LAUTENBERG, Mr. FEINGOLD, and Mr. LEAHY):

S. 1941. A bill to terminate the Milstar II Communications Satellite Program; to the Committee on Armed Services.

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. Con. Res. 62. A concurrent resolution expressing the sense of the Congress that the President should not have granted diplomatic recognition to the former Yugoslav Republic of Macedonia; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ROTH:

S. 1934. A bill to amend the Immigration and Nationality Act to facilitate the apprehension, detention, and deportation of criminal aliens, and for other purposes; to the Committee on the Judiciary.

CRIMINAL ALIEN CONTROL ACT OF 1994

Mr. ROTH. Mr. President, I rise today to introduce the Criminal Alien Control Act of 1994. This comprehensive legislation addresses the staggering problem of criminal aliens in this country.

There is no doubt that our immigration system has many problems. I hope that this year we will consider comprehensive reforms of the entire immigration system including reforming our abused and overrun asylum process. But, we cannot reform our immigration system without addressing the problem of criminal aliens.

Criminal aliens encompass two areas of great concern to the American people: crime and the control of our borders. Criminal aliens occupy the dangerous intersection of those two problems. I hope that we can all agree that those who came to this country and commit serious crimes have no place here. We do not need to import criminals.

As ranking minority member of the Permanent Subcommittee on Investigations, I recently conducted an investigation and held 2 days of hearings regarding the problem of criminal aliens and the governmental response to that problem. I am grateful to Senator NUNN, our chairman, for his support and assistance in the investigation.

Our investigation found that criminal aliens are a serious threat to our public safety that is costing our criminal justice system hundreds of millions of dollars.

Criminal aliens now account for an all time high of 25 percent of the Federal prison population. The subcommittee staff estimates that there are a total of 450,000 criminal aliens in all parts of our criminal justice system.

Not only is the problem enormous but it is growing rapidly.

As this chart here shows, it represents the fastest growing segment of the Federal prison population. I will just point out that in 1988, we had a little less than 11,000; by 1993, 5 years later, we have 22,626, a tremendous growth rate; unbelievable.

As I said, aliens are the fastest growing segment of the Federal population. It is this growth, on top of the already staggering numbers, that arouses our great concern.

Although our investigation found that the Immigration and Naturalization Service is not adequately responding to the criminal alien problem, the INS does not deserve all the blame. Congress deserves blame for our criminal alien deportation laws, created piecemeal, that set out an irrational, lengthy, and complex process. This next chart shows just how confusing and complicated the current process is.

I will remind you that the proposed health reform structure is just as complicated. It is no wonder that we are not deporting criminals as rapidly as we should be.

Problems with the INS, however, are many. For example, the INS is unable to even identify most of the criminal aliens who clog our State and local jails before these criminals are released back onto our streets.

Many criminal aliens that are identified are released on bond while the lengthy deportation process is pending. It should be a surprise to no one that many skip bond and never show up for their hearings. According to INS figures, in 1992, there were nearly 11,000 aliens convicted of aggravated felonies, the most serious crimes, who failed to show up for their deportation hearings.

Ironically, the INS does routinely provide criminal aliens with work permits legally allowing them to get jobs while their appeals are pending. One INS deportation officer told my staff that he spends only about 5 percent of his time looking for criminal aliens, because he must spend most of his time processing work permits for criminal aliens.

As for actual deportation, the final step in the process, even when final deportation orders are issued for criminal aliens they are often not actually deported. The INS has reported that there are over 27,000 aliens, including many criminal aliens, who have been ordered deported yet remain at large.

One frustrated INS official told us that only the stupid and honest actually get deported.

Finally, even when the system works and a criminal alien is deported, reentry into the United States is so easy that it makes the whole process appear to be a giant exercise in futility. PSI obtained long lists of criminal aliens who have repeatedly been deported and reentered this country.

As many of us know, certain State and local governments have been highly critical of what they see as the Federal Government's inability to effectively police our Nation's borders. Yet,

some of these same jurisdictions have passed laws and adopted official policies prohibiting their local police departments from cooperating with Federal immigration officials. I think that is hypocritical. I offered an amendment to the crime bill that was adopted 93–6 that would cut crime bill funding to entities that adopt such policies of noncooperation. A similar provision is included in this legislation.

My legislation addresses the serious problem of criminal aliens by simplifying, streamlining, and strengthening the deportation process for criminal aliens.

My legislation simplifies existing law by eliminating the confusing array of crimes for which criminal aliens are deportable. Under my legislation, any alien who commits any felony is deportable—period. My legislation streamlines the deportation process for criminal aliens by, among other things, requiring aliens who are not permanent residents and who wish to appeal deportation orders, to do so from their home countries, after they have been deported. My legislation further streamlines the process by allowing, for the first time, State and Federal judges to order the deportation of criminal aliens. Once an alien has been convicted beyond a reasonable doubt of having committed a felony, having had the benefit of all due process that is required in our criminal justice system, there is no reason why the sentencing judge should not also be permitted to enter an order of deportation at the time of sentencing. My legislation also restricts the defenses currently used by criminal aliens to delay or avoid deportation and strengthens the existing law by enhancing penalties for reentry after deportation and failure to depart after being ordered deported.

Through this comprehensive legislative package, I believe we can make inroads against the growing and serious problem of criminal aliens in this country.

Mr. President, I ask unanimous consent that the bill and a section-by-section analysis be printed in the RECORD.

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

S. 1934

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 "Criminal Alien Control Act of 1994".

SEC. 2. TABLE OF CONTENTS.

The following is the table of contents for this Act:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—DEPORTATION OF CRIMINAL ALIENS

Sec. 101. Equal immigration treatment to all alien felons.
Sec. 102. Deportation procedures for certain criminal aliens who are not permanent residents.
Sec. 103. Judicial deportation.
Sec. 104. Uncontested deportations.
Sec. 105. Restricting defenses to deportation for certain criminal aliens.
Sec. 106. Extraterritorial appeals by criminal aliens.
Sec. 107. Enhanced penalties for failure to depart, or reentry, after final order of deportation.
Sec. 108. Restriction on asylum for criminal aliens.
Sec. 109. Federal incarceration.
Sec. 110. Miscellaneous and technical changes.

TITLE II—LOCAL COOPERATION WITH FEDERAL OFFICIALS AND PROCEDURES

Sec. 201. Funding based on cooperation.
Sec. 202. Production of criminal records.

TITLE III—MISCELLANEOUS

Sec. 301. Detention of undocumented criminal aliens at military installations to be closed.
Sec. 302. Authorizing registration of aliens on criminal probation or criminal parole.
Sec. 303. Admissible evidence before a special inquiry officer.

TITLE I—DEPORTATION OF CRIMINAL ALIENS

SEC. 101. EQUAL IMMIGRATION TREATMENT TO ALL ALIEN FELONS.

(a) FELONIES.—(1) Sections 101(f) (8 U.S.C. 1101(f)); 106(a) (8 U.S.C. 1105a(a)); 208(d) (8 U.S.C. 1158(d)); 212(a)(6)(B) (8 U.S.C. 1182(a)(6)(B)); 236(e)(i) (8 U.S.C. 1226(e)(i)); 241(a)(2)(A) (8 U.S.C. 1251(a)(2)(A)); 242(a) (8 U.S.C. 1252(a)); 252A(d) (8 U.S.C. 1252A(d)); 242B(c) (8 U.S.C. 1252B(c)); 243(h) (8 U.S.C. 1253(h)); 244(e) (8 U.S.C. 1254(e)); and 277 (8 U.S.C. 1327) are amended by striking "aggravated felony" and "an aggravated felony" each time they appear and inserting in lieu thereof "felony" or "a felony", respectively.

(2) Section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)) is amended by adding at the end the following new paragraph:

"(47) The term 'felony' means any offense under Federal or State law that is punishable by death or imprisonment for more than 1 year.".

(b) PRECLUSION OF JUDICIAL REVIEW.—Section 106(c) of the Immigration and Nationality Act (8 U.S.C. 1105a(c)) is amended—

(1) by inserting "(1)" immediately after "(c)"; and

(2) by adding at the end the following:

"(2) An order of deportation or of exclusion shall not be reviewed by any court of the United States if the grounds for such order is the commission of a felony by the alien, except that the Attorney General may defer deportation or exclusion of the alien pending judicial review if the Attorney General determines that to do otherwise would cause hardship to the alien.".

SEC. 102. DEPORTATION PROCEDURES FOR CERTAIN CRIMINAL ALIENS WHO ARE NOT PERMANENT RESIDENTS.

(a) TECHNICAL AMENDMENTS.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended—

(1) in subsection (a)—

(A) by striking "(a) IN GENERAL.—" and inserting the following:

"(b) DEPORTATION OF PERMANENT RESIDENT ALIENS.—

"(1) IN GENERAL.—"; and

(B) by inserting in the first sentence "permanent resident" after "correctional facilities for";

(2) in subsection (b)—

(A) by striking "(b) IMPLEMENTATION.—" and inserting "(2) IMPLEMENTATION.—"; and

(B) by striking "respect to an" and inserting "respect to a permanent resident";

(3) by striking subsection (c);

(4) in subsection (d)—

(A) by striking "(d) EXPEDITED PROCEEDINGS.—(1)" and inserting "(3) EXPEDITED PROCEEDINGS.—(A)";

(B) by inserting "permanent resident" after "in the case of any"; and

(C) by striking "(2)" and inserting "(B)";

(5) in subsection (e)—

(A) by striking "(e) REVIEW.—(1)" and inserting "(4) REVIEW.—(A)";

(B) by striking the second sentence; and

(C) by striking "(2)" and inserting "(B)";

(6) by inserting after the section heading the following new subsection:

"(a) PRESUMPTION OF DEPORTABILITY.—An alien convicted of a felony shall be conclusively presumed to be deportable from the United States."; and

(7) by amending the heading to read as follows:

"EXPEDITED DEPORTATION OF ALIENS CONVICTED OF COMMITTING FELONIES".

(b) ELIMINATION OF ADMINISTRATIVE HEARING FOR CERTAIN CRIMINAL ALIENS.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended by adding at the end the following new subsection:

"(c) DEPORTATION OF ALIENS WHO ARE NOT PERMANENT RESIDENTS.—

"(1) Notwithstanding section 242, and subject to paragraph (5), the Attorney General may issue a final order of deportation against any alien described in paragraph (2) whom the Attorney General determines to be deportable under section 241(a)(2)(A)(iii) (relating to conviction of a felony).

"(2) An alien is described in this paragraph if the alien—

"(A) was not lawfully admitted for permanent residence at the time that proceedings under this section commenced, or

"(B) had permanent resident status on a conditional basis (as described in section 216) at the time that proceedings under this section commenced.

"(3) The Attorney General may delegate the authority in this section to the Commissioner or to any District Director of the Service.

"(4) No alien described in this section shall be eligible for—

"(A) any relief from deportation that the Attorney General may grant in his discretion, or

"(B) relief under section 243(h).

"(5) The Attorney General may not execute any order described in paragraph (1) until 14 calendar days have passed from the date that such order was issued, in order that the alien has an opportunity to apply for judicial review under section 106.".

(c) LIMITED JUDICIAL REVIEW.—Section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a) is amended—

(1) in the first sentence of subsection (a), by inserting "or pursuant to section 242A" after "under section 242(b)";

(2) in subsection (a)(1) and subsection (a)(3), by inserting "(including an alien described in section 242A)" after "felony"; and

(3) by adding at the end the following new subsection:

"(d) Notwithstanding subsection (c), a petition for review or for habeas corpus on behalf of an alien described in section 242A(c) may only challenge whether the alien is in fact an alien described in such section, and no court shall have jurisdiction to review any other issue.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to all aliens

against whom deportation proceedings are initiated after the date of enactment of this Act.

SEC. 103. JUDICIAL DEPORTATION.

(a) JUDICIAL DEPORTATION.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a), as amended by section 102, is further amended by inserting at the end the following new subsection:

"(d) JUDICIAL DEPORTATION.—

"(1) AUTHORITY.—Notwithstanding any other provision of this Act, a United States district court or a State court shall have jurisdiction to enter a judicial order of deportation at the time of sentencing against an alien whose criminal conviction causes such alien to be deportable under section 241(a)(2)(A)(iii) (relating to conviction of a felony).

"(2) PROCEDURE.—(A) The United States Attorney or, in the case of a proceeding before a State court, the State's attorney general, shall provide notice of intent to request judicial deportation promptly after the entry in the record of an adjudication of guilt or guilty plea. Such notice shall be provided to the court, to the alien, to the alien's counsel of record, and to the Commissioner.

"(B) Notwithstanding section 242B—

"(i) in the case of a proceeding before a United States court, the United States Attorney, with the concurrence of the Commissioner, or

"(ii) in the case of a proceeding before a State court, the State's attorney general,

shall, at least 20 days before the date set for sentencing, file a charge containing factual allegations regarding the alienage of the defendant and satisfaction by the defendant of the definition of felony.

"(C) If the court determines that the defendant has presented substantial evidence to establish prima facie eligibility for relief from deportation under section 212(c), the court shall request the Attorney General to provide the court with a recommendation and report regarding the alien's eligibility for relief under such section. The court shall either grant or deny the relief sought.

"(D)(i) The alien shall have a reasonable opportunity to examine the evidence against him or her, to present evidence on his or her own behalf, and to cross-examine witnesses presented by the Government.

"(ii) The court, for the purposes of determining whether to enter an order described in paragraph (1), shall only consider evidence that would be admissible in proceedings conducted pursuant to section 242(b).

"(3) NOTICE, APPEAL, AND EXECUTION OF JUDICIAL ORDER OF DEPORTATION.—(A)(i) A judicial order of deportation or denial of such order may be appealed by either party to the court of appeals for the circuit in which the United States district court is located or to the appropriate State court of appeals, as the case may be.

"(ii) Except as provided in clause (iii), such appeal shall be considered consistent with the requirements described in section 106.

"(iii) Upon execution by the defendant of a valid waiver of the right to appeal the conviction on which the order of deportation is based, the expiration of the period described in section 106(a)(1), or the final dismissal of an appeal from such conviction, the order of deportation shall become final and shall be executed at the end of the prison term in accordance with the term of the order.

"(B) As soon as is practicable after entry of a judicial order of deportation by a United States court, the Attorney General shall provide the defendant with written notice of the order of deportation, which shall designate the defendant's country of choice for deportation and any alternate country pursuant to section 243(a).

"(C) As soon as is practicable after entry of a judicial order of deportation by a State court, the State court shall notify the Attorney General of the order. Upon the termination of imprisonment of the alien, the State shall remand the alien to the custody of the Attorney General. The Attorney General shall effect the deportation of the alien in the manner prescribed in this Act with respect to final orders of deportation.

"(4) DENIAL OF JUDICIAL ORDER.—Denial of a request for a judicial order of deportation shall not preclude the Attorney General from initiating deportation proceedings pursuant to section 242 upon the same ground of deportability or upon any other ground of deportability provided under section 241(a). Any denial of a judicial order of deportation shall include a statement in writing stating the reasons for the denial.

"(5) DEFINITION.—For purposes of this subsection, the term 'State' refers to any of the several States and the District of Columbia.".

(b) TECHNICAL AND CONFORMING CHANGES.—The ninth sentence of section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) is amended by striking out "The" and inserting in lieu thereof "Except as provided in section 242A(d), the".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to all aliens whose adjudication of guilt or guilty plea is entered in the record after the date of enactment of this Act.

SEC. 104. UNCONTESTED DEPORTATIONS.

Section 242B of the Immigration and Nationality Act (8 U.S.C. 1252b) is amended—

(1) in subsection (a)(1), by adding at the end the following new subparagraph:

"(G) The right of an alien deportable under section 241(a)(2) to execute a deportation affidavit pursuant to subsection (f) in lieu of deportation proceedings.";

(2) by redesignating subsection (f) as subsection (g); and

(3) by inserting after subsection (e) the following:

"(f) DEPORTATION AFFIDAVIT.—In lieu of a determination of deportability in a proceeding before a special inquiry officer, an alien may elect to admit deportability under section 241(a)(2) through the execution of an affidavit witnessed by such an officer and a notary public. A special inquiry officer shall make a determination of deportability under this subsection based solely on the affidavit and, if he finds the alien deportable, shall issue an order of deportation with respect to that alien.".

SEC. 105. RESTRICTING DEFENSES TO DEPORTATION FOR CERTAIN CRIMINAL ALIENS.

(a) DEFENSES BASED ON SEVEN YEARS OF PERMANENT RESIDENCE.—Section 212(c) of the Immigration and Nationality Act (8 U.S.C. 1182(c)) is amended—

(1) in the third sentence, by striking "has served for such felony or felonies" and all that follows through the period and inserting "has been sentenced for such felony or felonies to a term of imprisonment of at least 5 years, if the time for appealing such conviction or sentence has expired and the sentence has become final;"; and

(2) by adding at the end the following new sentence: "For purposes of calculating the period of seven consecutive years under this subsection, any period of imprisonment of the alien by Federal, State, or local authorities shall be excluded but shall not be considered to have broken the continuity of the period.".

(b) DEFENSES BASED ON WITHHOLDING OF DEPORTATION.—Section 243(h)(2) of the Immigration and Nationality Act (8 U.S.C. 1253(h)(2)) is amended—

(1) by striking "or" at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting "; or"; and

(3) by striking the final sentence and inserting the following new subparagraph:

"(E) the alien has been convicted of an felony."; and

SEC. 106. EXTRATERRITORIAL APPEALS BY CRIMINAL ALIENS.

Section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a) is amended by adding at the end the following new subsection:

"(d)(1) In the case of any alien found to be deportable under section 242(a)(2), the Attorney General may not defer deportation of the alien and shall, after issuance of the deportation order, take the alien into custody until the alien is deported.

"(2) Any court of the United States shall have jurisdiction to review an order of deportation issued under paragraph (1) in any case where the petitioner for review is outside the United States. Any alien for whom an order of deportation has been vacated under this paragraph shall be issued a valid visa and admitted to the United States to the status held by the alien before deportation.".

SEC. 107. ENHANCED PENALTIES FOR FAILURE TO DEPART, OR REENTRY, AFTER FINAL ORDER OF DEPORTATION.

(a) FAILURE TO DEPART.—Section 242(e) of the Immigration and Nationality Act (8 U.S.C. 1252(e)) is amended—

(1) by striking out "paragraph (2), (3), or (4) of" the first time it appears, and

(2) by striking out "shall be imprisoned not more than ten years" and inserting in lieu thereof "shall be imprisoned not more than two years, or shall be imprisoned not more than ten years if the alien is a member of any of the classes described in paragraph (2), (3), or (4) of section 241(a).".

(b) REENTRY.—Section 276(b) of the Immigration and Nationality Act (8 U.S.C. 1326(b)) is amended to read as follows:

"(b) Notwithstanding subsection (a), in the case of any alien described in such subsection whose deportation was subsequent to a conviction for commission of two or more misdemeanors or a felony, such alien shall be fined under title 18, United States Code, imprisoned not more than 15 years, or both.".

(c) COLLATERAL ATTACKS ON UNDERLYING DEPORTATION ORDER.—Section 276 of the Immigration and Nationality Act (8 U.S.C. 1326) is amended by adding at the end the following new subsection:

"(c) In any criminal proceeding under this section, no alien may challenge the validity of the deportation order described in subsection (a) (1) or subsection (b).".

SEC. 108. RESTRICTION ON ASYLUM FOR CRIMINAL ALIENS.

(a) IN GENERAL.—Section 208 of the Immigration and Nationality Act (8 U.S.C. 1158) is amended by adding at the end the following new subsections:

"(e) Notwithstanding subsection (a), an alien may only be granted asylum under this section if the alien claims asylum within 15 days of the alien's entry into the United States, unless the alien establishes by clear and convincing evidence that since the date of entry into the United States circumstances have changed in the alien's country of nationality (or, in the case of a person having no nationality, the country in

which such alien last habitually resided) such that, if the alien returned to the country, it is more likely than not that the alien would be arrested or incarcerated or the alien's life would be threatened in such country on account of race, religion, nationality, membership in a particular social group, or political opinion.

"(f) An alien is not eligible for asylum under this section if the Attorney General determines that—

"(1) the alien ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion;

"(2) the alien, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of the United States;

"(3) there are serious reasons for believing that the alien has committed a serious nonpolitical crime outside the United States prior to the arrival of the alien in the United States;

"(4) there are reasonable grounds for regarding the alien as a danger to the security of the United States; or

"(5) a country willing to accept the alien has been identified (other than the country described in subsection (e)) to which the alien can be deported or returned and the alien does not establish that it is more likely than not that the alien would be arrested or incarcerated or the alien's life would be threatened in such country on account of race, religion, nationality, membership in a particular social group, or political opinion.

For purposes of paragraph (2), an alien who has been convicted of a felony shall be considered to have committed a particularly serious crime. The Attorney General shall prescribe regulations that specify additional crimes that will be considered to be a crime described in paragraph (2) or (3).".

(b) CONFORMING AMENDMENT.—Section 208(a) of such Act (8 U.S.C. 1158(a)) is amended by inserting ", except as provided in subsection (f)," after "asylum, and".

SEC. 109. FEDERAL INCARCERATION.

Section 242 of the Immigration and Nationality Act (8 U.S.C. 1252) is amended by adding at the end the following new subsection:

"(j)(1) The Attorney General shall take into the custody of the Federal Government, and shall incarcerate for a determinate sentence of imprisonment, an undocumented criminal alien if—

"(A) the chief State official exercising authority with respect to the incarceration of the undocumented criminal alien submits a written request to the Attorney General; and

"(B) the undocumented criminal alien is sentenced to a determinate term of imprisonment.

"(2) Undocumented criminal aliens taken into the custody of the Attorney General under paragraph (1) may be deported under subsection (h)(2)(A).

"(3) For purposes of this subsection, the term 'undocumented criminal alien' means an alien who—

"(A) has been convicted of a felony and sentenced to a term of imprisonment, and

"(B)(i) entered the United States without inspection or at any time or place other than as designated by the Attorney General, or

"(ii) was the subject of exclusion or deportation proceedings at the time he or she was taken into custody by the State.".

SEC. 110. MISCELLANEOUS AND TECHNICAL CHANGES.

(a) FORM OF DEPORTATION HEARINGS.—The second sentence of section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) is amended by inserting after the second sentence the following new sentence: "Nothing in the preceding sentence precludes the Attorney General from authorizing proceedings by electronic or telephonic media (with or without the consent of the alien) or, where waived or agreed to by the parties, in the absence of the alien.".

(b) CONSTRUCTION OF EXPEDITED DEPORTATION REQUIREMENTS.—No amendment made by this Act and nothing in section 242(i) of the Immigration and Nationality Act (8 U.S.C. 1252(i)), shall be construed to create any right or benefit, substantive or procedural, which is legally enforceable by any party against the United States, its agencies, its officers, or any other person.

TITLE II—LOCAL COOPERATION WITH FEDERAL OFFICIALS AND PROCEDURES

SEC. 201. FUNDING BASED ON COOPERATION.

(a) STATE AND LOCAL COOPERATION.—Notwithstanding any law, ordinance or regulation of any State or subdivision thereof to the contrary, officials of any State or local government or agency, upon the request of any duly authorized official of the United States Immigration and Naturalization Service, shall provide information regarding the identification, location, arrest, prosecution, detention, and deportation of an alien or aliens who are not lawfully present in the United States.

(b) REPORT.—Not later than 6 months after the date of enactment of this Act, the Attorney General and the Commissioner of Immigration and Naturalization shall jointly report to the Congress and the President on the extent to which State and local governments are not cooperating with the Immigration and Naturalization Service. This report shall identify any State or local governments that have adopted laws, policies or practices of noncooperation with the United States Immigration and Naturalization Service, the specific nature of those laws, policies or practices, and their impact on the enforcement of the immigration laws.

(c) FUNDING BASED ON COOPERATION.—No State or local government or agency which has been identified in the Attorney General's report required by the preceding paragraph, which has a policy or practice of refusing to cooperate with the Immigration and Naturalization Service regarding the identification, location, arrest, prosecution, detention, or deportation of aliens who are not lawfully present in the United States, shall be eligible for any Federal funds from appropriations made pursuant to a provision of the Violent Crime Control and Law Enforcement Act of 1993 or of an amendment made by authorizing appropriations, as long as such policy or practice remains in effect.

SEC. 202. PRODUCTION OF CRIMINAL RECORDS.

Section 503(a)(11) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)) is amended by inserting "or any political subdivision thereof" after "State" the second, third, and fourth occurrence thereof.

TITLE III—MISCELLANEOUS

SEC. 301. DETENTION OF UNDOCUMENTED CRIMINAL ALIENS AT MILITARY INSTALLATIONS TO BE CLOSED.

(a) IN GENERAL.—(1) Notwithstanding any other provision of law, the Secretary of Defense shall make available to the Attorney General for the purpose referred to in paragraph (2) any military installation of the Department of Defense that—

(A) is approved for closure under a base closure law; and

(B) is jointly determined by the Secretary and the Attorney General to be an appropriate facility for the detention of undocumented aliens.

(2) The Attorney General shall use facilities made available to the Attorney General under this paragraph for the detention of undocumented criminal aliens.

(b) DEFINITIONS.—In this section:

(1) The term "approved for closure under a base closure law", in the case of a military installation, means any installation whose closure under a base closure law is recommended by the President and not disapproved by Congress in accordance with the provisions of such law.

(2) The term "base closure law" means the following:

(A) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 102-510; 10 U.S.C. 2687 note).

(B) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note).

(3) The term "undocumented criminal alien" means an alien who—

(A) has been convicted of a felony and sentenced to a term of imprisonment, and

(B)(i) entered the United States without inspection or at any time or place other than as designated by the Attorney General, or

(ii) was the subject of exclusion or deportation proceedings at the time he or she was taken into custody by the State.

SEC. 302. AUTHORIZING REGISTRATION OF ALIENS ON CRIMINAL PROBATION OR CRIMINAL PAROLE.

Section 263(a) of the Immigration and Nationality Act (8 U.S.C. 1303(a)) is amended by striking "and (5)" and inserting "(5) aliens who are or have been on criminal probation or criminal parole within the United States, and (6)".

SEC. 303. ADMISSIBLE EVIDENCE BEFORE A SPECIAL INQUIRY OFFICER.

In any proceeding under the Immigration and Nationality Act before a special inquiry officer, such documents and records as are described in section 3.41 of title 8, Code of Federal Regulations, as in effect on the date of enactment of this Act, may be admissible as evidence of a criminal conviction.

CRIMINAL ALIEN CONTROL ACT OF 1994—SECTION-BY-SECTION ANALYSIS

Sec. 1. Short Title

The Act may be cited as the Criminal Alien Control Act of 1994

TITLE I—DEPORTATION OF CRIMINAL ALIENS

Sec. 101. Equal Immigration Treatment to All Alien Felons

Under section 101 any alien who is convicted of any felony at any time while in the U.S. would be deportable. Under current law only aliens convicted of certain types of felonies, as specified by a complex and confusing array of statutes, are deportable. Whole classes of aliens who are convicted of felonies are not deportable.

Under current law only aliens who are convicted of crimes of moral turpitude (which include murder, manslaughter, rape and sodomy) within five years after entry into the U.S. and resulting in imprisonment for one year, or aliens convicted of two unrelated crimes of moral turpitude at any time after entry into the U.S. regardless of length of incarceration, or aliens who commit certain narcotics and weapons offenses (so-called "aggravated felonies"), as defined by law, are deportable.

Sec. 102. Deportation Procedures of Certain Criminal Aliens Who Are Not Permanent Residents

Section 102 lays out streamlined procedures for the deportation of criminal aliens who are not permanent residents. Under current law only aggravated felons are conclusively presumed to be deportable. Section 102 extends the presumption to all criminal aliens who are not permanent residents. This section eliminates the administrative hearing process for criminal aliens who are not permanent resident aliens. Such criminal aliens will have the right to a single habeas corpus appeal limited to a determination of whether the alien is in fact an alien and is in fact a convicted felon.

Sec. 103. Judicial Deportation

Section 103 gives the United States district courts and state courts the authority to enter a judicial order of deportation at the time of sentencing against an alien convicted of a felony. The denial of such a judicial order does not preclude the initiation of deportation proceedings for the alien in question.

District courts currently have the authority to order the deportation of a criminal alien as a condition of supervised release. See, 18 U.S.C. 3583(d), *United States* versus *Chukwura*, 5 F.3d 1420 (11th Cir. 1993). Section 103 makes it clear that district courts also have the authority to order the deportation of a criminal alien in all sentencing situations, not solely in connection with a sentence of supervised release. State courts currently have no authority regarding deportation. State courts have, in many instances, however, been given the ability to exercise federal authority.

Sec. 104. Uncontested Deportations

Under section 104 a criminal alien who has chosen not to contest his deportation can be deported via the execution of an affidavit in lieu of deportation proceedings. Currently, uncontested deportations are carried out before an immigration judge in the setting of a formal immigration hearing. In addition to being costly and time consuming, such hearings are mere pro forma exercises when they involve uncontested deportations.

Sec. 105. Restricting Defenses to Deportation for Certain Criminal Aliens

Section 105 restricts two defenses often used by criminal aliens to contest their deportations. The first defense is commonly referred to as 212(c) relief. Under section 212(c) of the Immigration and Nationality Act a criminal alien who has been a permanent resident in the U.S. for seven years and has not served over 5 years for a felony offense may be granted relief from deportation. Section 105 would exclude from section 212(c) those felons who are sentenced to 5 years regardless of time actually served.

The second defense, known as "withholding of deportation", allows an immigration judge to withhold the deportation of an alien, including a criminal alien, if it is established that the alien would be in danger if he were returned to his country of origin. Section 105 would prohibit this defense from being invoked by an alien convicted of a felony.

Sec. 106. Extraterritorial Appeals by Criminal Aliens

Section 106 requires that all criminal aliens ordered deported be taken into custody until deportation. The section also requires that a criminal alien be deported even if he appeals his deportation. The criminal alien is, however, given the right to appeal his deportation from his country of origin. If the criminal alien wins his appeal, this section makes it clear that the alien is to be issued a visa to return to the U.S.

This section will ensure that those criminal aliens who have been ordered deported will not escape deportation by appealing their deportation. Currently, criminal aliens who appeal their deportation either remain incarcerated at taxpayer expense or, more frequently, are released on bond. Criminal aliens who have been released pending their appeal are commonly given work authorization by the INS. It is unfair to reward a criminal alien simply because he has appealed his order of deportation. Such a policy sends the wrong signal and invites abuse of the immigration appeal process.

Sec. 107 Enhanced Penalties for Re-Entry or Failure to Deport

Section 107 enhances the penalties for aliens who return to the U.S. after being deported and for those who fail to depart after having been ordered deported. Under current law, aggravated felons who re-enter after deportation can serve 15 years while nonaggravated felons can serve only 5 years for the same offense. This section makes the penalty 15 years for all deported criminal aliens who re-enter after deportation. Section 107 prohibits collateral attacks on the underlying deportation order during reentry prosecutions. Section 107 also expands the penalty for failure to depart to all classes of aliens. Current law only covers certain classes of aliens.

Sec. 108 Restriction on Asylum for Criminal Aliens

Section 108 will prohibit asylum claims for criminal aliens who have not formally claimed asylum within 15 days of entering the United States, unless the criminal alien can establish by clear and convincing evidence changed circumstances in the criminal aliens country of nationality accounting for why the alien failed to comply with this section. This section also absolutely prohibits asylum claims for certain criminal aliens such as those who have committed serious crimes and pose a threat to the public.

Sec. 109 Federal Incarceration

Section 109 requires the Federal government to take into custody and incarcerate any undocumented criminal alien. Under this section, an undocumented criminal alien is any alien who: is convicted of a felony and sentenced to a term of imprisonment; entered the U.S. without inspection; or was the subject of exclusion or deportation proceedings at the time he was taken into custody. Under current law an undocumented criminal alien, who is not an aggravated felon, can be, and often is released pending deportation as long as the criminal alien was inspected while entering the U.S. Many of these individuals do not appear for their deportation hearings.

Section 109 restores the original intent of Congress to require the incarceration of most criminal aliens pending their deportation. Congressional intent was thwarted by the adoption of a so-called "technical amendment" to the Immigration Act of 1990 which allows for the release of a large number of criminal aliens pending their deportation.

Sec. 110. Miscellaneous and Technical Changes

TITLE II—LOCAL COOPERATION WITH FEDERAL OFFICIALS AND PROCEDURES

Sec. 201. Funding Based on Cooperation

Section 201 would deny funding to be authorized under the Violent Crime Control and Law Enforcement Act of 1993 (the Crime Bill) to government entities that adopt policies of refusing to cooperate with Federal immigration officials. An entity would be denied funding if the Attorney General certifies that the entity has a policy of not cooperating with Federal immigration officials. The Attorney General can order a resumption of funding if the government entity changes its policy.

Sec. 202. Production of Criminal Records

Section 202 mandates that any political subdivision of a state provide certified criminal record to the INS in connection with a deportation proceeding against a criminal alien at no cost to the INS. Current law only requires states themselves to provide such records at no cost. Some local governments maintain the right to charge a fee for the records. Section 202 corrects this problem and ensures that the intent of the current law is carried out.

TITLE III—MISCELLANEOUS

Sec. 301. Detention of Undocumented Aliens at Military Installations to be Closed

Section 301 would allow any military installation approved for closure under a base closure law to be used for the detention of undocumented aliens.

Sec. 302. Identification of Criminal Aliens on Probation and Parole

Requires that state and local law enforcement inform INS of criminal aliens within their jurisdiction that are on probation and parole. Current law requires that this be done with only incarcerated criminal aliens.

Sec. 303. Admissible Evidence Before a Special Inquiry Officer

Codifies a federal regulation that allows the use of certain forms of documents and record and regard to the deportation of a criminal alien. For example, allows for the use of an official arrest record transmitted electronically.

By Mr. McCAIN (for himself and Mr. INOUYE):

S. 1936. A bill to provide for the integrated management of Indian resources, and for other purposes; to the Committee on Indian Affairs.

INDIAN INTEGRATED RESOURCES MANAGEMENT PLANNING ACT

• Mr. McCAIN. Mr. President, I introduce the Indian Integrated Resource Management Planning Act to authorize the Secretary of the Interior to establish and carry out a program to assist tribes in developing and implementing integrated resource management plans. I am pleased that Senator INOUYE has joined me as a cosponsor. We are introducing this bill in order to stimulate discussion about this subject. Accordingly, we welcome all comments and suggestions for improving the bill.

This legislation provides that upon request of an Indian tribe, the Secretary of the Interior shall transfer to the tribe all natural resource data, including maps and other information held by the Secretary that relates to lands under the authority of the Indian tribe. The bill also establishes a process for plan development, and requires an Indian tribal government to submit its plan to the Secretary for approval.

The process for plan development includes a determination of the need for

the plan; identification of short- and long-term goals; identification of the geographic area to be included in the plan; identification of available and needed data; identification of the natural resources expertise needed to prepare the plan; a determination of the time required for data collection; a determination of the affected parties, including landowners, lessees, and residents; public comment; identification and consideration of alternative plans; an estimation of the cost of plan development; a list of resources to be included in the plan; a list of resource management goals and objectives; and compliance with applicable Federal and tribal laws.

An approved plan shall govern all activities of the Indian tribe and the Secretary with regard to matters included in the plan. The bill also provides that the Secretary, consistent with the trust responsibility, shall provide for the management of Indian natural resources in a manner that is consistent with an approved integrated resource management plan. The bill authorizes the Secretary to enter into a grant, contract, or cooperative agreement with each Indian tribe under the Indian Self-Determination and Education Assistance Act to provide financial assistance to the tribe for the development of an integrated resource management plan.

This bill provides direction to the Secretary for the fulfillment of the United States' responsibility for the Indian natural resources that are held in trust for Indian tribes and individuals. It would ensure that the management of natural resources on Indian lands in conducted in a manner that is consistent with tribal culture and values, applicable Federal laws, and the Federal trust responsibility. The IRMPA would also promote and enhance tribal self-governance through tribal control of natural resources and comanagement by Indian tribes and the Secretary.

A few tribes have already developed and implemented integrated resource management plans to manage natural resources on their lands. Pursuant to the American Indian Agricultural Resource Management Act, which was enacted last year, a tribe may develop and implement a plan to govern the management of Indian rangelands and farmlands. The National Indian Forest Resource Management Act, which was enacted in 1991, contains similar provisions. The bill I am introducing today will incorporate existing individual resource management plans into an overall program called an integrated resource management plan.

At the urging of the tribes, the Bureau of Indian Affairs established procedures in 1988 to develop integrated resource management plans for each Indian reservation. Under these procedures, the Secretary of the Interior has developed and completed substantial resource inventory information, such as maps, surveys, and data necessary for the development of tribal integrated resource management plans over the past several years. The BIA, however, has lacked the funds and the staff to assist tribes in developing and implementing integrated resource management plans for each reservation. Since 1988, the BIA has completed nine integrated resource management plans for Indian reservations.

Out of frustration, some tribes have used tribal and private funds to develop and complete resource inventory information in order to develop and implement an integrated resource management plan. For example, the Hoopa Valley Tribe asked World Wildlife Fund to assist in developing an integrated resource management plan for the reservation to fully integrate fish and wildlife conservation into the tribe's logging and timber management program. The integration of these programs will lead to the development of a sustainable economy that makes use of the tribe's natural resources while safeguarding those resources that have important ecological and cultural values.

The Confederated Tribes of the Warm Springs Reservation of Oregon also had to seek funding elsewhere because the Secretary was not providing the data necessary to develop an integrated resource management plan. The tribe used its own funds to develop an integrated resource management plan. The plan at Warm Springs provides for the long-term management of all resources for sustainable economic and employment opportunities for present and future tribal members, and for the preservation of cultural values. Mr. President, I believe it is consistent with the trust responsibility to require the Secretary to manage Indian natural resources for the benefit of the tribes. We have appropriated and the Secretary has expended considerable sums of money over the years to develop data and information on Indian natural resources. This information should be readily available to those tribes which are ready to develop an IRMP. The bill I am introducing today would make the information the Secretary has acquired directly available to the tribal governments for the development of IRMP's.

Finally, I would like to note that this legislation is consistent with and will serve to advance the policies of self-determination and self-governance. The development of an IRMP necessarily involves the very kind of community participation and decision-making which is the cornerstone of self-governance. This legislation will ensure that the Secretary has the authority necessary to more fully implement the policies of self-determination and self-governance at such times as the respective tribes are ready to proceed.

I ask unanimous consent that the full text of the Indian Integrated Resources Management Planning Act and a section-by-section summary be printed in the RECORD.

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

S. 1936

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 "Indian Integrated Resources Management Planning Act".

SEC. 2. DEFINITIONS.

As used in this Act:

(1) INDIAN LAND.—The term "Indian land" means all land that is—

(A) held in trust by the United States for the benefit of an Indian tribe or an individual Indian; or

(B) owned by an Indian or Indian tribe and is subject to restrictions against alienation.

(2) INDIAN NATURAL RESOURCES.—The term "Indian natural resources" includes forests, ranges, wildlife, water, fisheries, soils, minerals, oil, gas, coal, agriculture, recreation, archaeological resources, historical resources, cultural resources, traditional resources, socioeconomic resources, and threatened and endangered species.

(3) INDIAN TRIBE.—The term "Indian tribe" means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native Village or regional corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), that is eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(4) INTEGRATED RESOURCE MANAGEMENT PLAN.—The term "integrated resource management plan" means a plan developed by an Indian tribe and approved by the Secretary pursuant to section 4—

(A) to assess available natural resources;

(B) to identify management objectives that integrate—

(i) quality of life;

(ii) production goals;

(iii) preservation goals; and

(iv) landscape descriptions of the natural resources; and

(C) that encompasses tribal codes and specific natural resource management plans in effect on the date of enactment of this Act.

(5) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 3. FINDINGS; PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) it is the policy of the United States to promote tribal self-determination and self-governance;

(2) the United States holds most Indian natural resources in trust for the benefit of Indian tribes and individuals;

(3) it is consistent with the Federal trust responsibility and the policies of self-determination and self-governance to promote increased tribal involvement in the management and use of Indian land and natural resources; and

(4) Indian tribes have among their principal policy objectives, the management of their natural resources in a manner that is consistent with the cultural, social, and economic needs and values of the tribes.

(b) PURPOSE.—It is the purpose of this Act—

(1) to authorize the Secretary to assist Indian tribes in the development and implementation of integrated resource management plans;

(2) to ensure that the management of natural resources on Indian land is conducted in a manner that is consistent with tribal culture and values, applicable Federal laws, and the Federal trust responsibility; and

(3) to promote and enhance tribal self-determination and self-governance by ensuring tribal control of natural resources and co-management by Indian tribes and the Secretary.

SEC. 4. INDIAN NATURAL RESOURCE MANAGEMENT PLAN.

(a) IN GENERAL.—The Secretary shall establish and carry out a program to assist Indian tribes to develop and implement integrated natural resource management plans.

(b) ASSISTANCE.—

(1) IN GENERAL.—Upon the request of an Indian tribe, the Secretary shall provide assistance under this subsection, including the transfer to the tribe of all natural resources data, including maps and other information held by the Secretary that relates to land under the authority of the Indian tribe.

(2) GRANTS; CONTRACTS.—Upon the request of an Indian tribe, the Secretary shall enter into a grant, contract, or cooperative agreement with each Indian tribe under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) to provide financial assistance to the Indian tribe for the development of an integrated resource management plan.

(c) DEVELOPMENT.—The process for plan development shall include provisions for—

(1) a determination of the need for the plan;

(2) identification of short- and long-term goals;

(3) identification of the geographic area to be included in the plan;

(4) identification of available and needed data;

(5) identification of the natural resources expertise needed to prepare the plan;

(6) a determination of the time required for data collection;

(7) a determination of the affected parties, including landowners, lessees, and residents;

(8) public comment;

(9) identification and consideration of alternative plans;

(10) an estimation of the cost of plan development;

(11) a list of resources to be included in the plan;

(12) a list of resource management goals and objectives; and

(13) compliance with applicable Federal and tribal laws.

(d) APPROVAL BY SECRETARY.—

(1) SUBMISSION.—Upon completion of a plan, an Indian tribe shall submit the plan to the Secretary for approval.

(2) APPROVAL.—Not later than 6 months after receipt of a plan, the Secretary shall approve or disapprove the plan. If the Secretary neither approves nor disapproves the plan, such inaction shall be deemed to be an approval of the plan.

(3) DISAPPROVAL.—If the Secretary disapproves a plan, the Secretary shall state the reasons for such disapproval and shall provide recommendations and technical assistance for plan revisions.

(e) FORCE AND EFFECT.—An approved plan shall govern all activities of the Indian tribe and the Secretary with regard to matters included in the plan. The plan shall take effect on the date of approval.

(f) AMENDMENTS.—

(1) IN GENERAL.—An Indian tribe may amend the plan at any time consistent with this section.

(2) PUBLIC COMMENT.—Proposed amendments shall be made available for public review and comment.

(3) APPROVAL.—Upon approval by the Indian tribe, proposed amendments shall be submitted to the Secretary for approval in accordance with subsection (d).

SEC. 5. MANAGEMENT.

Consistent with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), the Secretary shall provide for the management of Indian natural resources in a manner that is consistent with the approved integrated resource management plans.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as are necessary to carry out this Act.

SECTION-BY-SECTION SUMMARY ANALYSIS OF THE INDIAN INTEGRATED RESOURCE MANAGEMENT PLANNING ACT OF 1994

SECTION 1.—SHORT TITLE

Section 1 provides that the short title of the Act shall be the "Indian Integrated Resources Management Planning Act."

SECTION 2.—DEFINITIONS

Section 2 sets out the definitions used in the Act, including: Indian Land, Indian Natural Resources, Indian Tribe, Integrated Resource Management Plan, and Secretary.

SECTION 3.—FINDINGS AND PURPOSE

Section 3 sets out the findings of the Congress and sets out the purposes of the Act.

Subsection (a) of this section states the findings of the Congress including: the policy of the United States is to promote tribal self-determination and self-governance; the United States holds most Indian natural resources in trust for the benefit of Indian tribes and individuals; it is consistent with the Federal trust responsibility and the policies of self-determination and self-governance to promote increased tribal involvement in the management and use of Indian land and natural resources; and among Indian tribes' policy objectives are the management of their natural resources in a manner that is consistent with the cultural, social, and economic needs and values of the tribes.

Subsection (b) of this section states that the purposes of this Act are to authorize the Secretary to assist Indian tribal organizations in developing and implementing integrated resource management plans; to ensure that the management of natural resources on Indian land is conducted in a manner that is consistent with tribal culture and values, applicable Federal laws, and the Federal trust responsibility; and to promote and enhance tribal self-determination and self-governance through tribal control of natural resources and co-management by Indian tribes and the Secretary.

SECTION 4.—INDIAN NATURAL RESOURCE MANAGEMENT PLAN

Section 4 of this bill provides that the Secretary shall establish and carry out a program to assist Indian tribes to develop and implement integrated natural resource management plans.

Subsection (b)(1) of this section provides that upon request of an Indian tribal organization, the Secretary shall provide all natural resources data, including maps and other information held by the Secretary that relates to land under the authority of the Indian tribe.

Subsection (b)(2) of this section provides that the Secretary shall enter into a grant, contract, or cooperative agreement with each Indian tribe under the Indian Self-Determination and Education Assistance Act to provide financial assistance to the tribe in developing an integrated resource management plan.

Subsection (c) of this section provides that the process for plan development shall include the provisions set out in subsection (c)(1) through (c)(13) of this section.

Subsection (d)(1) of this section states that an Indian tribal organization shall submit a plan to the Secretary for approval; (2) the Secretary shall approve or disapprove the plan not later than 6 months after receipt of the plan and if the Secretary neither approves nor disapproves the plan, such inaction shall be deemed to be an approval of the plan; (3) if the Secretary disapproves the plan, the Secretary shall state the reasons for such disapproval and shall provide recommendations and technical assistance for plan revisions.

Subsection (e) of this section provides that an approved plan shall govern all activities of the Indian tribe and the Secretary with regard to matters included in the plan. The plan shall be in effect on the date of approval.

Subsection (f) of this section sets out the process that an Indian tribe shall follow to amend the plan.

SECTION 5.—MANAGEMENT

Section 5 provides that the Secretary, consistent with the trust responsibility, shall provide for the management of Indian natural resources in a manner that is also consistent with an approved integrated resource management plan.

SECTION 6.

Section 6 authorizes to be appropriated such sums as are necessary to carry out this Act.●

By Mr. DODD:

S. 1937. A bill to amend the Community Services Block Grant Act to establish a new Community Initiative Program to carry out economic development activities in economically distressed communities, to make other amendments to the Act, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

S. 1938. A bill to amend the Low-Income Home Energy Assistance Act of 1981 to authorize appropriations for fiscal years 1996 through 1999, remove impediments to the exercise of States discretion to shape their programs and to concentrate their resources on those with the greatest home energy needs, and for other purposes; to the Committee on Labor and Human Resources.

FAMILY ASSISTANCE LEGISLATION

Mr. DODD. Mr. President, I rise today to introduce on behalf of the Clinton administration reauthorization bills for two programs that are critically important to millions of Americans: The Low-Income Home Energy Assistance Program and the community services block grant. These may not be glamour programs that receive

major publicity, but for the families who receive help through them, they can literally be lifesavers.

Together with the Head Start amendments already introduced, these bills will be folded into the Human Services Act reauthorization, which the Senate will consider later in the session. The programs authorized through the Human Services Act share a common orientation of working within the community to address the needs of individuals and families seeking to move toward self-sufficiency.

For millions of families all across this Nation, the Low-Income Home Energy Assistance Program, commonly known as LIHEAP, is the difference between going cold and staying warm, the difference between being overwhelmed by hard times and hanging on, the difference between skimping on the food budget to pay the utilities and just getting by.

LIHEAP provides millions of families with the little extra help they need to make it through the winter. Many LIHEAP families have elderly members. Some recipients are disabled. Many families are raising small children. Whatever their composition, households receiving energy assistance all need warm shelter from the cold and basics like electricity.

This point was forcefully driven home during a hearing I chaired of the Subcommittee on Children, Family, Drugs and Alcoholism on Tuesday. During that hearing, Mrs. Letitia Fletcher of Philadelphia laid out in highly personal, emotional terms how important LIHEAP is to millions of Americans. Tears streaming down her face, she described having to quit her job to care for her ill husband. Unable to afford fuel oil, they heated with a kerosene heater until doctors advised her that the fumes would worsen her husband's condition.

Fortunately, Mrs. Fletcher found out about LIHEAP, and she and her husband were able to pay for fuel oil to heat their home. Although her husband recently passed away, Mrs. Fletcher is convinced that LIHEAP extended his life. She now works in her neighborhood to make sure others in need know about LIHEAP.

Fortunately, Mrs. Fletcher found help, but millions more who are eligible go without assistance because the program is under-funded. LIHEAP reaches less than a quarter of the eligible population and nearly a million fewer than it did in 1981. Funding for the program has declined from $2.1 billion in 1985 to $1.4 billion today. As funding has declined, heat interruptions have been on the increase, with more than one million families going without this basic necessity at some point in the winter of 1990–9191.

Given these statistics and my own conversations with LIHEAP clients in Connecticut, I must admit I was disappointed that the administration's budget proposed cutting LIHEAP's already inadequate funding in half. I plan to work with my colleagues during the budget and appropriations processes to restore as much funding as possible for LIHEAP.

At the same time, I am eager to discuss steps we might take to make the program more effective. The reauthorization bill I am today introducing on behalf of the Clinton administration contains a number of changes to the program intended to give States more flexibility and to encourage the targeting of households with high energy burdens.

I am also introducing the administration's bill to reauthorize the community services block grant. The community services block grant provides core funding to our Nation's network of community action agencies. These are social services groups with deep roots in communities in every part of the United States. By Federal law, the boards of these agencies are comprised of one-third elected officials, one-third business and civic leaders and one-third low-income residents of communities served by the agencies.

This unique partnership provides one of the secrets of community action agencies' success, for it empowers low-income communities by giving them say over their own affairs. When community members reach out to the community action agency, the hand they grasp is that of a neighbor.

Two of the witnesses at Tuesday's hearing, Catherine Riley of Minnesota and Jamie Enochs of Kansas, talked about how important community action agencies had been in their lives. They described how the agencies provide comprehensive services intended to help clients reach self-sufficiency, rather than just providing a check like a welfare agency.

This ability to see families' needs comprehensively—to weave the seamless garment of services—is a hallmark of community action agencies. They provide an impressively wide array of social services, from literacy programs to job training, from Meals on Wheels to homeless shelters, from child care to substance abuse education.

The community services block grant is money well spent because community action agencies use it to leverage funds from the private sector and from State and local governments. Federal block grant money actually constitutes only a small portion of community action agencies' budget, but it is an indispensable portion.

Over the years, a number of small discretionary programs have been authorized through the community services block grant. These programs have funded everything from rural housing improvements to antihunger efforts. The administration's bill proposes to eliminate most of these discretionary programs, replacing one—the Community Economic Development Program—with a new Community Initiative Program.

I plan to carefully examine this proposal in the weeks ahead. While I am sensitive to and support the goal of streamlining Federal programs, I am also aware that these small programs have served important purposes. We must be sure these purposes will still be met before we eliminate the funding sources dedicated to them.

The low-income Home Energy Assistance Program and the community services block grant both rest on the fundamental premise that a little help from the community may be all it takes for families to survive tough times. I look forward to working with my colleagues on the Labor Committee and in the Senate as a whole to reauthorize these valuable programs in the weeks ahead. I ask unanimous consent that the text of both bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 1937

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND REFERENCES.

(a) SHORT TITLE.—That this Act may be cited as the "Community Services Block Grant Amendments of 1994".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Community Services Block Grant Act (42 U.S.C. 9901 et seq.).

SEC. 2. ESTABLISHMENT OF COMMUNITY INITIATIVE PROGRAM.

(a) COMMUNITY INITIATIVE PROGRAM.—Section 681 (42 U.S.C. 9910) is amended to read as follows:

"COMMUNITY INITIATIVE PROGRAM

"SEC. 681. (a) GRANTS.—

"(1) AUTHORITY.—

"(A) IN GENERAL.—The Secretary is authorized to make grants to local, private, nonprofit community development corporations, or to enter into contracts or cooperative agreements with such community development corporations, to plan for and carry out economic development activities in economically distressed communities.

"(B) ECONOMIC DEVELOPMENT ACTIVITIES.—Economic development activities under this section shall be designed to address the economic needs of low-income individuals and families by creating employment and business development opportunities and by providing support services that are designed to enhance the ability of low-income individuals and families to successfully avail themselves of such opportunities. In addition to any other activities consistent with the purposes of this section, such activities may include the development of facilities through means such as the establishment of partnerships with Head Start agencies, agencies or organizations providing child care or otherwise engaged in the field of child care or child development, and agencies or organizations serving children, youth and families.

"(2) CONSULTATION.—The Secretary shall exercise the authority provided under paragraph (1) in consultation with other relevant Federal officials.

"(b) GOVERNING BOARDS.—Each community development corporation receiving funds under this section shall be governed by a board that shall consist of residents of the community and business and civic leaders.

"(c) ANNUAL STATEMENT.—The Secretary shall annually publish a statement of the types of projects or activities for which funding under this section will be a priority, such as projects or activities designed to strengthen or enhance activities funded by other Federal programs.

"(d) GEOGRAPHIC DISTRIBUTION.—In providing assistance or entering into other arrangements under this section, the Secretary shall take into consideration the geographic distribution of funds among States and the relative proportion of funding among rural and urban areas.

"(e) RESERVATION.—Of the amounts made available to carry out this section, the Secretary may reserve not to exceed 1 percent for each fiscal year to make grants to private nonprofit organizations or to enter into contracts with private nonprofit or for profit organizations to provide technical assistance to aid community development corporations in developing or implementing projects funded under this section and to evaluate projects funded under this section.".

(b) REPEAL.—Section 505 of the Family Support Act of 1988 (42 U.S.C. 1315 note) is repealed.

(c) CONFORMING AMENDMENTS.—

(1) STATE ALLOCATIONS.—Section 674(a) (42 U.S.C. 9903(a)) is amended—

(A) in paragraph (1), by striking "which remains after" and all that follows through "allot to each State;" and inserting "which remains after the Secretary makes the apportionment required in subsection (b)(1), allot to each State"; and

(B) in paragraph (2)(A), by striking "which remains after" and all that follows through "exceeds" and inserting "which remains after the Secretary makes the apportionment required in subsection (b)(1), exceeds".

(2) ANNUAL REPORT.—Section 682(c) (42 U.S.C. 9911(c)) is amended by striking "section 681(d)" and inserting "section 672(b)".

(3) LIMITATION.—Section 680(a) (42 U.S.C. 9909(a)) is amended by striking "section 681(c)" and inserting "section 681".

SEC. 3. AUTHORIZATIONS OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Subsection (b) of section 672 (42 U.S.C. 9901(b)) is amended to read as follows:

"(b) There are authorized to be appropriated $434,622,000 for fiscal year 1995, and such sums as may be necessary for each of fiscal years 1996 through 1998, to carry out the provisions of this subtitle.".

(b) REPEALS.—

(1) COMMUNITY FOOD AND NUTRITION.—Section 681A (42 U.S.C. 9910a) is repealed.

(2) DEMONSTRATION PARTNERSHIP AGREEMENTS.—Section 408 of the Human Services Reauthorization Act of 1986 (42 U.S.C. 9910b) is repealed.

SEC. 4. ALLOTMENTS.

(a) SECTION HEADING.—Section 674 (42 U.S.C. 9903) is amended in the section heading to read as follows:

"ALLOTMENTS".

(b) SET-ASIDES.—Section 674 (42 U.S.C. 9903) is amended—

(1) by redesignating subsections (a), (b), and (c) as subsections (e), (f), and (g), respectively; and

(2) by inserting before subsection (e) (as so redesignated), the following new subsections:

"(a) With respect to amounts appropriated under section 672(b), the Secretary shall make allotments in accordance with subsections (b) through (g).

"(b) Of the amounts appropriated pursuant to section 672(b) for fiscal year 1995 and each of the following 4 fiscal years, the Secretary shall reserve $35,000,000 for each such fiscal year for carrying out section 681.

"(c) Of the amounts appropriated pursuant to section 672(b), the Secretary may reserve not to exceed one-half of 1 percent of the amount remaining after the application of subsection (b) for each of the fiscal years 1995 and 1996, and up to 1 percent of such amount for fiscal year 1997 and each fiscal year thereafter, for training, technical assistance, planning, and evaluation activities related to programs or projects carried out under this Act. Such activities may be carried out by the Secretary directly or through grants, contracts, or cooperative agreements.

"(d) Of the amounts appropriated pursuant to section 672(b), the Secretary may reserve not to exceed 2½ percent of the amount remaining after the application of subsection (b) for fiscal year 1995, up to 4 percent of such amount for fiscal year 1996, up to 5 percent of such amount for fiscal year 1997, and up to 6 percent of such amount for fiscal year 1998, for grants, contracts, or cooperative agreements to address needs or problems of the poor which are identified by the Secretary as priorities in the effort to alleviate the causes of poverty.".

SEC. 5. APPLICATIONS AND REQUIREMENTS.

(a) ASSURED ACTIVITIES.—Section 675(c)(1)(B) (42 U.S.C. 9904(c)(1)(B)) is amended by inserting "the homeless, migrants, and" before "the elderly poor".

(b) STATE RESPONSIBILITIES.—Section 675(c)(2)(B) (42 U.S.C. 9904(c)(2)(B)) is amended to read as follows:

"(B) if less than 100 percent of the allotment is expended under subparagraph (A), provide assurances that with respect to the remainder of the allotment a reasonable amount shall be used for—

"(i) monitoring the activities of eligible entities and providing training and technical assistance to those entities in need of such assistance;

"(ii) coordinating State-operated programs and services targeted to low-income children and families with services provided by eligible entities funded under this Act; and

"(iii) considering the distribution of funds under this Act within the State to determine if such funds have been targeted to the areas of highest need and, thereafter, not more than the greater of $55,000 or 5 percent of its allotment under section 674 for administrative expenses at the State level;".

(c) TRIPARTITE BOARD.—Section 675(c)(3) (42 U.S.C. 9904(c)(3)) is amended—

(1) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively;

(2) by striking the comma after "provide assurances that" and inserting "(A)"; and

(3) by inserting before the semicolon at the end thereof ", and (B) in the case of a public organization receiving funds under this subtitle, such organization either establish—

"(i) a board of which at least one-third of the members are persons chosen in accordance with democratic selection procedures adequate to assure that they are representative of the poor in the area served; or

"(ii) another mechanism specified by the State to assure citizen participation in the planning, administration, and evaluation of projects for which such organization has been funded;".

(d) COMMUNITY ACTION AGENCY PLAN.—Section 675(c) (42 U.S.C. 9904(c)) is amended—

(1) in paragraph (11)(B) by striking "and" at the end thereof;

(2) in paragraph (12) by striking the period and inserting "; and"; and

(3) by inserting after paragraph (12) the following new paragraph:

"(13) secure from each eligible entity as a condition to its receipt of funding under this Act a community action plan (which shall be available to the Secretary for inspection) that includes—

"(A) a community needs assessment (including food needs);

"(B) a description of the service delivery system targeted to low-income individuals and families in the service area;

"(C) a description of how linkages will be developed to fill identified gaps in services through information, referral, case management, and followup consultations;

"(D) a description of how funding under this Act will be coordinated with other public and private resources; and

"(E) a description of outcome measures to be used to monitor success in promoting self-sufficiency, family stability, and community revitalization.".

SEC. 6. EFFECTIVE DATE.

The amendments made by this Act shall become effective with respect to fiscal years beginning on or after October 1, 1994.

S. 1938

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the "Low-Income Home Energy Assistance Amendments of 1994".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.).

SEC. 2. STATEMENT OF PURPOSE.

Subsection (a) of section 2602 (42 U.S.C.8621(a)) is amended to read as follows:

"(a) In order to assist low-income households, particularly those that pay a high proportion of household income for home energy, both in meeting their immediate home energy needs, and in attaining the capacity to meet such needs independently in the future, the Secretary of Health and Human Services is authorized to make grants to States for programs and activities consistent with the provisions of this title.".

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

(a) AMOUNTS AUTHORIZED.—

(1) IN GENERAL.—Section 2602(b) (42 U.S.C. 8621(b)) is amended by striking "this title" and all that follows through the end of the first sentence and inserting "this title, such sums as may be necessary for each of fiscal years 1995 through 1999.".

(2) INCENTIVE PROGRAM FOR LEVERAGING NON-FEDERAL SOURCES.—Subsection (d) of section 2602 (42 U.S.C. 8621(d)) is amended to read as follows:

"(d)(1) There are authorized to be appropriated to carry out section 2607A, $50,000,000 for each of the fiscal years 1995 and 1996, $60,000,000 for fiscal year 1997, $70,000,000 for fiscal year 1998, and $80,000,000 for fiscal year 1999, except that if the amount appropriated

pursuant to subsection (b) does not exceed the amount specified in paragraph (2) for a fiscal year, the amount authorized to be appropriated to carry out section 2607A for such fiscal year shall be $50,000,000.

"(2) For purposes of paragraph (1), the amount specified is—

"(A) for fiscal year 1997, the amount appropriated pursuant to subsection (b) for fiscal year 1996;

"(B) for fiscal year 1998, the amount so appropriated for fiscal year 1997; and

"(C) for fiscal year 1999, the amount so appropriated for fiscal year 1998,

or, if greater, the amount so appropriated for fiscal year 1995.".

(b) PERIOD FOR WHICH APPROPRIATION IS MADE; REPEAL OF PROGRAM YEAR.—Section 2602 (42 U.S.C. 8621) is amended—

(1) by repealing subsection (c);

(2) by redesignating subsection (d) as subsection (c); and

(3) in the second sentence of subsection (b), to read as follows: "Amounts appropriated pursuant to this subsection or subsection (c) for a fiscal year shall be available for carrying out this title in the following fiscal year.".

SEC. 4. EMERGENCY FUNDS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 2602 (42 U.S.C. 8621) as amended by section 3, is further amended by adding at the end thereof the following new subsection:

"(d) There are authorized to be appropriated in any fiscal year for payments under this title, in addition to amounts appropriated for distribution to all the States in accordance with section 2604 (other than subsection (g)), such sums as may be necessary to meet the additional home energy assistance needs of one or more States arising from a natural disaster or other emergency. Funds appropriated pursuant to this subsection are hereby designated to be emergency requirements pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985, except that such funds shall be made available only after the submission to Congress of a formal budget request by the President (for all or a part of the appropriation pursuant to this subsection) that includes a designation of the amount requested as an emergency requirement as defined in such Act.".

(b) ALLOTMENT OF EMERGENCY FUNDS.—Section 2604 (42 U.S.C. 8623) is amended by adding at the end thereof the following new subsection:

"(g) Notwithstanding subsections (a) through (f), the Secretary may allot amounts appropriated pursuant to section 2602(d) to one or more than one State. In determining to which State or States additional funds may be allotted, the Secretary shall take into account the extent to which a State was affected by the emergency or disaster, the availability to an affected State of other resources under this or any other program, and such other factors as the Secretary determines relevant.".

SEC. 5. AUTHORIZED USES OF FUNDS.

Paragraph (1) of section 2605(b) (42 U.S.C. 8624(b)(1)) is amended to read as follows:

"(1) use the funds available under this title to—

"(A) conduct outreach activities and provide assistance to low income households, particularly those that pay a high proportion of household income for home energy;

"(B) intervene in energy crisis situations, and, to the extent determined appropriate by the State, to encourage and enable households to attain, to the maximum extent feasible, home energy self-sufficiency;

"(C) provide low-cost residential weatherization and other cost-effective residential repairs or improvements related to energy use;

"(D) provide energy conservation education; and

"(E) plan, develop, and administer the State's program under this title including leveraging programs,

and the State agrees not to use such funds for any purposes other than those specified in this title;".

SEC. 6. TARGETING OF ASSISTANCE TO HOUSEHOLDS WITH HIGH HOME ENERGY BURDENS.

(a) HOUSEHOLD INCOME.—Section 2605(b)(2)(B) (42 U.S.C. 8624(b)(2)(B)) is amended by striking the matter following clause (ii) and inserting the following:

"except that a State may not exclude a household from eligibility in a fiscal year solely on the basis of household income if such income is less than 110 percent of the poverty level for such State, but the State may give priority to those households with the highest home energy costs or needs in relation to household income;".

(b) OUTREACH ACTIVITIES.—Section 2605(b)(3) (42 U.S.C. 8624(b)(3)) is amended by striking "are made aware" and inserting "and households with high home energy burdens, are made aware".

(c) ASSISTANCE LEVELS.—Section 2605(b)(5) (42 U.S.C. 8624(b)(5)) is amended by inserting "or needs" after "highest energy costs".

(d) STATE PLAN.—Section 2605(c)(1) (42 U.S.C. 8624(c)(1)) is amended—

(1) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (H), respectively; and

(2) by inserting after subparagraph (D) the following new subparagraph:

"(E) describes any steps that will be taken (in addition to those necessary to carry out the assurance contained in paragraph (5) of subsection (b)) to target assistance to households with high home energy burdens;".

SEC. 7. REMOVAL OF CONSTRAINT ON SECRETARIAL PROGRAM GUIDANCE.

Section 2605(b) (42 U.S.C. 8624(b)) is amended by striking the first flush sentence immediately following paragraph (14).

SEC. 8. CLARIFICATION OF AUDIT REQUIREMENT.

Section 2605 (42 U.S.C. 8624) is amended—

(1) in subsection (b)(10), by striking "and provide that" and all that follows and inserting "and provide that the State will comply with the provisions of chapter 75 of title 31, United States Code (commonly known as the 'Single Audit Act');"; and

(2) in subsection (e), by striking "at least every two years" and all that follows and inserting "in accordance with chapter 75 of title 31, United States Code.".

SEC. 9. USE OF DEPARTMENT OF ENERGY WEATHERIZATION RULES TO ACHIEVE PROGRAM CONSISTENCY.

Section 2605(c)(1)(D) (42 U.S.C. 8624(c)(1)(D)) is amended by inserting before the semicolon at the end thereof the following: ", including any steps the State will take to address the weatherization and energy-related home repair needs of households that have disproportionately high home energy costs or needs in relation to household income, and describes the rules promulgated by the Department of Energy for administration of its Low Income Weatherization Assistance Program which the State, to the extent permitted by the Secretary to increase consistency between federally assisted programs, will follow regarding the use of funds provided under this title by the State for such weatherization and energy-related home repairs and improvements".

SEC. 10. MATTERS TO BE DESCRIBED IN ANNUAL APPLICATION.

Section 2605(c)(1) (42 U.S.C. 8624(c)(1)) is amended—

(1) in subparagraph (F) (as so redesignated by section 6(d) of this Act)—

(A) by striking "and (13)" and inserting "(13), and (15)"; and

(B) by striking "and" at the end thereof; and

(2) by inserting after subparagraph (F) (as so redesignated by section 6(d) of this Act), the following new subparagraph:

"(G) states, with respect to the 12-month period specified by the Secretary, the number and income levels of households assisted with funds provided under this title, and the number of households so assisted with—

"(i) a member who had attained 60 years of age;

"(ii) a member who was disabled; and

"(iii) one or more young children; and".

SEC. 11. REPORT OF FUNDS AVAILABLE FOR OBLIGATION.

Section 2607(a) (42 U.S.C. 8628(a)) is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraph:

"(2) Each State shall notify the Secretary, not later than 2 months prior to the close of a fiscal year, of the amount (if any) of its allotment for such year that will not be obligated in such year, and, if such State elects to submit a request described in subsection (b)(2), such State shall submit such request at the same time. The Secretary shall make no payment under paragraph (1) to a State for a fiscal year unless the State has complied with this paragraph with respect to the prior fiscal year.".

SEC. 12. MISCELLANEOUS AND TECHNICAL AMENDMENTS.

(a) IN GENERAL.—

(1) TREATMENT OF HOUSEHOLDS.—Section 2605(b)(7) (42 U.S.C. 8624(b)(7) is amended—

(A) in subparagraph (B), by adding "and" at the end thereof;

(B) in subparagraph (C), to read as follows:

"(C) assure that the home energy supplier will not treat households receiving assistance under this title less favorably than other households to which it supplies home energy, and will comply with all provisions under or pursuant to State law prohibiting adverse or discriminatory treatment of such households;"; and

(C) by striking subparagraph (D).

(2) INCENTIVE PROGRAM.—Section 2607A(e) (42 U.S.C. 8626a(e)) is amended by striking "July 31, of each year" and inserting "2 months after the close of the fiscal year during which the State provided leveraged resources to eligible households, as described in subsection (b)".

(b) TECHNICAL AMENDMENTS.—

(1) Section 2602(b) (42 U.S.C. 8621(b)) is amended—

(A) by inserting "(other than section 2607A)" after "to carry out the provisions of this title"; and

(B) by striking the second period at the end thereof.

(2) Section 2603(2) (42 U.S.C. 8622(2)) is amended—

(A) by striking "the" in paragraph (2) and inserting "The"; and

(B) by striking the semicolon at the end thereof and inserting a period.

(3) The sentence that immediately precedes paragraph (15) of section 2605(b) (42

U.S.C. 8624(b)) is transferred so as to appear as a flush sentence immediately after paragraph (15).

(4) Section 2605(b)(3) (42 U.S.C. 8624(b)(3)) is amended by striking "handicapped" and inserting "disabled".

(5) Section 2607A(c)(2) (42 U.S.C. 8626a(c)(2)) is amended by striking ".0008 percent" and inserting "0.08 percent".

(6) Section 2610(a) (42 U.S.C. 8629(a)) is amended—

(A) in paragraph (2), by striking the semicolon after "used" and inserting a semicolon after "title"; and

(B) in paragraph (5)—

(i) by striking "handicapped" and inserting "disabled"; and

(ii) by inserting before the semicolon at the end thereof "or include young children".

SEC. 13. EFFECTIVE DATE.

The amendments and repeals made by this Act shall become effective on October 1, 1994.

By Mr. DODD:

S. 1939. A bill to authorize the establishment of a free-trade area in the Western Hemisphere; to the Committee on Finance.

WESTERN HEMISPHERE FREE-TRADE AREA ACT OF 1994

Mr. DODD. Mr. President, I rise today to introduce the Western Hemisphere Free-Trade Area Act of 1994. This bill would give the President the authority to negotiate an inclusive free-trade agreement with our neighbors throughout the Americas by the end of 1999.

A hemisphere-wide free-trade agreement is the logical next step for us to pursue after passage of the North American Free-Trade Agreement last year. When history books are eventually written about the coming together of the United States and its neighbors in the late 20th century, I hope the ratification of last year's trade agreement with Mexico and Canada will not be the last chapter, but the first.

This legislation provides an outline for the remaining chapters of what could prove to be an amazing story. Rather than pursuing a piece-meal, country-by-country approach to free trade in the Americas, this legislation supports a comprehensive, unified strategy. It says that the United States, Canada, Mexico, and all interested nations in Latin America and the Caribbean should sit down at a table together and hammer out an agreement.

WORLD'S LARGEST MARKET

Such a free-trade area would comprise the largest single market in the world. It would include nearly three-quarters of a billion people and have a gross domestic product of more than $7.3 trillion.

The time is right for this process of integration to begin. Later this year, the United States will host a hemispheric summit that will bring together leaders from throughout the Americas. If we act now with leadership and vision, the Western Hemisphere will enter the 21st century strengthened by democracy, warmed by friendship, and linked by free trade. The nations of the hemisphere may finally be able to move beyond a history of separation and suspicion and embark on a new future.

HOPES FOR POST-COLD-WAR WORLD

I firmly believe we must move in this direction, for it is in Latin America and the Caribbean that the hopes of a post-cold-war world organized around the principles of democracy, human rights, and unfettered trade are most within reach. There are more democratically elected governments in the Western Hemisphere now than at any time since the Spaniards first set foot here more than five centuries ago. Free market reforms have swept the region.

A hemisphere-wide free-trade agreement is the best tool we have to cement the recent democratic and economic reforms in Latin America and encourage more of the same. It is the best tool we have to strengthen the democracies of the region and prevent civil strife. It is the best tool we have to expand markets thirsty for U.S. products.

Our position in such a market would strengthen our hand in trade negotiations with the Europeans and the Japanese. It would give us more leverage in opening up markets around the world. It would position our economy for success in the coming century.

ALREADY A MAJOR MARKET

Latin America and the Caribbean already provide a major market for United States exports. Between 1991 and 1992, U.S. exports to the region grew by $12.4 billion, from $63.4 to $75.8 billion. That was a 19.5-percent increase in just 1 year. U.S. exports to the rest of the world increased by only 4 percent during that time. We now enjoy a $7 billion trade surplus with our neighbors in the Americas.

The region is now the United States third largest trading partner, surpassed only by Canada and Western Europe. We have paid a great deal of attention in recent weeks to our trade relationship with Japan, and justifiably so because it is so central to our economy. But we should keep in mind that we now trade more with Latin America and the Caribbean than we do with Japan.

I know that opponents of such a proposal will make the same arguments they made against the North American Free-Trade Agreement. They will say that a Western Hemisphere free-trade agreement would open our shores to cheap imports from Latin America and put American industry at a disadvantage.

But the truth is that the United States has little to lose from such an agreement. Latin America's tariffs on United States goods are now significantly higher than our tariffs on their products. In fact, two major exports from the region—coffee and crude oil—already enter the United States duty free.

We have much to gain by seeking the same kind of access for our exports, and the best way to meet that goal is through a broad-based trade agreement.

UNIFYING THE PATCHWORK

Such a pact would replace the patchwork of bilateral and multilateral trade zones—many of them overlapping—that now cover much of our hemisphere. The most prominent of these agreements, of course, is the North American Free-Trade Agreement linking the United States, Mexico, and Canada. But there are others as well:

The 13 English-speaking nations of the Caribbean have formed the Caribbean Common Market.

The Central American countries have free-trade agreements with Mexico and Venezuela.

The Andean Pact of Bolivia, Colombia, Ecuador, Peru, and Venezuela will soon eliminate all internal trade barriers.

The Mercosur countries of Argentina, Brazil, Paraguay, and Uruguay plan to complete a southern cone common market by 1995.

These subregional trade agreements illustrate the trend toward free markets and freer trade in the Americas, and they should be applauded. But they also illustrate something else: The need to bring everyone under the umbrella of a hemisphere-wide agreement.

If we pursue this course one country at a time or one small group at a time, early joiners may seek to close the door on others out of fear that expansion would dilute their benefits. Countries initially passed over in favor of their neighbors may question why they were spurned. Bruised feelings could mushroom into economic and political disputes.

THE NEED FOR A NEW VISION

My legislation seeks to head off such a scenario by inviting everyone to hammer out an agreement together. The bill calls for the creation of a new multilateral agency within the organization of American States with the charge of negotiating and implementing a free-trade agreement for the Americas.

Others are thinking along the same lines. Peter Hakim, president of Inter-American Dialogue, described the need for such an organization in an editorial that appeared in the Christian Science Monitor last month.

Mr. President, further, I point out that by establishing such an agreement hemisphere-wide, we would be able to set some minimum standards of democracy, human rights, and free markets.

As I mentioned a moment ago, we have recently seen an unprecedented flowering of democracy in this hemisphere. Less than 2 years ago, we celebrated the 500th anniversary of the encounter of the cultures of Europe and

the indigenous cultures of the Americas that existed at the time. More democracies are in place today than at any point in the 500-year modern history of the Americas.

I believe that we should try and cement those gains. We can do that, in my view, by establishing basic principles. If you wish to be a member of the family of free-trade countries in this hemisphere, then you must adopt democratic and human rights policies and free-market principles. If you are a member of the trade organization or this family, then you must solidify those particular gains.

Mr. President, I will submit this legislation shortly, and I would invite my colleagues to examine the bill, which I think offers a sound approach. I think picking one country over another because of some short-term political gains that may be made or considerations beyond the ones involving free trade could cause some problems for us in this hemisphere. I think we have achieved a great success with the North American Free-Trade Agreement—we now ought to expand that to include these other countries.

Chile in particular has a strong interest in beginning this process. Argentina and other nations such as Uruguay and Paraguay have also expressed their desire to accelerate the economic integration of the hemisphere.

So I would invite my colleagues to look at this legislation and to offer some suggestions. I think the sooner we set up a framework and a structure for inviting other nations to join the family of free-trading nations in this hemisphere, the better off we will be.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

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

OUTLINE OF WESTERN HEMISPHERE FREE-TRADE AGREEMENT ACT

Section 1—Short title identifying the Act as the Western Hemisphere Free-Trade Area Act of 1994.

Title I sets forth the policy, purposes and objectives on establishing a free trade area for the Western Hemisphere and sets 1999 as the target for the entry into force of such an area.

Title II provides negotiating authority to the President to conclude an agreement to establish a free trade agreement for the entire hemisphere based upon the principles and obligations set forth in NAFTA.

Title II also sets forth six requirements that must be met in order for a country to be eligible to participate in the free trade arrangement.

Title III sets forth procedures for Congressional consideration of the implementing legislation, including the extension of fast track procedures to Congressional consideration.

Title IV calls for the establishment of a hemisphere-wide trade organization within the OAS system to serve as the focal point for the negotiation and implementation of the free trade agreement.

Title V provides standing authority for appropriations beginning in FY 1995 to defray the expenses associated with implementing this Act.

[From the Christian Science Monitor, Jan. 27, 1994]

HEMISPHERIC SUMMIT: WHAT COUNTS IS THE FOLLOW-THROUGH

(By Peter Hakim)

On his way to Punta del Este, Uruguay, for the 1967 summit meeting of Western Hemisphere leaders, President Lyndon Johnson was struck by anxiety. It was one o'clock in the morning, probably somewhere above the Amazon, when he called Organization of American States [OAS] Ambassador Sol Linowitz, the chief summit organizer, to his side and asked him what they were going there for. Now that the Clinton administration is assembling the first hemispheric summit (to be held later this year in the United States) since Punta del Este, it needs answers to Mr. Johnson's question.

The difficulty will not be in defining the agenda for the meeting or in gaining agreement on it from Latin American and Caribbean governments. There are four obvious agenda items:

The first is the future of regional trading arrangements, specifically how to move beyond the North American Free-Trade Agreement and other subregional trade pacts toward a hemispheric free-trade system. Most attention will inevitably focus on whether, when, and how the US and its North American partners will open NAFTA to other members. Interestingly, the main item on the 1967 summit agenda was Latin American economic integration; the change is that the US and Canada are now part of the process.

The second theme is the continuing struggle to consolidate democratic practice in the Americas. Despite Latin America's impressive turn toward democracy, few of its countries can yet boast vigorous democratic institutions that represent the interests and protect the rights of all citizens and that subordinate armies to civilian authority. It will certainly be more productive to discuss these issues now than it was in 1967, when half the Latin American leaders at the summit were dictators.

Third, poverty and inequality have to be on the agenda, not only because they are morally offensive but also because social injustice threatens the region's prospects for economic growth and stable democracy. The uprising in southern Mexico and violent protests in Argentina are recent warnings.

Finally, the summit should explore how the U.S. and Latin American nations can work together more effectively on such shared problems as environmental deterioration, drug trafficking, refugees, and the spread of conventional and nuclear weapons.

Formulating the agenda will be relatively easy. The more difficult task will be to decide what the administration wants the summit to accomplish. Will Washington be satisfied to reconfirm that the U.S. and Latin America now share a common agenda and a consistent set of goals? Or will it also want to set in motion some concrete initiatives to accomplish those goals? Does President Clinton want to fortify friendships or pave the way for partnerships?

The summit will pay dividends in either case; in fact, it already has. By announcing it immediately after NAFTA's approval, Washington has sent a reassuring message to Latin America: that U.S. interests in the region are not confined to Mexico but extend throughout Latin America.

Preparations for the meeting will force U.S. policymaking officials to devote some thought to longer-range issues in U.S.-Latin America relations and consult about those issues with Latin American governments and U.S. nongovernmental organizations. Mr. Clinton and his senior advisers should gain both a better understanding of the region and the chance to engage its leaders. All this will leave U.S. relations with the region better off.

The administration, however, could aim for a more ambitious outcome. That would require the participants to focus not only on issues but also on institutions.

Three institutions might be given particular importance at the summit. The OAS needs a stronger capacity to help safeguard and advance democratic practice and human rights in the hemisphere; that, in turn, will demand a stronger commitment to the OAS by the U.S. and other governments, as well as needed internal reforms. The Inter-American Development Bank needs increased resources and greater organizational agility to tackle more effectively the poverty and inequality in Latin America. And a new multilateral mechanism is needed to guide and coordinate progress toward a hemispheric free-trade system. Despite the importance that every country of the Americas now gives to trade and economic integration, no organization currently has the mandate and expertise to exercise leadership on these issues.

The summit's significance will be mostly determined by what happens later—whether the participating countries put into practice and remain committed to the agreements reached. According to Ambassador Linowitz, "The Punta del Este communique included a 23-page action program, which did not produce a great deal of action."

By Mr. BRADLEY:

S. 1940. A bill to amend the Congressional Budget Act of 1974 to require that the allocations of budget authority and budget outlays made by the Committee on Appropriations of each House be agreed to by joint resolution and to permit amendments that reduce appropriations to also reduce the relevant allocation and the discretionary spending limits; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committee have 30 days to report or be discharged.

SPENDING REDUCTION AND BUDGET CONTROL ACT OF 1994

• Mr. BRADLEY. Mr. President, people wonder why Congress is so able to spend so much money despite its loud declarations for deficit reduction.

Part of the answer is in the rules Congress plays by when it spends money.

In theory, Congress passes a budget and then writes spending bills that reflect that budget. In practice, Congress passes a budget and then makes it very difficult to cut specific programs.

Here's how it works: After Congress approves the budget, the appropriations committees are allowed to determine discretionary spending within the budget resolution targets.

The Appropriations Committee distributes spending authority to its 13

subcommittees. Tens of billions of dollars are given to the subcommittees, based on the sketchiest guidelines. The rest of Congress never knows how this was done or how their constituents' money can be spent until they've been handed the results.

We need to return this power to the voters by allowing all of their representatives to determine how to distribute the money within the budget targets and subcommittee jurisdictions. That means nothing more than requiring a vote by each House that would specify which subcommittees get which amount of money.

Unfortunately, this step alone doesn't solve the problem. When the appropriations bills come to the floor, there are different complex rules but the same problem: The rules greatly limit your ability to cut spending.

Here's how it works when you try to cut spending from appropriations bills: If your amendment to cut spending passes, the category that money came from remains intact, and the money you saved can be spent somewhere else in that category.

It you want to avoid the trap I just described, you also have to get approval to cut the category. And categories are very important in Congress—we have rules that say you need 60, not 50, votes to reduce these privileged entities.

But there's more. Even if the House and Senate agree on similar spending and category cuts, the conference committee that comes up with the final bill is completely free to reinsert whatever funding might have been cut.

This really happens. It happened last year to a spending cut amendment I offered. After the Senate agreed to cut $22 million from something called the High Temperature Gas Reactor, the conference committee scaled the reduction down to $10 million. Half a loaf, but still $10 million in deficit reduction, right? Wrong. The Energy and Water Appropriations bill which funded the HTGR actually increased in size after conference, gaining an extra $20 million out of thin air.

Let me make an analogy between cutting spending under the present system and basketball. Imagine you make a free throw—cut a specific program—but it doesn't count unless you go back to the three-point line and make the shot again—cut the category. Then, if you manage to make both shots, you have to go back to the half-court line and sink a shot from there—keep cuts in conference report—in order to get credit for a single free throw, or a single deficit reduction amendment.

Mr. President, if we created this maze, we can straighten it out. We have to turn the process around so that it's as easy to cut spending in the future as it is to protect spending now. That means a new system.

First, the House and Senate would have overall common spending targets by appropriations subcommittees; second, any amendment could specify a program cut and a cut in the overall allocation, and be passed by majority vote; and third, the conference committee could not report a bill that spent more than either the House or Senate version.

Americans are right when they think that we are truly inspired when it comes to spending; we need to bring the same zeal to cutting spending.

And last, we need to apply that same zeal to tax and spending entitlements. It's clear that I think we need real reform on the discretionary side of the budget, but it's also clear that Congress needs to take on the uncontrolled spending in tax loopholes and spending entitlements. Even as I pursue the proposals I've just outlined, I will fight for control of health care entitlements as a part of health care reform, and will look for new ways to curb the excesses in the Tax Code that I have long fought as wasteful and budget busting.

I ask unanimous consent that a description of the bill and its purpose, and the text of the legislation be printed in the RECORD.

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

S. 1940

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 "Spending Reduction and Budget Control Act of 1994."

SEC. 2. JOINT RESOLUTION ALLOCATING APPROPRIATED SPENDING.

(a) COMMITTEE ON APPROPRIATIONS RESOLUTION.—Section 302(b) of the Congressional Budget Act of 1974 is amended to read as follows:

"(b) COMMITTEE SUBALLOCATIONS.—

"(1) COMMITTEES ON APPROPRIATIONS.—(A) As soon as practical after a concurrent resolution on the budget is agreed to, the Committee on Appropriations of each House shall, after consulting with Committee on Appropriations of the other House, report to its House an original joint resolution on appropriations allocations (referred to in the paragraph as the 'joint resolution') that contains the following:

"(i) A subdivision among its subcommittees of the allocation of budget outlays and new budget authority allocated to it in the joint explanatory statement accompanying the conference report on such concurrent resolution.

"(ii) A subdivision of the amount with respect to each such subcommittee between controllable amounts and all other amounts.

The joint resolution shall be placed on the calendar pending disposition of such joint resolution in accordance with this subsection.

"(B)(i) Except as provided in clause (ii), the provisions of section 305 for the consideration in the Senate of concurrent resolutions on the budget and conference reports thereon shall also apply to the consideration in the Senate of joint resolutions reported under this paragraph and conference reports thereon.

"(ii)(I) Debate in the Senate on any joint resolution reported under this paragraph, and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to not more than 20 hours.

"(II) The Committee on Appropriations shall manage the joint resolution.

"(C) The allocations of the Committees on Appropriations shall not take effect until the joint resolution is enacted into law.

"(2) OTHER COMMITTEES.—As soon as practicable after a concurrent resolution on the budget is agreed to every committee of the House and Senate (other than the Committees on Appropriations) to which an allocation was made in such joint explanatory statement shall, after consulting with the committee or committees of the other House to which all or part of its allocation was made—

"(A) subdivide such allocation among its subcommittees or among programs over which it has jurisdiction; and

"(B) further subdivide the amount with respect to each subcommittee or program between controllable amounts and all other amounts.

Each such committee shall promptly report to its House the subdivisions made by it pursuant to this paragraph.".

(b) POINT OF ORDER.—Section 302(c) of the Congressional Budget Act of 1974 is amended by striking "such committee makes the allocation or subdivisions required by" and inserting "such committee makes the allocation or subdivisions in accordance with".

(c) ALTERATION OF ALLOCATIONS.—Section 302(e) of the Congressional Budget Act of 1974 is amended to read as follows:

"(e) ALTERATION OF ALLOCATIONS.—

"(1) Any alteration of allocations made under paragraph (1) of subsection (b) proposed by the Committee on Appropriations of either House shall be subject to approval as required by such paragraph.

"(2) At any time after a committee reports the allocations required to be made under subsection (b)(2), such committee may report to its House an alteration of such allocations. Any alteration of such allocations must be consistent with any actions already taken by its House on legislation within the committee's jurisdiction.".

SEC. 3. AMENDMENTS TO APPROPRIATIONS BILL.

Section 302 of the Congressional Budget Act of 1974 is amended by—

(1) redesignating subsection (g) as subsection (h); and

(2) inserting after subsection (f) the following:

"(g) AMENDMENTS TO APPROPRIATIONS ACT REDUCING ALLOCATIONS.—

"(1) FLOOR AMENDMENTS.—Notwithstanding any other provision of this Act, an amendment to an appropriations bill shall be in order if—

"(A) such amendment reduces an amount of budget authority provided in the bill and reduces the relevant subcommittee allocation made pursuant to subsection (b)(1) and the discretionary spending limits under section 601(a)(2) for the fiscal year covered by the bill; or

"(B) such amendment reduces an amount of budget authority provided in the bill and reduces the relevant subcommittee allocation made pursuant to subsection (b)(1) and the discretionary spending limits under section 601(a)(2) for the fiscal year covered by the bill and the 4 succeeding fiscal years.

"(2) CONFERENCE REPORTS.—(A) It shall not be in order to consider a conference report on an appropriations bill that contains a provision reducing subcommittee allocations and discretionary spending included in both

the bill as passed by the Senate and the House of Representatives if such provision provides reductions in such allocations and spending that are less than those provided in the bill as passed by the Senate or the House of Representatives.

"(B) It shall not be in order in the Senate or the House of Representatives to consider a conference report on an appropriations bill that does not include a reduction in subcommittee allocations and discretionary spending in compliance with subparagraph (A) contained in the bill as passed by the Senate and the House of Representatives.".

SEC. 4. SECTION 602(b) ALLOCATIONS.

Section 602(b)(1) of the Congressional Budget Act of 1974 is amended to read as follows:

(1) SUBALLOCATIONS BY APPROPRIATIONS COMMITTEES.—The Committee on Appropriations of each House shall make allocations under subsection (a)(1)(A) or (a)(2) in accordance with section 302(b)(1).".

SPENDING REDUCTION AND BUDGET CONTROL ACT OF 1994—BILL SUMMARY

The legislation introduced today increases the likelihood of deficit reduction and the accountability of the budget process. The bill gives legislators new tools to address spending priorities and deficit reduction.

STEP 1: FIX THE ALLOCATION PROCESS

Problem: A central decision in the Appropriations process is the distribution of available spending authority (BA and outlays) among the thirteen subcommittees. While the Budget Resolution may fix the total spending ceiling, the "functional categories" provide little guidance for these "302/602 (B)" allocations. As a result, the Appropriations Committee make fundamental decisions about spending priorities that are not subject to the approval by the entire Senate. Additionally, the House and Senate figures often differ.

Solution: The Congress would be required to consider and approve spending targets for each appropriations subcommittee. This would be done by a Joint Resolution which would: Originate and be managed within the Appropriations Committees; have privileged status and supersede other pending business; limit debate (Reconciliation-type rules—20 hour debate), tight germaneness rules for amendments); specify allocations by Subcommittee; meet appropriate overall Budget cap; be passed by both Houses in final form prior to the approval of any Appropriations Bill by either House.

Subcommittees allocations can be modified in subsequent Appropriations Bills: downward by a majority vote; upward by a three-fifths vote, as is the case today.

STEP 2: AMENDMENTS TO APPROPRIATIONS BILLS SHOULD BE ABLE TO PRODUCE BUDGET SAVINGS WITH A MAJORITY VOTE

Problem: A valid criticism to any amendment to cut Appropriations is that such amendments are unlikely to result in deficit savings. If a legislator succeeds in cutting an account, the funds saved remain available under the Subcommittee's 302(b)/602(b) allocation to be spent on other items. If the appropriations cut amendment contains reductions in the 302(b)/602(b) allocation, then it is subject to a "supermajority" (i.e., three-fifths vote) point of order. Finally, even if both Houses pass similar cuts or if both Houses come in below the 302(b)/602(b) allocation figures, there is no explicit constraint on Conference to maintain deficit reduction.

Solution: Senators and Representatives would be allowed to offer appropriations cut amendments in one of three forms:

(i) Cut the program account, but retain current law subcommittee allocation and discretionary cap figures;

(ii) Cut the program account and drop subcommittee allocation and discretionary cap figures accordingly for current year;

(iii) Cut the program account and drop subcommittee allocation figure for current year and discretionary cap figure for current year and for an additional four years.

Any amendment offered in one of the above forms would not be subject to a three-fifths vote point of order.

STEP 3: FOCUS THE CONFERENCE COMMITTEES ON DEFICIT REDUCTION

Problem: Even if each House adopted reduced spending proposals, there's no guarantee that the conference committee will reduce spending. In fact, our experience is that the conference committee can drop cut proposals and even report a bill which increases spending higher than that reported by either House.

Solution: Conference would not be able to adopt a final 302(b)/602(b) allocation figure higher than the highest of the House or Senate figures; if two Houses agree on different budget cuts on the same appropriations bill, Conference would be required to pass savings equal to the lesser of the two packages of budget cuts.•

By Mr. BUMPERS (for himself, Mr. SIMON, Mr. CONRAD, Mr. LAUTENBERG, Mr. FEINGOLD, and Mr. LEAHY):

S. 1941. A bill to terminate the Milstar II Communications Satellite Program; to the Committee on Armed Services.

MILSTAR II TERMINATION ACT

• Mr. BUMPERS. Mr. President, I introduce legislation to terminate the Milstar program on behalf of Senators SIMON, CONRAD, LAUTENBERG, FEINGOLD, LEAHY, and myself.

This bill would terminate the prohibitively expensive Milstar satellite program, a program that the New York Times recently called the Pentagon's Pterodactyl. Doing so will save the taxpayers about $800 million in fiscal year 1995 and as much as $10 to $12 billion through fiscal year 2002. Because this money will be borrowed, the total savings, including the cost of interest would be some $25 billion over the next 35 years.

Milstar was designed to allow American military forces to endure a protracted nuclear conflict of 6 months or more. Today, it is difficult to believe that the United States ever planned to fight and win a nuclear war lasting months. Nevertheless, Milstar was designed to ensure that our surviving leaders could transmit targets and missile launch orders to our remaining nuclear forces, even if the rest of American society had been obliterated.

The first Milstar satellite—now designated Milstar I—has just been launched, 7 years late, after an expenditure of about $9 billion. A second Milstar I satellite will be launched in 1995. The money for these two satellites has already been obligated. What is now at issue is whether the Pentagon will spend another $10 billion or so for a modified system designated Milstar II.

With the end of the cold war, Congress directed that the Milstar program be restructured to save money and to better support regional conflicts. The main action taken was to cut the overall number of satellites—from 11 to 6—and to add a medium data rate communications capability to the third and subsequent satellites. Milstar II is better than the original concept. But one cannot turn a sow's ear into a silk purse.

Mr. President, the Pentagon plans on spending at least $10 billion from fiscal year 1994 to fiscal year 2002 to design, build, launch and operate four redesigned Milstar II satellites and their ground terminals. Yet they will be obsolescent by about 2006, when the Pentagon will be ready to launch a cheaper, more capable, follow-on system.

There is no question that America's Armed Forces require the best communications systems possible. But, despite its huge cost, Milstar II will not meet that need. Instead, it provides many capabilities that are meaningless in the post-cold war environment. It will provide some useful capabilities, but there are better and cheaper alternatives. And it does not address many of the Pentagon's most serious communications shortfalls.

Milstar was designed to function in a severe nuclear environment; in the presence of interference from sophisticated jammers; in the absence of ground stations; and in the face of direct antisatellite attacks. With the end of the cold war, that threat is minimal.

Milstar II will provide only low data rate [LDR] and medium data rate [MDR] channels. Encrypted LDR is good for passing short covert messages such as launch missiles. According to the Rand Corp., the requirement of LDR communications has been declining in recent years. MDR is used to transmit phone calls and fax-type materials. Milstar II will provide only a fraction of the Pentagon's MDR needs, and many other military and commercial satellites provide similar service more efficiently and cheaply. It does nothing to improve DOD's rapidly expanding need for high data rate [HDR] satellite communications channels. HDR is needed to rapidly transmit large data bases and high resolution imagery, both critical to timely wartime intelligence. Thus, even after Milstar is fully deployed in about 2002, U.S. forces will have to rely on alternative satellites to fulfill most of their communications needs in a major regional conflict.

Secretary of Defense Perry has said that Milstar should be judged by its antijamming capability. In that regard, the existing satellites of the Pentagon's Defense Satellite Communications System [DSCS] have an

antijamming capability, and they provide high data rate channels not provided by Milstar. And, like Milstar, DSCS satellites are hardened against the effects of nuclear explosions.

Recently, the officer formerly in charge of the Air Force budget for space systems said that Milstar is "the clearest example of a cold war system whose contributions to military conflicts like Desert Storm * * * would be negligible." Terminating the program will allow our Defense dollars to be spent on programs that truly support the readiness and capabilities of our fighting forces.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

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

S. 1941

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TERMINATION OF MILSTAR II COMMUNICATIONS SATELLITE PROGRAM.

(a) TERMINATION OF PROGRAM.—The Secretary of Defense shall terminate the Milstar II Communications Satellite program.

(b) PAYMENT OF TERMINATION COSTS.—Funds available on or after the date of the enactment of this Act for obligation for the Milstar II Communications Satellite program may be obligated for that program only for payment of the costs associated with the termination of that program.●

ADDITIONAL COSPONSORS

S. 340

At the request of Mr. HEFLIN, the name of the Senator from New Hampshire [Mr. GREGG] was added as a cosponsor of S. 340, a bill to amend the Federal Food, Drug, and Cosmetic Act to clarify the application of the act with respect to alternate uses of new animal drugs and new drugs intended for human use, and for other purposes.

S. 1669

At the request of Mrs. HUTCHISON, the names of the Senator from Wyoming [Mr. WALLOP] and the Senator from Wisconsin [Mr. KOHL] were added as cosponsors of S. 1669, a bill to amend the Internal Revenue Code of 1986 to allow homemakers to get a full IRA deduction.

S. 1715

At the request of Mrs. HUTCHISON, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 1715, a bill to provide for the equitable disposition of distributions that are held by a bank or other intermediary as to which the beneficial owners are unknown or whose addresses are unknown, and for other purposes.

S. 1805

At the request of Mr. WARNER, the names of the Senator from Hawaii [Mr. INOUYE] and the Senator from Utah [Mr. BENNETT] were added as cosponsors of S. 1805, a bill to amend title 10, United States Code, to eliminate the disparity between the periods of delay provided for civilian and military retiree cost-of-living adjustments in the Omnibus Budget Reconciliation Act of 1993.

S. 1825

At the request of Mr. BUMPERS, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 1825, a bill to authorize collection of certain State and local taxes with respect to the sale, delivery, and use of tangible personal property.

S. 1852

At the request of Mr. KENNEDY, the names of the Senator from Arizona [Mr. DECONCINI], the Senator from Maryland [Mr. SARBANES], the Senator from Massachusetts [Mr. KERRY], the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from Louisiana [Mr. JOHNSTON], and the Senator from Washington [Mrs. MURRAY] were added as cosponsors of S. 1852, a bill to amend the Head Start Act to extend authorizations of appropriations for programs under that act, to strengthen provisions designed to provide quality assurance and improvement, to provide for orderly and appropriate expansion of such programs, and for other purposes.

S. 1860

At the request of Mr. DODD, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 1860, a bill to authorize the minting of coins to commemorate the 1995 Special Olympics World Games.

S. 1869

At the request of Mr. COHEN, the names of the Senator from Indiana [Mr. LUGAR], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Delaware [Mr. ROTH], and the Senator from Idaho [Mr. KEMPTHORNE] were added as cosponsors of S. 1869, a bill to amend the National Security Act of 1947 to improve counterintelligence measures through enhanced security for classified information, and for other purposes.

S. 1906

At the request of Mr. ROCKEFELLER, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of 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.

SENATE JOINT RESOLUTION 172

At the request of Mr. DOLE, the names of the Senator from Missouri [Mr. BOND], the Senator from Mississippi [Mr. COCHRAN], the Senator from New Mexico [Mr. DOMENICI], the Senator from Alabama [Mr. HEFLIN], the Senator from North Carolina [Mr. HELMS], the Senator from Hawaii [Mr. INOUYE], the Senator from Vermont [Mr. JEFFORDS], and the Senator from South Dakota [Mr. PRESSLER] were added as cosponsors of Senate Joint Resolution 172, a joint resolution designating May 30, 1994, through June 6, 1994, as a "Time for the National Observance of the Fiftieth Anniversary of World War II."

SENATE CONCURRENT RESOLUTION 34

At the request of Mr. BRADLEY, the names of the Senator from Washington [Mr. GORTON], the Senator from Wisconsin [Mr. KOHL], and the Senator from Minnesota [Mr. DURENBERGER] were added as cosponsors of Senate Concurrent Resolution 34, a concurrent resolution expressing the sense of the Senate regarding the accounting standards proposed by the Financial Accounting Standards Board.

SENATE CONCURRENT RESOLUTION 62—RELATIVE TO THE REPUBLIC OF MACEDONIA

Mr. D'AMATO submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 62

Whereas the United States has strong and enduring political, strategic and economic ties with the Hellenic Republic of Greece;

Whereas Greece has been a wartime ally of the United States during every major conflict in this century;

Whereas the Former Yugoslav Republic of Macedonia is of no political, strategic or economic importance to U.S. interests in the region;

Whereas historical and archaeological evidence demonstrates that the ancient Macedonians were Greek;

Whereas Macedonia is a Greek name that has designated the northern area of Greece for over 2,000 years;

Whereas in 1944, the United States opposed the changing of the name of the Skopje region of Yugoslavia by Marshall Tito from Vardar Banovina to Macedonia as part of his campaign to gain control of the Greek province of Macedonia and the major port city of Salonika;

Whereas the regime in Skopje has persisted in inflaming tensions between it and Greece through a sustained propaganda campaign and the continued use of an ancient Greek symbol, the Star of Vergina, in its flag;

Whereas the Skopje regime has refused to amend paragraph 49 of its constitution, a reference to the 1944 declaration by the then communist regime calling for the "unification" of neighboring territories in Greece and Bulgaria with the "Macedonian Republic", and the Preamble and paragraph 3 which imply expansionist and irredentist policies;

Whereas Greece has no claim on the territory of the Former Yugoslav Republic of Macedonia and has repeatedly reaffirmed the inviolability of all borders in the area of the 2 countries; and

Whereas it is in the best interest of the United States to support its longtime and strategic ally Greece and oppose any expansionist or irredentist policies in order to promote peace and stability in the area: Now, therefore be it

Resolved by the Senate (the House of Representatives concurring),

That it is the sense of the Congress that—

(1) the President should not have extended diplomatic recognition to the Skopje regime that insists on using the Greek name of Macedonia; and

(2) the President should reconsider this decision and withdraw diplomatic recognition and any consideration of financial assistance until such time as the Skopje regime renounces its use of the name Macedonia, removes objectionable language in the Preamble and paragraph 3 and 49 of its constitution, removes symbols which imply territorial expansion such as the Star of Vergina in its flag, ceases propaganda against Greece and adheres fully to Conference on Security and Cooperation in Europe norms and principles.

Mr. D'AMATO. Mr. President, I rise today to submit a concurrent resolution asking the President to rescind American diplomatic recognition of the Former Yugoslav Republic of Macedonia [FYROM].

In a effort to gain control of the Greek Province of Macedonia, Marshall Tito, in 1944, changed the name of the Skopje region of Yugoslavia from Vandar Banovina to Macedonia. The regime in Skopje has persisted in increasing tensions between it and Greece. The propaganda campaign against Greece from Skopje continues today.

It is in the best interest of the United States to promote stability in the Balkans. By diplomatically recognizing FYROM, we will possibly jeopardize our relationship with Greece, and perhaps even threaten the peace in the Balkans.

As you well know, Greece, our wartime and NATO ally, is an important strategic, political, and economic partner of the United States. Greece is also our main ally in the region and is crucial in promoting peace, democracy, stability, and economic progress in the Balkans.

President Clinton's actions are in direct contradiction to his October 1992 campaign pledge to not recognize FYROM. Assurances from President Gligorov as to the several disputes with Greece are certainly not enough to allow for United States recognition. Before establishing diplomatic relations with FYROM, the Clinton administration should follow the following conditions: FYROM must remove the word "Macedonia" from its name; remove the objectionable constitutional language in articles 3 and 49 of its constitution with respect to expansionist and irredentist policies; remove the objectional symbols implying territorial expansion, such as the star of Vergina on its flag; cease its propaganda campaign against Greece; and adhere fully to CSCE norms and principles. The United States should withhold all financial and/or other aid until these actions are taken.

Mr. President, to put it simply, the President should not have granted diplomatic recognition to the Former Yugoslav Republic of Macedonia until the above conditions were met, and he should reconsider his decision and withdraw this recognition.

AMENDMENTS SUBMITTED

COMMUNITY DEVELOPMENT BANKING AND FINANCIAL INSTITUTIONS ACT OF 1993

RIEGLE (AND D'AMATO) AMENDMENTS NOS. 1523–1526

Mr. RIEGLE (for himself and Mr. D'AMATO) proposed four amendments to the bill (S. 1275) to facilitate the establishment of community development financial institutions; as follows:

AMENDMENT NO. 1523

On page 41, line 18, insert "a quasi-governmental entity," after "agency,".

On page 44, line 4, strike "and" and insert "or".

On page 44, strike line 17, and insert "any class of the voting shares of such corporation, and does not otherwise control in any manner the election of a majority of the directors of the corporation.".

On page 52, beginning on line 13, strike "State, and local" and insert "State, local, and tribal government".

On page 54, between lines 2 and 3, insert the following:

(c) EXCEPTION.—

(1) IN GENERAL.—Notwithstanding subsection (b)(1), in the case of a State in which there is no existing community development financial institution in operation on the date of enactment of this Act, an applicant may be an agency or instrumentality of a State government if—

(A) such an entity has a primary mission of promoting community development;

(B) any assistance received is used to establish a community development financial institution;

(C) there is no nongovernment entity within the State that possesses the capacity to become a community development financial institution;

(D) no other agency or instrumentality of the same State has received assistance; and

(E) assistance received will not reduce the amount of State funds that otherwise would be appropriated to such an entity.

(2) MAJORITY OWNERSHIP.—An agency or instrumentality eligible to apply pursuant to paragraph (1) may own a majority of the voting stock of a community development financial institution if it demonstrates that there is a lack of nonpublic sources of capital available to establish a community development financial institution.

(3) AMOUNT OF ASSISTANCE.—No State agency or instrumentality and a community development financial institution, a majority of the shares of which are owned by such an agency or instrumentality pursuant to this subsection, may cumulatively receive assistance exceeding the amount set forth under section 108(d)(1).

On page 54, line 3, strike "(c)" and insert "(d)".

On page 59, line 17, strike "offered" and insert "provided".

On page 61, line 1, before the first comma insert "and its affiliates".

On page 61, strike lines 9 through 22, and insert the following:

(e) MATCHING REQUIREMENTS.—

(1) IN GENERAL.—Assistance other than technical assistance shall be matched with funds from sources other than the Federal Government on the basis of not less than one dollar for each dollar provided by the Fund. Such matching funds shall be at least comparable in form and value to assistance provided by the Fund. The Fund shall provide no assistance (other than technical assistance) until a community development financial institution has secured firm commitments for the matching funds required.

(2) EXCEPTION.—In the case of an applicant with severe constraints on available sources of matching funds, the Fund may permit an applicant to comply with the matching requirements of paragraph (1) by—

(A) reducing such matching requirement by 50 percent;

(B) permitting such applicant to satisfy not more than 60 percent of the matching requirement through use of assistance made available pursuant to—

(i) section 106 of the Housing and Community Development Act of 1974;

(ii) section 623(c)(1) of the Community Economic Development Act of 1981; or

(iii) section 310B(c) of the Consolidated Farm and Rural Development Act; or

(C) permitting an applicant to provide matching funds in a form to be determined at the discretion of the Fund if such applicant—

(i) has total assets of less than $100,000;

(ii) serves nonmetropolitan areas; and

(iii) is not requesting more than $25,000 in assistance.

(3) LIMITATION.—Not more than 25 percent of the total funds disbursed in any fiscal year by the Fund may be matched as authorized under paragraph (2).

(4) CONSTRUCTION OF "FEDERAL FUNDS".—For purposes of this subsection, notwithstanding section 105(a)(9) of the Housing and Community Development Act of 1974, funds provided pursuant to such Act shall be considered to be Federal funds, except as provided in paragraph (2)(B).

On page 64, between lines 16 and 17, insert the following:

(E) NATIVE AMERICAN INSTITUTIONS.—In the case of a community development financial institution which serves an investment area described in paragraph (11)(C) of section 103, or an Indian tribe, as defined in section 4 of the Indian Self-Determination and Education Assistance Act, the Fund shall consult with the applicable tribal government in evaluating the institution's compliance with the performance goals established pursuant to subparagraph (B).

On page 67, between lines 23 and 24, insert the following:

(2) USER PROFILE INFORMATION.—The Fund shall require each community development financial institution receiving assistance under this subtitle to compile and maintain data on the gender, race, ethnicity, national origin, and other pertinent information concerning individuals that utilize the services of the assisted institution to ensure that targeted populations and low-income residents of investment areas are adequately served.

On page 67, line 24, strike "(2)" and insert "(3)".

On page 68, line 4, strike "(3)" and insert "(4)".

On page 68, line 10, strike "(4)" and insert "(5)".

On page 69, between lines 16 and 17, insert the following:

(2) NATIVE AMERICAN LENDING STUDY.—

(A) STUDY.—The Fund shall conduct a study on lending and investment practices

on Indian reservations and other land held in trust by the United States Government. Such study shall—

(i) identify barriers to private financing on such lands; and

(ii) identify the impact of such barriers on access to capital and credit for Native American populations.

(B) CONSULTATION WITH PRIVATE SECTOR.—In conducting the study under subparagraph (A), the Fund shall consult with tribal governments, private citizens, and organizations that possess expertise in lending and community development issues confronted by Native American populations.

(C) REPORT.—Not later than 18 months after the date of enactment of this Act, the Fund shall submit a report to the President and the Congress that—

(i) contains the findings of the study conducted under subparagraph (A);

(ii) recommends any necessary statutory and regulatory changes to existing Federal programs; and

(iii) makes policy recommendations for community development financial institutions, insured depository institutions, secondary market institutions, and other private sector capital institutions to better serve such populations.

On page 69, line 17, strike "(2)" and insert "(3)".

Beginning on page 75, line 23, strike all through page 77, line 2.

On page 77, line 3, strike "118" and insert "117".

On page 77, line 8, strike "119" and insert "118".

Beginning with page 78, line 24, strike all through page 79, line 2, and insert the following: "consumer credit transaction that is secured by the consumer's principal dwelling, other than a residential mortgage transaction, a reverse mortgage transaction, or a transaction under an open end credit plan, if—".

On page 80, line 12, strike the comma.

On page 88, between lines 6 and 7, insert the following new section:

SEC. 153. REVERSE MORTGAGE DISCLOSURE.

(a) DEFINITION OF REVERSE MORTGAGE.—Section 103 of the Truth in Lending Act (15 U.S.C. 1602) is amended by adding at the end the following new subsection:

"(bb) The term 'reverse mortgage transaction' means a nonrecourse transaction in which a mortgage, deed of trust, or equivalent consensual security interest is created against the consumer's principal dwelling—

"(1) securing one or more advances; and

"(2) with respect to which the payment of any principal, interest, and shared appreciation is due and payable (other than in the case of default) only after—

"(A) the transfer of the dwelling;

"(B) the consumer ceases to occupy the dwelling as a principal dwelling; or

"(C) the death of the consumer.".

(b) DISCLOSURE.—Chapter 2 of title I of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by adding at the end the following new section:

"SEC. 138. REVERSE MORTGAGES.

"(a) IN GENERAL.—In addition to the disclosures required under this title, for each reverse mortgage, the creditor shall, not less than 3 days prior to consummation of the transaction, disclose to the consumer in conspicuous type a good faith estimate of the projected total cost of the mortgage to the consumer expressed as a table of annual interest rates. Each annual interest rate shall be based on a projected total future loan balance under a projected appreciation rate for the dwelling and a term for the mortgage. The disclosure shall include—

"(1) statements of the annual interest rates for not less than 3 projected appreciation rates and not less than 3 loan periods, as determined by the Board, including—

"(A) a short-term reverse mortgage;

"(B) a term equaling the actuarial life expectancy of the consumer; and

"(C) such longer term as the Board deems appropriate; and

"(2) a statement that the consumer is not obligated to complete the reverse mortgage transaction merely because the consumer has received the disclosure required under this section or has signed a loan application.

"(b) PROJECTED TOTAL COST.—In determining the projected total cost of the mortgage to be disclosed to the consumer under subsection (a), the creditor shall take into account—

"(1) any shared appreciation that the lender will, by contract, be entitled to receive;

"(2) all costs and charges to the consumer, including the costs of any associated annuity that the consumer elects or is required to purchase as part of the reverse mortgage transaction;

"(3) all payments to and for the benefit of the consumer, including, in the case in which an associated annuity is purchased (whether or not required by the lender as a condition of making the reverse mortgage), the annuity payments received by the consumer and financed from the proceeds of the loan, instead of the proceeds used to finance the annuity; and

"(4) any limitation on the liability of the consumer under reverse mortgage transactions (such as nonrecourse limits and equity conservation agreements).".

(c) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 2 of the Truth in Lending Act is amended by inserting after the item relating to section 137 the following:

"138. Reverse mortgages.".

On page 88, strike line 7 and insert the following:

SEC. 154. REGULATIONS; EFFECTIVE DATE.

On page 89, line 2, strike "(a) DEFINITION.—".

On page 89, line 10, strike "evidencing the indebtedness" and insert "or leases of personal property evidencing the obligation".

On page 89, line 15, insert "or leasing company" after "company".

On page 89, line 18, insert "or leases of personal property" after "notes".

On page 89, line 19, insert "or lessee" after "issuer".

On page 89, line 21, insert "or leases" after "notes".

On page 89, line 24, insert "or a lease of personal property" after "note".

On page 89, line 26, insert "or leases" after "notes".

On page 90, line 1, insert "or leases" after "notes".

On page 90, line 3, insert "or leases" after "notes".

On page 90, strike lines 13 through 18.

On page 95, line 17, strike "**LOANS**" and insert "**OBLIGATIONS**".

On page 95, line 20, insert "or a lease of personal property" before "with".

On page 95, line 25, insert "or lease of personal property" after "loan".

On page 96, line 23, insert "and leases of personal property" after "loans".

On page 97, line 11, insert "or leases of personal property" after "loans".

On page 98, line 6, insert "and leases of personal property" before "with".

On page 98, line 12, insert "and leases of personal property" after "loans".

Beginning with page 100, line 20, strike all through page 102, line 9, and insert the following:

SEC. 210. SENSE OF THE SENATE ON TAXATION OF SMALL BUSINESS LOAN INVESTMENT CONDUITS.

(a) SENSE OF THE SENATE.—It is the sense of the Senate that the taxation of a small business loan investment conduit and the holder of an interest therein should be similar to the taxation of a real estate mortgage investment conduit and the holder of an interest therein under the Internal Revenue Code of 1986, taking into account—

(1) the purpose of facilitating the securitization of small business loans and leases or personal property through the use of small business loan investment conduits and the development of a secondary market in small business loans and leases of personal property;

(2) differences in the nature of qualifying mortgages in a real estate mortgage investment conduit and small business loans and leases of personal property; and

(3) differences in the practices of participants in the securitization of real estate mortgages in a real estate mortgage investment conduit and the securitization of other assets.

(b) SMALL BUSINESS LOAN INVESTMENT CONDUIT DEFINED.—For purposes of this section, the term "small business loan investment conduit" means any entity substantially all of the assets of which consist of an interest in one or more promissory notes as leases of personal property evidencing the obligation (including any participation or certificate of beneficial ownership therein)—

(1) of a business that meets the criteria of a small business concern established under section 3(a) of the Small Business Act; and

(2) that was originated by an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act), credit union, insurance company, or similar institution which is supervised and examined by a Federal or State authority, or a finance company or leasing company.

On page 106, strike lines 22 and 23, and insert the following:

(11) the term 'State' means—

(A) a State of the United States;

(B) the District of Columbia;

(C) any political subdivision of a State of the United States, which subdivision has a population in excess of the population of the least populated State of the United States; and

(D) any other political subdivision of a State of the United States that the Secretary determines has the capacity to participate in the program.

On page 111, lines 12 and 13, strike "subject to the control" and insert "the exclusive property".

On page 111, beginning on line 13, strike "Notwithstanding" and all that follows through the period on line 18.

On page 112, strike lines 15 and 16 and insert "tion agreement, provide authority for the participating State".

On page 112, line 18, strike "; and" and insert a period.

Beginning with page 112, line 19, strike all that follows through page 113, line 2.

On page 122, lines 13 and 14, strike "(1) WITHDRAWALS BASED ON OUTSTANDING BALANCE.—".

Beginning with page 122, line 24, strike all through page 123, line 8.

On page 123, between lines 8 and 9, insert the following:

(s) GRANDFATHERED PROVISION.—

(1) SPECIAL TREATMENT OF PREMIUM CHARGES.—Notwithstanding subsection (b) or (d), the participation agreement, if explicitly authorized by a statute enacted by the State before the date of enactment of this Act, may allow a participating financial institution to treat the premium charges paid by the participating financial institution and the borrower into the reserve fund, and interest or income earned on funds in the reserve fund that are deemed to be attributable to such premium charges, as assets of the participating financial institution for accounting purposes, subject to withdrawal by the participating financial institution only—

(A) for the payment of claims approved by the participating State in accordance with this section; and

(B) upon the participating financial institution's withdrawal from authority to make new loans under the Program.

(2) PAYMENT OF POST-WITHDRAWAL CLAIMS.—After any withdrawal of assets from the reserve fund pursuant to paragraph (1)(B), any future claims filed by the participating financial institution on loans remaining in its capital access program portfolio shall only be paid from funds remaining in the reserve fund to the extent that, in the aggregate, such claims exceed the sum of the amount of such withdrawn assets, and interest on that amount, imputed at the same rate as income would have accrued had the amount not been withdrawn.

(3) CONDITIONS FOR TERMINATING SPECIAL AUTHORITY.—If the Secretary determines that the inclusion in a participation agreement of the provisions authorized by this subsection is resulting in the enrollment of loans under the Program that are likely to have been made without assistance provided under this subtitle, the Secretary may notify the participating State that henceforth, the Secretary will only make reimbursements to the State under section 257 with respect to a loan if the participation agreement between the participating State and each participating financial institution has been amended to conform with this section, without exercise of the special authority granted by this subsection.

Beginning with page 139, line 21, strike all through page 140, line 10, and insert the following:

"(C)(i) has total assets, as of the beginning of such fiscal year, of more than $9,000,000,000;

"(ii) has a CAMEL composite rating of 1 or 2 under the Uniform Financial Institutions Rating System (or an equivalent rating by any such agency under a comparable rating system) as of the most recent examination of such institution by the Corporation or the appropriate Federal banking agency; and

"(iii) is well capitalized, as defined in section 38, and well managed.

Notwithstanding paragraph (2)(C), in the case of an insured depository institution that the Corporation determines to be a large institution, the audit committee of the holding company of such an institution shall not include any large customers of the institution.".

On page 143, line 11, strike "of" and insert "such agreement was not executed contemporaneously with the acquisition of the collateral or with any".

On page 143, strike lines 14 through 20, and insert the following:

(a) IN GENERAL.—Section 39(b) of the Federal Deposit Insurance Act (12 U.S.C. 1831p-1(b)), as added by section 132(a) of the Federal Deposit Insurance Corporation Improvements Act of 1991) is amended to read as follows:

"(b) ASSET QUALITY, EARNINGS, AND STOCK VALUATION STANDARDS.—Each appropriate Federal banking agency shall, for all insured depository institutions and depository institution holding companies, prescribe standards relating to asset quality, earnings, and stock valuation that the agency determines to be appropriate.".

(b) ESTABLISHING STANDARDS IN GUIDELINES.—Section 39(d) of the Federal Deposit Insurance Act (12 U.S.C. 1831p-1(d)) is amended—

(1) in the subsection heading, by striking "BY REGULATION"; and

(2) in paragraph (1)—

(A) in the first sentence, by inserting "or guideline" before the period; and

(B) in the second sentence, by inserting "or guidelines" after "Such regulations".

On page 143, line 21, strike "(b)" and insert "(c)".

On page 143, line 22, strike "section (a)" and insert "sections (a) and (b)".

On page 147, strike lines 15 through 17 and insert the following:

(B) by striking "services for other depository institutions and their officers, directors and employees" and inserting the following: "services to or for other depository institutions and the officers, directors, and employees of such institutions, and in providing correspondent banking services at the request of other depository institutions (also referred to as a 'banker's bank')".

On page 148, strike lines 1 through 3 and insert the following:

(B) by striking "services for other depository institutions and their officers, directors and employees" and inserting the following: "services to or for other depository institutions and the officers, directors, and employees of such institutions, and in providing correspondent banking services at the request of other depository institutions (also referred to as a 'banker's bank')".

On page 149, between lines 2 and 3, insert the following:

(d) LENDING LIMIT FOR LOANS SECURED BY SECURITIES.—Section 11(m) of the Federal Reserve Act (12 U.S.C. 248(m)) is amended by striking "10 percentum" each place such term appears and inserting "15 percent".

On page 154, strike line 6, and insert the following: "and the Comptroller of the Currency may jointly prescribe such regulations as they deem necessary to im-".

On page 160, between lines 6 and 7, insert the following:

SEC. 334. EXEMPTION FOR BUSINESS ACCOUNTS.

Section 274(1) of the Truth in Savings Act (12 U.S.C. 4313(1)) is amended to read as follows:

"(1) ACCOUNT.—The term 'account' means any account intended for use by and generally used by consumers primarily for personal, family, or household purposes that is offered by a depository institution into which a consumer deposits funds, including demand accounts, time accounts, negotiable order of withdrawal accounts, and share draft accounts.".

SEC. 335. BOARD DISCRETION REGARDING CHECK-RELATED FRAUD.

Section 604(e) of the Expedited Funds Availability Act (12 U.S.C. 4003(e)) is amended by adding at the end the following new paragraph:

"(4) PREVENTION OF CHECK-RELATED LOSSES.—

"(A) IN GENERAL.—The Board may, by regulation or order, extend the 1-business-day period specified in section 603(b)(1), regarding availability of funds deposited by local checks, to 2 business days if the Board determines that—

"(i) there is a pattern of significant increases in check-related losses at depository institutions attributable to the provisions of this title; and

"(ii) such action is necessary to diminish the volume of such check-related losses.

"(B) LIMITATION ON OTHER AUTHORITY.—The authority of the Board under paragraph (1) shall not apply to the applicability of section 603(b)(1) or the time period specified therein.".

SEC. 336. CIVIL LIABILITY UNDER TRUTH IN SAVINGS.

Section 271(a)(2)(A) of the Truth in Savings Act (12 U.S.C. 4310(a)(2)(A)) is amended by inserting "(other than an action based on a violation of section 263)" after "individual action".

SEC. 337. ELIMINATION OF PRIOR APPROVAL REQUIREMENT FOR CERTAIN LOANS UNDER THE FEDERAL RESERVE ACT.

Section 22(g)(2) of the Federal Reserve Act (12 U.S.C. 375a(2)) is amended by striking "With the specific prior approval of its board of directors, a member" and inserting "A member".

SEC. 338. REVISIONS OF STANDARDS.

Section 305(b)(1) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 1828 note) is amended—

(1) in subparagraph (A), by striking "and" at the end;

(2) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(C) take into account the size and activities of the institutions and do not cause undue reporting burdens.".

SEC. 339. ALTERNATIVE RULES FOR RADIO ADVERTISING OF CONSUMER LEASES.

Section 184 of the Truth in Lending Act (15 U.S.C. 1667c) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection:

"(b) RADIO ADVERTISEMENTS.—

"(1) IN GENERAL.—An advertisement by radio broadcast to aid, promote, or assist, directly or indirectly, any consumer lease shall be deemed to be in compliance with the requirements of subsection (a) if such advertisement clearly and conspicuously—

"(A) states the information required by paragraphs (1) and (2) of subsection (a);

"(B) states the number, amounts, due dates, or periods of scheduled payments, and the total of such payments under the lease; and

"(C) includes—

"(i) a referral to—

"(I) a toll-free telephone number established in accordance with paragraph (2) that may be used by consumers to obtain the information required under subsection (a); or

"(II) a written advertisement that—

"(aa) appears in a publication in general circulation in the community served by the radio station on which such advertisement is broadcast during the period beginning 3 days before any such broadcast and ending 10 days after such broadcast; and

"(bb) includes the information required to be disclosed under subsection (a); and

"(ii) the name and dates of any publication referred to in clause (i)(II); and

"(D) includes any other information which the Board determines necessary to carry out this chapter.

"(2) ESTABLISHMENT OF TOLL-FREE NUMBER.—

"(A) IN GENERAL.—In the case of a radio broadcast advertisement described in paragraph (1) that includes a referral to a toll-free telephone number, the lessor who offers the consumer lease shall—

"(i) establish such a toll-free telephone number not later than the date on which the advertisement including the referral is broadcast;

"(ii) maintain such telephone number for not less than 10 days, beginning on the date of any such broadcast; and

"(iii) provide the information required under subsection (a) with respect to the lease to any person who calls such number.

"(B) FORM OF INFORMATION.—The information required to be provided under subparagraph (A)(iii) shall be provided orally or, if requested by the consumer, in written form.

"(3) NO EFFECT ON OTHER LAW.—Nothing in this subsection shall affect the requirements of Federal law as such requirements apply to advertisement by any other medium.".

SEC. 340. DEPOSIT BROKER REGISTRATION.

Section 29(g)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1831f(g)(3)) is amended—

(1) by inserting "that is not well capitalized" after "includes any insured depository institution";

(2) by striking "of any insured depository" and inserting "of such";

(3) by striking "(with respect to such deposits)"; and

(4) by striking "having the same type of charter".

SEC. 341. EXTENSION OF MANAGEMENT INTERLOCKS GRANDFATHER CLAUSE.

Subsections (a) and (b) of section 206 of the Depository Institution Management Interlocks Act (12 U.S.C. 3205) are each amended by striking "15 years" and inserting "20 years".

Amend the table of contents accordingly.

AMENDMENT NO. 1524

On page 78, line 23, strike "The term 'high cost mortgage' means" and insert "A mortgage referred to in this subsection means".

On page 78, line 25, insert ", a reverse mortgage transaction," before "or a".

On page 79, line 22, insert "and" after the semicolon.

On page 79, strike lines 23 through 25.

On page 80, line 1, strike "(D) and insert "(C)".

On page 80, line 14, strike "for high cost mortgages".

On page 80, line 19, strike "high cost mortgages" and insert "mortgages referred to in subsection (aa)".

On page 80, beginning on line 20, strike "high cost" and insert "such".

On page 81, line 3, strike "**HIGH COST**" and insert "**CERTAIN**".

On page 81, line 7, strike "high cost mortgage" and insert "mortgage referred to in section 103(aa)".

On page 82, line 22, strike "high cost mortgage" and insert "mortgage referred to in section 103(aa)".

On page 83, beginning on line 1, strike "the high cost mortgage" and insert "a mortgage referred to in section 103(aa)".

On page 79, line 25, strike "and"

On page 80 line 8, strike "." and insert "; and (E) such other changes as the Board determines to be appropriate."

On page 83, line 5, strike "high cost" and insert "such".

On page 83, strike lines 14 through 19.

On page 83, line 20, strike "(4) EXCEPTION.—A high cost mortgage" and insert "(3) EXCEPTION.—A mortgage referred to in section 103(aa)".

On page 83, line 24, strike "90 days" and insert "1 year".

On page 84, line 1, strike "high cost mortgage" and insert "mortgage referred to in section 103(aa) having a term of less than 5 years".

On page 84, beginning on line 5, strike "high cost mortgage" and insert "mortgage referred to in section 103(aa)".

On page 84, line 10, strike "high cost mortgage" and insert "mortgage referred to in section 103(aa)".

On page 84, line 16, strike "high cost mortgage loan" and insert "mortgage".

On page 85, strike lines 11 through 15, and insert the following:

"(2) PROHIBITIONS.—The Board, by regulation or order, shall prohibit acts or practices in connection with—

"(A) mortgage loans that the Board finds to be unfair, deceptive, or designed to evade the provisions of this section; and

"(B) refinancing of mortgage loans that the Board finds to be associated with abusive lending practices, or that are otherwise not in the interest of the borrower.".

On page 85, strike the item immediately following line 20, and insert the following:

"129. Requirements for certain mortgages.".

On page 85, beginning on line 24, strike "high cost mortgage, as defined" and insert "mortgage referred to".

Beginning on page 87, line 14, strike all through page 88, line 6, and insert the following:

"(d) RIGHTS UPON ASSIGNMENT OF CERTAIN MORTGAGES—

"(1) IN GENERAL.—Any person who purchases or is otherwise assigned a mortgage referred to in section 103(aa) shall be subject to all claims and defenses with respect to that mortgage that the consumer could assert against the creditor of the mortgage, unless the purchaser or assignee demonstrates, by a preponderance of the evidence, that a reasonable person exercising ordinary due diligence, could not determine, based on the loan documentation required by this title, that the mortgage was in fact a mortgage referred to in section 103(aa). The preceding sentence does not affect a consumer's rights under sections 125, 130, or any other provision of this title.

"(2) LIMITATION ON DAMAGES.—Notwithstanding any other provision of law, relief provided as a result of any action made permissible by paragraph (1) may not exceed—

"(A) with respect to actions based upon a violation of this title, the amount specified in section 130; and

"(B) with respect to all other causes of action, the sum of—

"(i) the amount of all remaining indebtedness; and

"(ii) the total amount paid by the consumer in connection with the transaction.

"(3) OFFSET.—The amount of damages that may be awarded under paragraph (2)(B) shall be reduced by the amount of any damages awarded under paragraph (2)(A).

"(4) NOTICE.—Any person who sells or otherwise assigns a mortgage referred to in section 103(aa) shall include a prominent notice of the potential liability under this subsection as determined by the Board.".

On page 88, line 13, strike "high cost".

On page 88, line 14, strike "(as defined" and insert "referred to".

On page 88, line 15, strike "Act, as" and insert "Act (as".

AMENDMENT NO. 1525

On page 160, between lines 6 and 7, insert the following new title:

TITLE IV—FAIR TRADE IN FINANCIAL SERVICES

SEC. 401. SHORT TITLE.

This title may be cited as the "Fair Trade in Financial Services Act of 1994".

SEC. 402. EFFECTUATING THE PRINCIPLE OF NATIONAL TREATMENT FOR BANKING ORGANIZATIONS.

The International Banking Act of 1978 (12 U.S.C. 3101 et seq.) is amended by adding at the end the following new section:

"SEC. 18. NATIONAL TREATMENT.

"(a) PURPOSE.—The purpose of this section is to encourage foreign countries to accord national treatment to United States banking organizations that operate or seek to operate in those countries.

"(b) IDENTIFYING COUNTRIES THAT DENY NATIONAL TREATMENT TO UNITED STATES BANKS OR BANK HOLDING COMPANIES.—The Secretary shall identify the extent to which foreign countries deny national treatment to United States banking organizations—

"(1) according to the most recent report under section 3602 of the Omnibus Trade and Competitiveness Act of 1988 (or update thereof); or

"(2) based on more recent information that the Secretary deems appropriate.

"(c) DETERMINING WHETHER DENIAL OF NATIONAL TREATMENT HAS SIGNIFICANT ADVERSE EFFECT.—

"(1) IN GENERAL.—The Secretary shall determine whether the denial of national treatment to United States banking organizations by a foreign country identified under subsection (b) has a significant adverse effect on such organizations.

"(2) FACTORS TO BE CONSIDERED.—In determining whether and to what extent a foreign country denies national treatment to United States banking organizations, and in determining the effect of any such denial on such banking organizations, the Secretary shall consider appropriate factors, including—

"(A) the size of the foreign country's markets for the financial services involved, and the extent to which United States banking organizations operate or seek to operate in those markets;

"(B) the extent to which United States banking organizations may participate in developing regulations, guidelines, or other policies regarding new products, services, and markets in the foreign country;

"(C) the extent to which the foreign country issues written regulations, guidelines, or other policies applicable to United States banking organizations operating or seeking to operate in the foreign country that are—

"(i) prescribed after adequate notice and opportunity for comment;

"(ii) readily available to the public; and

"(iii) prescribed in accordance with objective standards that effectively prevent arbitrary and capricious determinations;

"(D) the extent to which United States banking organizations may offer foreign exchange services in the foreign country; and

"(E) the effects of the regulatory policies of the foreign country on—

"(i) the lending policies of the central bank of that country;

"(ii) capital requirements applicable in that country;

"(iii) the regulation of deposit interest rates by that country;

"(iv) restrictions on the operation and establishment of branches in that country; and

"(v) restrictions on access to automated teller machine networks in that country.

"(d) PUBLICATION OF DETERMINATION.—

"(1) IN GENERAL.—If the Secretary determines under subsection (c) that the denial of

national treatment to United States banking organizations by a foreign country has a significant adverse effect on such organizations, the Secretary—

"(A) may, after initiating negotiations in accordance with subsection (g), and after consultation in accordance with subsection (i), publish that determination in the Federal Register;

"(B) shall, not less frequently than annually, in consultation with any department or agency that the Secretary deems appropriate, review each such determination to determine whether it should be rescinded; and

"(C) shall inform State bank supervisors of the publication of that determination.

"(2) EXCEPTION FOR COUNTRIES THAT ARE PARTIES TO CERTAIN AGREEMENTS GOVERNING FINANCIAL SERVICES.—Paragraph (1) shall not apply to a foreign country to the extent that a determination under that paragraph with respect to the foreign country would permit action to be taken under this section that would be inconsistent with a bilateral or multilateral agreement that governs financial services that—

"(A) the President entered into with that country; and

"(B) the Senate and the House of Representatives approved;

before the date of enactment of this section.

"(e) SANCTIONS.—

"(1) ACTION BY SECRETARY OF TREASURY.—

"(A) IN GENERAL.—The Secretary may, after consultation in accordance with subsection (i), recommend to the appropriate Federal banking agency that such agency deny or suspend consideration of a request for authorization filed after the date of publication of a determination under subsection (d)(1) by a person of a foreign country listed in such publication if the Secretary determines that—

"(i) such action would assist the United States in negotiations to eliminate discrimination against United States banking organizations;

"(ii) negotiations undertaken pursuant to subsection (g) are not likely to result in an agreement that eliminates the denial of national treatment; or

"(iii) the country has not adequately adhered to an agreement reached as a result of negotiations undertaken pursuant to subsection (g).

"(B) EXERCISE OF AUTHORITY.—The authority of subparagraph (A) shall be exercised according to the specific direction (if any) of the President.

"(C) COMPLIANCE EXCEPTIONS.—The appropriate Federal banking agency shall comply with the recommendation of the Secretary made under subparagraph (A), unless the agency determines, in writing, and transmits such determination to the Secretary and to the Congress, that such recommendation—

"(i) would likely result in a serious impairment to the safe and sound operation of the United States banking system; or

"(ii) would compromise the ability of a Federal banking agency to resolve a failing or failed financial institution because a foreign banking institution otherwise barred by an action under subparagraph (A) represents the only bona fide reasonable offer available to the Federal banking agency.

"(2) NO AFFECT ON CERTAIN AGREEMENTS.—The exercise of authority under this subsection does not affect any obligation of the United States to pursue dispute resolution procedures pursuant to any international agreement governing financial services, approved by the House of Representatives and the Senate, with respect to a dispute arising out of any obligation under that agreement.

"(f) EXEMPTIONS FROM SANCTIONS.—

"(1) IN GENERAL.—Subsection (e) does not apply to the subsidiaries in the United States of a person of a foreign country if the Secretary determines that the banking laws and regulations of the foreign country, as actually applied, meet or exceed—

"(A) the standards for treatment of subsidiaries of United States banking organizations contained in the Second Banking Directive, and in any amendment to the Second Banking Directive, if the Secretary determines that such amendment—

"(i) does not restrict any operation, activity, or authority to expand any operation or activity, permitted under those standards, of any subsidiary in the foreign country of any such bank or bank holding company; or

"(ii) is in accordance with national treatment of subsidiaries of such banking organizations; or

"(B) any set of standards that, taken as a whole, is no less favorable to United States banking organizations than the standards referred to in subparagraph (A).

"(2) STANDARDS FOR EXERCISE OF DISCRETION.—In exercising any discretion under this subsection, the Secretary shall consider, with respect to a bank, foreign bank, branch, agency, commercial lending company, or other affiliated entity that is a person of a foreign country and that is operating in the United States—

"(A) the extent to which the foreign country is progressing toward according national treatment to United States banking organizations; and

"(B) whether the foreign country permits United States banking organizations to expand their activities in that country, even if that country determined that the United States did not accord national treatment to the banking organizations of that country.

"(g) NEGOTIATIONS.—

"(1) IN GENERAL.—The Secretary—

"(A) shall initiate negotiations with any foreign country with respect to which a determination made under subsection (c)(1) is in effect; and

"(B) may initiate negotiations with any foreign country which denies national treatment to United States banking organizations to ensure that the foreign country accords national treatment to such organizations.

"(2) EXCEPTIONS.—Paragraph (1) does not require the Secretary to initiate negotiations with a foreign country if the Secretary—

"(A) determines that the negotiations—

"(i) would be so unlikely to result in progress toward according national treatment to United States banking organizations as to be a waste of effort; or

"(ii) would impair the economic interests of the United States; and

"(B) gives written notice of that determination to the chairperson and the ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and of the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

"(h) REPORT.—

"(1) CONTENTS OF REPORT.—Not later than December 1, 1994, and biennially thereafter, the Secretary shall submit to the Congress a report that—

"(A) specifies the foreign countries identified under subsection (b);

"(B) if a determination is published under subsection (d)(1) with respect to the foreign country, provides the reasons therefor;

"(C) if the Secretary has not made or has rescinded such a determination with respect to the foreign country, provides the reasons therefor;

"(D) describes the results of any negotiations conducted under subsection (g)(1) with the foreign country; and

"(E) discusses the effectiveness of this section in achieving the purpose of this section.

"(2) SUBMISSION OF REPORT.—The report required by paragraph (1) may be submitted as part of a report or update submitted under section 3602 of the Omnibus Trade and Competitiveness Act of 1988.

"(i) CONSULTATION.—Consultation in accordance with this subsection means consultation with the Secretary of State, the Secretary of Commerce, the United States Trade Representative, and the appropriate Federal banking agency.

"(j) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(1) APPROPRIATE FEDERAL BANKING AGENCY.—The term 'appropriate Federal banking agency'—

"(A) in the case of a noninsured State bank or branch and a representative office of a foreign bank, means the Board of Governors of the Federal Reserve System; and

"(B) in any other case, has the same meaning as in section 3 of the Federal Deposit Insurance Act.

"(2) BANKING ORGANIZATION.—The term 'banking organization' means—

"(A) a depository institution, as defined in section 3 of the Federal Deposit Insurance Act, including a branch or subsidiary thereof;

"(B) a bank holding company, as defined in section 2 of the Bank Holding Company Act of 1956;

"(C) any company required to file information pursuant to section 4(f)(6) of the Bank Holding Company Act of 1956;

"(D) a savings and loan holding company, as defined in section 10(a)(1)(D) of the Home Owners' Loan Act; and

"(E) any nonbank financial entity, the primary purpose of which is to provide credit or financing, regardless of whether such entity accepts deposits.

"(3) NATIONAL TREATMENT.—A foreign country accords 'national treatment' to United States banking organizations if it offers them the same competitive opportunities (including effective market access) as are available to its domestic banking organizations in like circumstances.

"(4) PERSON OF A FOREIGN COUNTRY.—The term 'person of a foreign country' means—

"(A) a person organized under the laws of the foreign country;

"(B) a person that has its principal place of business in the foreign country;

"(C) an individual who is—

"(i) a citizen of the foreign country, or

"(ii) domiciled in the foreign country; and

"(D) a person that is directly or indirectly controlled by a person or persons described in subparagraph (A) or (B), or by an individual or individuals described in subparagraph (C).

"(5) REQUEST FOR AUTHORIZATION.—The term 'request for authorization'—

"(A) means an application, registration, notice, or other request to commence a financial service or establish a financial services office that is required under title LXII of the Revised Statutes, the International Banking Act of 1978, the Federal Reserve Act, the Home Owners' Loan Act, or the Bank Holding Company Act of 1956; and

"(B) does not include any such request by a company described in section 2(h)(2) of the Bank Holding Company Act of 1956.

"(6) SECOND BANKING DIRECTIVE.—The term 'Second Banking Directive' means the Second Council Directive of December 15, 1989, on the Coordination of Laws, Regulations, and Administrative Provisions Relating to the Taking Up and Pursuit of the Business of Credit Institutions and Amending Directive 77/780/EEC (89/646/EEC).

"(7) SECRETARY.—The term 'Secretary' means the Secretary of the Treasury.".

SEC. 403. EFFECTUATING THE PRINCIPLE OF NATIONAL TREATMENT FOR SECURITIES ORGANIZATIONS.

(a) PURPOSE.—The purpose of this section is to encourage foreign countries to accord national treatment to United States securities organizations that operate or seek to operate in those countries.

(b) IDENTIFYING COUNTRIES THAT DENY NATIONAL TREATMENT TO UNITED STATES SECURITIES ORGANIZATIONS.—The Secretary shall identify whether and to what extent foreign countries deny national treatment to United States securities organizations—

(1) according to the most recent report under section 3602 of the Omnibus Trade and Competitiveness Act of 1988 (or update thereof); or

(2) based upon more recent information that the Secretary deems appropriate.

(c) DETERMINING WHETHER DENIAL OF NATIONAL TREATMENT HAS SIGNIFICANT ADVERSE EFFECT.—The Secretary shall determine whether the denial of national treatment to United States securities organizations by a foreign country identified under subsection (b) has a significant adverse effect on such organizations.

(d) PUBLICATION OF DETERMINATION.—

(1) IN GENERAL.—If the Secretary determines under subsection (c) that the denial of national treatment to United States securities organizations by a foreign country has a significant adverse effect on such organizations, the Secretary—

(A) may, after initiating negotiations in accordance with subsection (f), and after consultation in accordance with subsection (h), publish that determination in the Federal Register; and

(B) shall, not less frequently than annually, in consultation with any department or agency that the Secretary deems appropriate, review each such determination to determine whether it should be rescinded.

(2) EXCEPTION FOR COUNTRIES THAT ARE PARTIES TO CERTAIN AGREEMENTS GOVERNING FINANCIAL SERVICES.—Paragraph (1) shall not apply to a foreign country to the extent that a determination under that paragraph with respect to the foreign country would permit action to be taken under this section that would be inconsistent with a bilateral or multilateral agreement that governs financial services that the President entered into with that country and the Senate and the House of Representatives approved before the date of enactment of this section.

(e) SANCTIONS.—

(1) ACTION BY SECRETARY OF TREASURY.—

(A) IN GENERAL.—The Secretary may, after consultation in accordance with subsection (h), recommend to the Commission that the Commission deny or suspend consideration of a request for authorization filed after the date of publication of a determination under subsection (d)(1) by a person of a foreign country listed in such publication if the Secretary determines that—

(i) such action would assist the United States in negotiations to eliminate discrimination against United States securities organizations;

(ii) negotiations undertaken pursuant to subsection (f) are not likely to result in an agreement that eliminates the denial of national treatment; or

(iii) the country has not adequately adhered to an agreement reached as a result of negotiations undertaken pursuant to subsection (f).

(B) EXERCISE OF AUTHORITY.—The authority of subparagraph (A) shall be exercised according to the specific direction (if any) of the President.

(C) COMMISSION ACTION.—The Commission shall deny or suspend consideration of a request for authorization in accordance with the recommendation of the Secretary made under subparagraph (A), unless such recommendation would likely result in a serious adverse impact on—

(i) the maintenance of fair and orderly securities markets; or

(ii) the protection of investors.

(D) AUTHORITY UPON DENIAL OF AUTHORIZATION.—

(i) IN GENERAL.—In connection with the denial of a request for authorization under subparagraph (A), the Commission may order—

(I) disposition of any controlling interest referred to in subsection (i)(9)(B)(i);

(II) closure of any office referred to in subsection (i)(9)(B)(ii); or

(III) termination of any advisory relationship referred to in subparagraphs (C) and (D) of subsection (i)(9).

(ii) PENALTY FOR NONCOMPLIANCE.—The Commission may revoke the underlying registration under Federal securities laws of any person who fails to comply with an order issued under clause (i).

(2) NOTICE REQUIRED TO FILE REQUESTS FOR AUTHORIZATION.—

(A) IN GENERAL.—If a determination is published under subsection (d)(1) with respect to a foreign country, no person of that foreign country may file a request for authorization unless such person files notice of such request simultaneously with the Commission and the Secretary, not less than 90 days in advance of the action that is the subject of the request, in such form and containing such information as the Commission may prescribe by rule.

(B) NOTIFYING SECRETARY.—The Commission shall promptly notify the Secretary of any notice received under subparagraph (A).

(C) EXTENDING 90-DAY PERIOD.—The Commission may, by order, extend for an additional 180 days the period during which the Commission may consider a notice received under subparagraph (A).

(3) STANDARDS FOR EXERCISE OF DISCRETION.—In exercising any discretion under this subsection, the Secretary shall consider, with respect to a securities organization that is controlled, directly or indirectly, by a person of a foreign country—

(A) the extent to which the foreign country is progressing toward according national treatment to United States securities organizations; and

(B) whether the foreign country permits United States securities organizations to expand their activities in that country, even if that country determined that the United States did not accord national treatment to securities organizations of that country.

(f) NEGOTIATIONS.—

(1) IN GENERAL.—The Secretary—

(A) shall initiate negotiations with any foreign country with respect to which a determination under subsection (c)(1) is in effect; and

(B) may initiate negotiations with any foreign country which denies national treatment to United States securities organizations to ensure that the foreign country accords national treatment to such organizations.

(2) EXCEPTIONS.—Paragraph (1) does not require the Secretary to initiate negotiations with a foreign country if the Secretary—

(A) determines that the negotiations—

(i) would be so unlikely to result in progress toward according national treatment to United States securities organizations as to be a waste of effort; or

(ii) would impair the economic interests of the United States; and

(B) gives written notice of that determination to the chairperson and the ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and of the Committee of Energy and Commerce of the House of Representatives.

(g) REPORT.—

(1) CONTENTS OF REPORT.—Not later than December 1, 1994, and biennially thereafter, the Secretary shall submit to the Congress a report that—

(A) specifies the foreign countries identified under subsection (b);

(B) if a determination is published under subsection (d)(1) with respect to the foreign country, provides the reasons therefor;

(C) if the Secretary has not made, or has rescinded, a determination under subsection (d)(1) with respect to the foreign country, provides the reasons therefor;

(D) describes the results of any negotiations conducted under subsection (f)(1) with the foreign country; and

(E) discusses the effectiveness of this section in achieving the purpose of this section.

(2) SUBMISSION OF REPORT.—The report required by paragraph (1) may be submitted as part of a report or update submitted under section 3602 of the Omnibus Trade and Competitiveness Act of 1988.

(h) CONSULTATION.—Consultation in accordance with this subsection means consultation with the Secretary of State, the Secretary of Commerce, the United States Trade Representative, and the Commission.

(i) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) BROKER.—The term "broker" has the same meaning as in section 3(a)(4) of the Securities Exchange Act of 1934.

(2) COMMISSION.—The term "Commission" means the Securities and Exchange Commission.

(3) CONTROL.—The terms "directly or indirectly controlled by" and "controlled, directly or indirectly" shall have the meanings given to such terms in rules or regulations issued by the Secretary of the Treasury, not later than 6 months after the date of enactment of this Act, after consultation with the Commission.

(4) DEALER.—The term "dealer" has the same meaning as in section 3(a)(5) of the Securities Exchange Act of 1934.

(5) INVESTMENT ADVISER.—The term "investment adviser" has the same meaning as in section 202(a)(11) of the Investment Advisers Act of 1940.

(6) INVESTMENT COMPANY.—The term "investment company" has the same meaning as in section 3 of the Investment Company Act of 1940.

(7) NATIONAL TREATMENT.—A foreign country accords "national treatment" to United States securities organizations if it offers them the same competitive opportunities (including effective market access) as are available to its domestic securities organizations in like circumstances.

(8) PERSON OF A FOREIGN COUNTRY.—The term "person of a foreign country" means—

(A) a person organized under the laws of the foreign country;

(B) a person that has its principal place of business in the foreign country;

(C) an individual who is—

(i) a citizen of the foreign country; or

(ii) domiciled in the foreign country;

(D) a person that is directly or indirectly controlled by one or more persons described in subparagraph (A), (B), or (C); and

(E) an investment company, an investment adviser of which is a person described in any of subparagraphs (A) through (D).

(9) REQUEST FOR AUTHORIZATION.—The term "request for authorization" means—

(A) an application to register under section 15(b), 15B, or 15C of the Securities Exchange Act of 1934, or section 203(c) of the Investment Advisers Act of 1940, including an application to succeed to the business of a registered entity;

(B) an amendment to a registration statement referred to in subparagraph (A) that reflects—

(i) the acquisition of control of the registered entity; or

(ii) the addition of a United States office by the registered entity;

(C) a registration statement filed by an investment company under section 8(b) of the Investment Company Act of 1940, if a person of a foreign country will serve as an investment adviser to the investment company; and

(D) an amendment to an investment company registration statement filed under section 8(b) of the Investment Company Act of 1940 that reflects the retention of a person of a foreign country as an investment adviser.

(10) SECRETARY.—The term "Secretary" means the Secretary of the Treasury.

(11) SECURITIES ORGANIZATION.—The term "securities organization" means a broker, a dealer, an investment company, or an investment adviser.

SEC. 404. FINANCIAL INTERDEPENDENCE STUDY.

Subtitle G of title III of the Omnibus Trade and Competitiveness Act of 1988 (22 U.S.C. 5351 et seq.) is amended by adding at the end the following new section:

"SEC. 3605. FINANCIAL INTERDEPENDENCE STUDY.

"(a) INVESTIGATION REQUIRED.—The Secretary, in consultation and coordination with the Securities and Exchange Commission, the Federal banking agencies, and any other appropriate Federal department or agency designated by the Secretary, shall conduct an investigation to determine—

"(1) the extent of the interdependence of the financial services sectors of the United States and foreign countries—

"(A) whose financial services institutions provide financial services in the United States; or

"(B) whose persons have substantial ownership interests in United States financial services institutions; and

"(2) the economic, strategic, and other consequences of that interdependence for the United States.

"(b) REPORT.—

"(1) REPORT REQUIRED.—Not later than 3 years after the date of enactment of this section, the Secretary shall submit a report on the results of the investigation under subsection (a) to the President, the Congress, the Securities and Exchange Commission, the Federal banking agencies, and any other appropriate Federal agency or department, as designated by the Secretary.

"(2) CONTENTS OF REPORT.—The report required under paragraph (1) shall—

"(A) describe the activities and estimate the scope of financial services activities conducted by United States financial services institutions in foreign markets (differentiated according to major foreign markets);

"(B) describe the activities and estimate the scope of financial services activities conducted by foreign financial services institutions in the United States (differentiated according to the most significant home countries or groups of home countries);

"(C) estimate the number of jobs created in the United States by financial services activities conducted by foreign financial services institutions and the number of jobs created in foreign countries by financial service activities conducted by United States financial services institutions;

"(D) estimate the additional jobs and revenues (both foreign and domestic) that would be created by the activities of United States financial services institutions in foreign countries if those countries offered such institutions the same competitive opportunities (including effective market access) as are available to the domestic financial services institutions of those countries;

"(E) describe the extent to which foreign financial services institutions discriminate against United States persons in procurement, employment, the provision of credit or other financial services, or otherwise;

"(F) describe the extent to which foreign financial services institutions and other persons from foreign countries purchase or otherwise facilitate the marketing from the United States of government and private debt instruments and private equity instruments;

"(G) describe how the interdependence of the financial services sectors of the United States and foreign countries affects the autonomy and effectiveness of United States monetary policy;

"(H) describe the extent to which United States companies rely on financing by or through foreign financial services institutions and the consequences of such reliance (including disclosure of proprietary information) for the industrial competitiveness and national security of the United States;

"(I) describe the extent to which foreign financial services institutions, in purchasing high technology products such as computers and telecommunications equipment, favor manufacturers from their home countries over United States manufacturers; and

"(J) contain other appropriate information relating to the results of the investigation required by subsection (a).

"(c) DEFINITIONS.—For purposes of this section the following definitions shall apply:

"(1) DEPOSITORY INSTITUTION AND DEPOSITORY INSTITUTION HOLDING COMPANY.—The terms 'depository institution' and 'depository institution holding company' have the same meanings as in section 3 of the Federal Deposit Insurance Act.

"(2) FEDERAL BANKING AGENCIES.—The term 'Federal banking agencies' has the same meaning as in section 3 of the Federal Deposit Insurance Act.

"(3) FINANCIAL SERVICES INSTITUTION.—The term 'financial services institution' means—

"(A) a broker, dealer, underwriter, clearing agency, transfer agent, or information processor with respect to securities, including government and municipal securities;

"(B) an investment company, investment manager, investment adviser, indenture trustee, or any depository institution, insurance company, or other organization operating as a fiduciary, trustee, underwriter, or other financial services provider;

"(C) any depository institution or depository institution holding company; and

"(D) any other entity providing financial services.

"(4) SECRETARY.—The term 'Secretary' means the Secretary of the Treasury.".

SEC. 405. CONFORMING AMENDMENTS.

(a) REPORTS ON FOREIGN TREATMENT OF UNITED STATES FINANCIAL INSTITUTIONS.—Section 3602 of the Omnibus Trade and Competitiveness Act of 1988 (22 U.S.C. 5352) is amended—

(1) in the first sentence, by inserting "with updates on significant developments every 2 years following submission of the 1994 report," before "the Secretary of the Treasury"; and

(2) by adding at the end the following: "For purposes of this section, a foreign country denies national treatment to United States entities unless the foreign country offers such entities the same competitive opportunities (including effective market access) as are available to the domestic entities of the foreign country.".

(b) NEGOTIATIONS TO PROMOTE FAIR TRADE IN FINANCIAL SERVICES.—Section 3603(a)(1) of the Omnibus Trade and Competitiveness Act of 1988 (22 U.S.C. 5353(a)(1)) is amended by inserting "effective" before "access".

(c) PRIMARY DEALERS IN GOVERNMENT DEBT INSTRUMENTS.—Section 3502(b)(1) of the Omnibus Trade and Competitiveness Act of 1988 (22 U.S.C. 5342(b)(1)) is amended—

(1) by striking "does not accord to" and inserting "does not offer"; and

(2) by striking "as such country accords to" and inserting "(including effective market access) as are available to".

(d) CONFORMING AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934.—

(1) SECTION 15.—Section 15(b)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)(1)) is amended by adding at the end the following: "The Commission may suspend consideration, deny registration, issue an order, or revoke registration, as provided in section 403(e)(1) of the Fair Trade in Financial Services Act of 1994.".

(2) SECTION 15B.—Section 15B(a)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-4(a)(2)) is amended by adding at the end the following: "The Commission may suspend consideration, deny registration, issue an order, or revoke registration, as provided in section 403(e)(1) of the Fair Trade in Financial Services Act of 1994.".

(3) SECTION 15C.—Section 15C(a)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-5(a)(2)) is amended by adding at the end the following: "The Commission may suspend consideration, deny registration, issue an order, or revoke registration, as provided in section 403(e)(1) of the Fair Trade in Financial Services Act of 1994.".

(e) CONFORMING AMENDMENT TO THE INVESTMENT COMPANY ACT OF 1940.—Section 8 of the Investment Company Act of 1940 (15 U.S.C. 80a-8) is amended by adding at the end the following new subsection:

"(g) The Commission may suspend consideration, deny registration, issue an order, or revoke registration, as provided in section 403(e)(1) of the Fair Trade in Financial Services Act of 1994.".

(f) CONFORMING AMENDMENT TO THE INVESTMENT ADVISERS ACT OF 1940.—Section 203(c)(2) of the Investment Advisers Act of 1940 (15 U.S.C. (c)(2)) is amended by adding at the end the following: "The Commission may suspend consideration, deny registration, issue an order, or revoke registration, as provided in section 403(e)(1) of the Fair Trade in Financial Services Act of 1994.".

Amend the table of contents accordingly.

AMENDMENT NO. 1526

At the appropriate place in title III of the bill, insert the following:

SEC. . INCLUSION OF COMPTROLLER OF THE CURRENCY; CLARIFICATION OF REVISED STATUTES.

(a) PUBLIC LAW 93-425.—Section 111 of Public Law 93-495 (12 U.S.C. 250) is amended by inserting "the Comptroller of the Currency," after "Federal Deposit Insurance Corporation,".

(b) REVISED STATUTES.—

(1) SECTION 5240.—The third paragraph of section 5240 of the Revised Statutes (12 U.S.C. 482) is amended by inserting "or section 301(f)(1) of title 31, United States Code," after "provisions of this section".

(2) SECTION 324.—Section 324 of the Revised Statutes (12 U.S.C. 1) is amended by adding at the end the following: "The Comptroller of the Currency shall have the same authority over matters within the jurisdiction of the Comptroller as the Director of the Office of Thrift Supervision has over matters within the Director's jurisdiction under section 3(b)(3) of the Home Owners' Loan Act.".

(3) SECTION 5239.—Section 5239 of the Revised Statutes (12 U.S.C. 93) is amended by inserting at the end the following new subsection:

"(d) AUTHORITY.—The Comptroller of the Currency may act in the Comptroller's own name and through the Comptroller's own attorneys in enforcing any provision of this title, regulations thereunder, or any other law or regulation, or in any action, suit, or proceeding to which the Comptroller of the Currency is a party.".

DODD (AND DECONCINI) AMENDMENT NO. 1527

Mr. DODD (for himself and Mr. DECONCINI) proposed an amendment to the bill S. 1275, supra; as follows:

On page 160, between lines 6 and 7, insert the following:

SEC. 334. COMMEMORATION OF 1995 SPECIAL OLYMPIC WORLD GAMES.

(a) COIN SPECIFICATIONS.—

(1) ONE DOLLAR SILVER COINS.—

(A) ISSUANCE.—The Secretary of the Treasury (hereafter in this section referred to as the "Secretary") shall issue not more than 800,000 $1 coins, which shall weigh 26.73 grams, have a diameter of 1.500 inches, and shall contain 90 percent silver and 10 percent copper.

(B) DESIGN.—The design of the coins issued under this section shall be emblematic of the 1995 Special Olympics World Games. On each such coin there shall be a designation of the value of the coin, an inscription of the year "1995", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(2) LEGAL TENDER.—The coins issued under this section shall be legal tender as provided in section 5103 of title 31, United States Code.

(3) NUMISMATIC ITEMS.—For purposes of section 5132(a)(1) of title 31, United States Code, all coins minted under this section shall be considered to be numismatic items.

(b) SOURCES OF BULLION.—The Secretary shall obtain silver for the coins minted under this section only from stockpiles established under the Strategic and Critical Materials Stock Piling Act.

(c) SELECTION OF DESIGN.—The design for the coins authorized by this section shall be selected by the Secretary after consultation with the 1995 Special Olympics World Games Organizing Committee, Inc. and the Commission of Fine Arts. As required by section 5135 of title 31, United States Code, the design shall also be reviewed by the Citizens Commemorative Coin Advisory Committee.

(d) ISSUANCE OF THE COINS.—

(1) QUALITY OF COINS.—The coins authorized under this section may be issued in uncirculated and proof qualities.

(2) MINT FACILITY.—Not more than 1 facility of the United States Mint may be used to strike any particular quality of the coins minted under this section.

(3) COMMENCEMENT OF ISSUANCE.—The coins authorized under this section shall be available for issue not later than January 15, 1995.

(4) SUNSET PROVISION.—No coins shall be minted under this section after December 31, 1995.

(e) SALE OF THE COINS.—

(1) SALE PRICE.—The coins issued under this section shall be sold by the Secretary at a price equal to the sum of the face value of the coins, the surcharge provided in paragraph (4) with respect to such coins, and the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(2) BULK SALES.—The Secretary shall make bulk sales at a reasonable discount.

(3) PREPAID ORDERS.—The Secretary shall accept prepaid orders for the coins authorized under this section prior to the issuance of such coins. Sales under this subsection shall be at a reasonable discount.

(4) SURCHARGE REQUIRED.—All sales shall include a surcharge of $10 per coin.

(f) GENERAL WAIVER OF PROCUREMENT REGULATIONS.—No provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this section. Nothing in this subsection shall relieve any person entering into a contract under the authority of this section from complying with any law relating to equal employment opportunity.

(g) DISTRIBUTION OF SURCHARGES.—The total surcharges collected by the Secretary from the sale of the coins issued under this section shall be promptly paid by the Secretary to the 1995 Special Olympics World Games Organizing Committee, Inc. Such amounts shall be used to—

(1) provide a world class sporting event for athletes with mental retardation;

(2) demonstrate to a global audience the extraordinary talents, dedication, and courage of persons with mental retardation; and

(3) underwrite the cost of staging and promoting the 1995 Special Olympics World Games.

(h) AUDITS.—The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of the 1995 Special Olympics World Games Organizing Committee, Inc. as may be related to the expenditure of amounts paid under subsection (g).

(i) FINANCIAL ASSURANCES.—

(1) NO NET COST TO THE GOVERNMENT.—The Secretary shall take all actions necessary to ensure that the issuance of the coins authorized by this section shall result in no net cost to the United States Government.

(2) ADEQUATE SECURITY FOR PAYMENT REQUIRED.—No coin shall be issued under this section unless the Secretary has received—

(A) full payment therefore;

(B) security satisfactory to the Secretary to indemnify the United States for full payment; or

(C) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.

PACKWOOD (AND OTHERS) AMENDMENT NO. 1528

Mr. PACKWOOD (for himself, Mr. GORTON, and Mr. HATFIELD) proposed an amendment to the bill S. 1275, supra; as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . STUDY OF EFFECT OF THE NORTHERN SPOTTED OWL ON SMALL BUSINESS CONCERNS.

(a) DEFINITIONS.—For purposes of this section—

(1) the term "Administrator" means the Administrator of the Small Business Administration; and

(2) the term "small business concerns" has the same meaning as in section 3 of the Small Business Act.

(b) FINDINGS.—The Congress finds that—

(1) a critical and worsening timber supply shortage exists within the social and economic area that generally corresponds to the range of the Northern spotted owl, including Western Oregon, Western Washington, and Northern California, as a consequence of various actions by the Federal Government aimed at stabilizing and recovering the Northern spotted owl as well as other species thought to be associated with old-growth forests; and

(2) numerous small business concerns rely for their livelihood on the adequate harvest of timber from Federal and non-Federal lands within the range of the Northern spotted owl and related species.

(c) BUSINESS STUDY.—The Administrator shall conduct a study that analyzes—

(1) the nature and extent of economic losses to small business concerns in the forest products industry that have occurred subsequent to the designation of the Northern spotted owl as a threatened species pursuant to section 4 of the Endangered Species Act of 1973, or that are reasonably likely to occur in the future as a result of present trends;

(2) the ability of small business concerns to recoup the fair market value of equipment and other property employed in the harvest and processing of timber prior to the listing of the Northern spotted owl as a threatened species; and

(3) the ability of small business concerns in the affected area to offer alternative products or services for which there is a ready or likely suitable market.

(d) REPORT.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this section, the Administrator shall submit a report of the results of the study conducted under subsection (c) to the President and to the relevant committees of the Senate and the House of Representatives.

(2) OPTIONS.—The report shall include options for Congress and the President for compensating small business concerns for economic losses and for promoting business transition and diversification.

(3) CONSULTATION.—In preparing the report, the Administrator shall consult with small business concerns in the forest products industry, and shall solicit comments from the public.

PACKWOOD (AND OTHERS) AMENDMENT NO. 1529

Mr. PACKWOOD (for himself, Mr. GORTON, and Mr. HATFIELD) proposed an amendment to the bill S. 1275, supra; as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . STUDY OF EFFECT OF THE NORTHERN SPOTTED OWL ON SMALL BUSINESS CONCERNS.

(a) DEFINITIONS.—For purposes of this section—

(1) the term "Administrator" means the Administrator of the Small Business Administration; and

(2) the term "small business concerns" has the same meaning as in section 3 of the Small Business Act.

(c) BUSINESS STUDY.—The Administrator, in consultation with the Secretary of the Interior shall conduct a study that analyzes—

(1) the nature and extent of economic losses to small business concerns in the forest products industry that have occurred as a result of the designation of the Northern spotted owl as a threatened species pursuant to section 4 of the Endangered Species Act of 1973, or that are reasonably likely to occur in the future.

(2) the ability of small business concerns to recoup the fair market value of equipment and other property employed in the harvest and processing of timber prior to the listing of the Northern spotted owl as a threatened species; and

(3) the ability of small business concerns in the affected area to offer alternative products or services for which there is a ready or likely suitable market.

(d) REPORT.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this section, the Administrator and the Secretary of the Interior shall submit a report of the results of the study conducted under subsection (c) to the President and to the relevant committees of the Senate and the House of Representatives.

(2) OPTIONS.—The report shall include options for Congress and the President for compensating small business concerns for economic losses and for promoting business transition and diversification.

(3) CONSULTATION.—In preparing the report, the Administrator and the Secretary of the Interior shall consult with small business concerns in the forest products industry, and shall solicit comments from the public.

BRYAN (AND OTHERS) AMENDMENT NO. 1530

Mr. RIEGLE (for Mr. BRYAN for himself, Mr. BOND, Mr. RIEGLE, Mr. D'AMATO, and Mr. REID) proposed an amendment to the bill S. 1275, supra; as follows:

On page 160, between lines 6 and 7, insert the following new title:

TITLE IV—MONEY LAUNDERING

SEC. 401. SHORT TITLE.

This title may be cited as the "Money Laundering Suppression Act of 1994".

SEC. 402. REFORM OF CTR EXEMPTION REQUIREMENTS TO REDUCE NUMBER AND SIZE OF REPORTS CONSISTENT WITH EFFECTIVE LAW ENFORCEMENT.

(a) IN GENERAL.—Section 5313 of title 31, United States Code, is amended by adding at the end the following new subsections:

"(d) MANDATORY EXEMPTIONS FROM REPORTING REQUIREMENTS.—

"(1) IN GENERAL.—The Secretary of the Treasury shall exempt, pursuant to section 5318(a)(5), a depository institution from the reporting requirements of subsection (a) (and regulations prescribed under such subsection) with respect to transactions between the depository institution and the following categories of entities:

"(A) Another depository institution.

"(B) A department or agency of the United States, any State, or any political subdivision of any State, including any entity established under the laws of the United States, any State, or any political subdivision of any State, or under an interstate compact between 2 or more States, which exercises governmental authority on behalf of the United States, the State, or the political subdivision.

"(C) Any business or category of business the reports on which have little or no value for law enforcement purposes.

"(2) NOTICE OF EXEMPTION.—The Secretary of the Treasury shall publish in the Federal Register at such times as the Secretary determines to be appropriate (but not less frequently than once during each year) a list of all the entities whose transactions with a depository institution are exempt under this subsection from the reporting requirements of subsection (a) (and regulations prescribed under such subsection).

"(e) DISCRETIONARY EXEMPTIONS FROM REPORTING REQUIREMENTS.—

"(1) IN GENERAL.—The Secretary of the Treasury may exempt, pursuant to section 5318(a)(5), a depository institution from the reporting requirements of subsection (a) (and regulations prescribed under such subsection) with respect to transactions between the depository institution and a qualified business customer of the institution on the basis of information submitted to the Secretary by the institution in accordance with procedures which the Secretary shall establish.

"(2) QUALIFIED BUSINESS CUSTOMER DEFINED.—For purposes of this subsection, the term 'qualified business customer' means a business which—

"(A) maintains a transaction account (as defined in section 19(b)(1)(C) of the Federal Reserve Act) at the depository institution;

"(B) frequently engages in transactions with the depository institution which are subject to the reporting requirements of subsection (a) (and regulations prescribed under such subsection); and

"(C) meets criteria which the Secretary determines are sufficient to ensure that the purposes of this subchapter are carried out without requiring a report with respect to such transactions.

"(3) CRITERIA FOR EXEMPTION.—The Secretary of the Treasury shall establish, by regulation, the criteria for granting and maintaining an exemption under paragraph (1).

"(4) GUIDELINES.—

"(A) IN GENERAL.—The Secretary of the Treasury shall establish guidelines for depository institutions to follow in selecting customers for an exemption under this subsection.

"(B) CONTENTS.—The guidelines may include a description of the types of businesses or an itemization of specific businesses for which no exemption will be granted under this subsection to any depository institution.

"(5) ANNUAL REVIEW.—The Secretary of the Treasury shall prescribe regulations requiring each depository institution to—

"(A) review, at least once during each year, the qualified business customers of such institution with respect to whom an exemption has been granted under this subsection; and

"(B) upon the completion of such review, resubmit information about such customers, with such modifications as the institution determines to be appropriate, to the Secretary for the Secretary's approval.

"(6) 2-YEAR PHASE-IN PROVISION.—During the 2-year period beginning on the date of enactment of the Money Laundering Suppression Act of 1994, this subsection shall be applied by the Secretary on the basis of such criteria as the Secretary determines to be appropriate to achieve an orderly implementation of the requirements of this subsection.

"(f) PROVISIONS APPLICABLE TO MANDATORY AND DISCRETIONARY EXEMPTIONS.—

"(1) LIMITATION ON LIABILITY OF DEPOSITORY INSTITUTIONS.—No depository institution shall be subject to any penalty which may be imposed under this subchapter for the failure of the institution to file a report with respect to a transaction with a customer for whom an exemption has been granted under subsection (d) or (e), unless the institution—

"(A) knowingly files false or incomplete information to the Secretary with respect to the transaction or the customer engaging in the transaction; or

"(B) has reason to believe at the time the exemption is granted or the transaction is entered into that the customer or the transaction does not meet the criteria established for granting such exemption.

"(2) COORDINATION WITH OTHER PROVISIONS.—Any exemption granted by the Secretary of the Treasury under section 5318(a) in accordance with this section, and any transaction which is subject to such exemption, shall be subject to any other provision of law applicable to such exemption, including—

"(A) the authority of the Secretary, under section 5318(a)(5), to revoke such exemption at any time; and

"(B) any requirement to report, or any authority to require a report on, any possible violation of any law or regulation or any suspected criminal activity.

"(g) DEPOSITORY INSTITUTION DEFINED.—For purposes of this section, the term 'depository institution' has the meaning given to such term in section 19(b)(1)(A) of the Federal Reserve Act.".

(b) REPORT REDUCTION GOAL; REPORTS.—

(1) IN GENERAL.—In implementing the amendment made by subsection (a), the Secretary of the Treasury shall seek to reduce, within a reasonable period of time, the number of reports required to be filed in the aggregate by depository institutions pursuant to section 5313(a) of title 31, United States Code, by not less than 30 percent of the number filed during the year preceding the date of enactment of this Act.

(2) INTERIM REPORT.—The Secretary of the Treasury shall submit a report to the Congress not later than the end of the 180-day period beginning on the date of enactment of this Act on the progress made by the Secretary in implementing the amendment made by subsection (a).

(3) ANNUAL REPORT.—The Secretary of the Treasury shall submit an annual report to the Congress after the end of each of the first 5 calendar years which begin after the date of enactment of this Act on the extent to which the Secretary has reduced the overall number of currency transaction reports required to be filed with the Secretary pursuant to section 5313(a) of title 31, United States Code, consistently with the purposes of such section and effective law enforcement.

(c) STREAMLINED CURRENCY TRANSACTION REPORTS.—The Secretary of the Treasury shall take such action as may be appropriate

to redesign the format of reports required to be filed by any financial institution (as defined in section 5312(a)(2) of title 31, United States Code) under section 5313(a) of title 31, United States Code, to eliminate the need to report information which has little or no value for law enforcement purposes and reduce the time and effort required to prepare such report for filing by any such financial institution under such section.

SEC. 403. SINGLE DESIGNEE FOR REPORTING OF SUSPICIOUS TRANSACTIONS.

(a) IN GENERAL.—Section 5318(g) of title 31, United States Code, is amended by adding at the end the following new paragraph:

"(4) SINGLE DESIGNEE FOR REPORTING SUSPICIOUS TRANSACTIONS.—

"(A) IN GENERAL.—In requiring reports under paragraph (1) of suspicious transactions, the Secretary of the Treasury shall designate, to the extent practicable and appropriate, a single officer or agency of the United States to whom such reports shall be made.

"(B) DUTY OF DESIGNEE.—The officer or agency of the United States designated by the Secretary of the Treasury pursuant to subparagraph (A) shall refer any report of a suspicious transaction to the appropriate law enforcement or supervisory agency.

"(C) COORDINATION WITH OTHER REPORTING REQUIREMENTS.—Subparagraph (A) shall not be construed as precluding any supervisory agency for any financial institution from requiring the financial institution to submit any information or report to the agency or another agency pursuant to any provision of law other than this subsection.

"(D) REPORTS.—

"(i) REPORTS REQUIRED.—The Secretary of the Treasury shall submit an annual report to the Congress at the times required under clause (ii) on the number of suspicious transactions reported to the officer or agency designated under subparagraph (A) during the period covered by the report and the disposition of such reports.

"(ii) TIME FOR SUBMITTING REPORTS.—The first report required under clause (i) shall be filed before the end of the 1-year period beginning on the date of enactment of the Money Laundering Suppression Act of 1994, and each subsequent report shall be filed, not later than 90 days after the end of each of the 5 calendar years which begin after such date of enactment.".

(b) DESIGNATION REQUIRED TO BE MADE EXPEDITIOUSLY.—The initial designation of an officer or agency of the United States pursuant to the amendment made by subsection (a) shall be made before the end of the 180-day period beginning on the date of enactment of this Act.

SEC. 404. IMPROVEMENT OF IDENTIFICATION OF MONEY LAUNDERING SCHEMES.

(a) ENHANCED TRAINING, EXAMINATIONS, AND REFERRALS BY BANKING AGENCIES.—Before the end of the 6-month period beginning on the date of enactment of this Act, each appropriate Federal banking agency shall, in consultation with the Secretary of the Treasury and other appropriate law enforcement agencies—

(1) review and enhance training and examination procedures to improve the identification of money laundering schemes involving depository institutions; and

(2) review and enhance procedures for referring cases to any other appropriate law enforcement agency.

(b) IMPROVED REPORTING OF CRIMINAL SCHEMES BY LAW ENFORCEMENT AGENCIES.—The Secretary of the Treasury and each appropriate law enforcement agency shall, on a regular basis, provide information regarding money laundering schemes and activities involving depository institutions to each appropriate Federal banking agency to enhance the agency's ability to examine for and identify money laundering.

(c) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Federal banking agencies shall jointly submit a report to the Congress on the progress made in carrying out subsection (a) and the usefulness of information received pursuant to subsection (b).

(d) DEFINITIONS.—The terms "appropriate Federal banking agency" and "Federal banking agencies" have the same meanings as in section 3 of the Federal Deposit Insurance Act.

SEC. 405. NEGOTIABLE INSTRUMENTS DRAWN ON FOREIGN BANKS SUBJECT TO RECORDKEEPING AND REPORTING REQUIREMENTS.

Section 5312(a)(3) of title 31, United States Code, is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(C) as the Secretary of the Treasury shall provide by regulation for purposes of section 5316, checks, drafts, notes, money orders, and other similar instruments which are drawn on or by a foreign financial institution and are not in bearer form.".

SEC. 406. IMPOSITION OF CIVIL MONEY PENALTIES BY APPROPRIATE FEDERAL BANKING AGENCIES.

Section 5321 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(e) DELEGATION OF ASSESSMENT AUTHORITY TO BANKING AGENCIES.—

"(1) IN GENERAL.—The Secretary of the Treasury shall delegate, in accordance with section 5318(a)(1), and subject to such terms and conditions as the Secretary may impose in accordance with paragraph (3), any authority of the Secretary to assess a civil money penalty under this section on depository institutions to the appropriate Federal banking agencies.

"(2) AUTHORITY OF AGENCIES.—Subject to any term or condition imposed by the Secretary of the Treasury under paragraph (3), the provisions of this section shall apply to an appropriate Federal banking agency to which is delegated any authority of the Secretary under this section in the same manner such provisions apply to the Secretary.

"(3) TERMS AND CONDITIONS.—

"(A) IN GENERAL.—The Secretary of the Treasury shall prescribe by regulation the terms and conditions which shall apply to any delegation under paragraph (1).

"(B) MAXIMUM DOLLAR AMOUNT.—The terms and conditions authorized under subparagraph (A) may include, in the Secretary's sole discretion, a limitation on the amount of any civil penalty which may be assessed by an appropriate Federal banking agency pursuant to a delegation under paragraph (1).

"(4) DEFINITIONS.—For purposes of this subsection, the terms 'depository institution' and 'Federal banking agencies' have the same meanings as in section 3 of the Federal Deposit Insurance Act.".

SEC. 407. UNIFORM STATE LICENSING AND REGULATION OF CHECK CASHING, CURRENCY EXCHANGE, AND MONEY TRANSMITTING BUSINESSES.

(a) UNIFORM LAWS AND ENFORCEMENT.—For purposes of preventing money laundering and protecting the payment system from fraud and abuse, it is the sense of the Congress that the several States should—

(1) establish uniform laws for licensing and regulating businesses which—

(A) provide check cashing, currency exchange, or money transmitting or remittance services, or issue or redeem money orders, travelers' checks, and other similar instruments; and

(B) are not depository institutions (as defined in section 19(b)(1)(A) of the Federal Reserve Act); and

(2) provide sufficient resources to the appropriate State agency to enforce such laws and regulations prescribed pursuant to such laws.

(b) MODEL STATUTE.—It is the sense of the Congress that the several States should develop, through the auspices of the National Conference of Commissioners on Uniform State Laws, the American Law Institute, or such other forum as the States may determine to be appropriate, a model statute to carry out the goals described in subsection (a) which would include the following:

(1) LICENSING REQUIREMENTS.—A requirement that any business described in subsection (a)(1) be licensed and regulated by an appropriate State agency in order to engage in any such activity within the State.

(2) LICENSING STANDARDS.—A requirement that—

(A) in order for any business described in subsection (a)(1) to be licensed in the State, the appropriate State agency shall review and approve—

(i) the business record and the capital adequacy of the business seeking the license; and

(ii) the competence, experience, integrity, and financial ability of any individual who—

(I) is a director, officer, or supervisory employee of such business; or

(II) owns or controls such business; and

(B) any record, on the part of any business seeking the license or any person referred to in subparagraph (A)(ii), of—

(i) any criminal activity;

(ii) any fraud or other act of personal dishonesty;

(iii) any act, omission, or practice which constitutes a breach of a fiduciary duty; or

(iv) any suspension or removal, by any agency or department of the United States or any State, from participation in the conduct of any federally or State licensed or regulated business;

may be grounds for the denial of any such license by the appropriate State agency.

(3) PROCEDURES TO ENSURE COMPLIANCE WITH FEDERAL CASH TRANSACTION REPORTING REQUIREMENTS.—A civil or criminal penalty for operating any business referred to in paragraph (1) without establishing and complying with appropriate procedures to ensure compliance with subchapter II of chapter 53 of title 31, United States Code (relating to records and reports on monetary instruments transactions).

(4) CRIMINAL PENALTIES FOR OPERATION OF BUSINESS WITHOUT A LICENSE.—A criminal penalty for operating any business referred to in paragraph (1) without a license within the State after the end of an appropriate transition period beginning on the date of enactment of such model statute by the State.

(c) STUDY REQUIRED.—The Secretary of the Treasury shall conduct a study of—

(1) the progress made by the several States in developing and enacting a model statute which—

(A) meets the requirements of subsection (b); and

(B) furthers the goals of—

(i) preventing money laundering by businesses which are required to be licensed under any such model statute; and

(ii) protecting the payment system, including the receipt, payment, collection, and clearing of checks, from fraud and abuse by such businesses; and

(2) the adequacy of—

(A) the activity of the several States in enforcing the requirements of such statute; and

(B) the resources made available to the appropriate State agencies for such enforcement activity.

(d) REPORT REQUIRED.—Before the end of the 3-year period beginning on the date of enactment of this Act and by the end of each of the first two 1-year periods beginning after the end of such 3-year period, the Secretary of the Treasury shall submit a report to the Congress containing the findings and recommendations of the Secretary in connection with the study under subsection (c), together with such recommendations for legislative and administrative action as the Secretary may determine to be appropriate.

(e) RECOMMENDATIONS IN CASES OF INADEQUATE REGULATION AND ENFORCEMENT BY STATES.—If the Secretary of the Treasury determines that any State has been unable—

(1) to enact a statute which meets the requirements described in subsection (b);

(2) to undertake adequate activity to enforce such statute; or

(3) to make adequate resources available to the appropriate State agency for such enforcement activity;

the report submitted pursuant to subsection (d) shall contain recommendations designed to facilitate enactment and enforcement of such a statute.

(f) FEDERAL FUNDING STUDY.—

(1) STUDY REQUIRED.—The Secretary of the Treasury shall conduct a study to identify possible available sources of Federal funding to cover costs to the States to implement this section.

(2) REPORT.—The Secretary of the Treasury shall submit a report to the Congress on the study conducted pursuant to paragraph (1) before the end of the 18-month period beginning on the date of enactment of this Act.

SEC. 408. REGISTRATION OF MONEY TRANSMITTING BUSINESSES TO PROMOTE EFFECTIVE LAW ENFORCEMENT.

(a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—The Congress finds the following:

(A) Money transmitting businesses are subject to the recordkeeping and reporting requirements of subchapter II of chapter 53 of title 31, United States Code.

(B) Money transmitting businesses are largely unregulated businesses and are frequently used in sophisticated schemes to—

(i) transfer large amounts of money which are the proceeds of unlawful enterprises; and

(ii) evade the requirements of subchapter II of chapter 53 of title 31, United States Code, the Internal Revenue Code of 1986, and other laws of the United States.

(C) Information on the identity of money transmitting businesses and the names of the persons who own or control, or are officers or employees of, a money transmitting business would have a high degree of usefulness in criminal, tax, or regulatory investigations and proceedings.

(2) PURPOSE.—It is the purpose of this section to establish a registration requirement for businesses engaged in providing check cashing, currency exchange, or money transmitting or remittance services, or issuing or redeeming money orders, travelers' checks, and other similar instruments to assist the Secretary of the Treasury, the Attorney General, and other supervisory and law enforcement agencies to effectively enforce the criminal, tax, and regulatory laws and prevent such money transmitting businesses from engaging in illegal activities.

(b) IN GENERAL.—Subchapter II of chapter 53 of title 31, United States Code, is amended by adding at the end the following new section:

"§ 5329. Registration of money transmitting businesses

"(a) REGISTRATION WITH SECRETARY OF THE TREASURY REQUIRED.—

"(1) IN GENERAL.—Any person who owns or controls a money transmitting business which is not a depository institution (as defined in section 19(b)(1)(A) of the Federal Reserve Act) shall register the business (whether or not the business is licensed as a money transmitting business in any State) with the Secretary of the Treasury before the end of the 180-day period beginning on the later of—

"(A) the date of enactment of this section; or

"(B) the date the business is established.

"(2) FORM AND MANNER OF REGISTRATION.—Subject to the requirements of subsection (b), the Secretary of the Treasury shall prescribe, in regulations, the form and manner for registering a money transmitting business pursuant to paragraph (1).

"(3) BUSINESSES REMAIN SUBJECT TO STATE LAW.—This section shall not be construed as superseding any requirement of State law relating to money transmitting businesses operating in such State.

"(4) FALSE AND INCOMPLETE INFORMATION.—The filing of false or materially incomplete information in connection with the registration of a money transmitting business shall be considered as a failure to comply with the requirements of this subsection.

"(b) CONTENTS OF REGISTRATION.—The registration of a money transmitting business under subsection (a) shall include the following information:

"(1) The name and location of the business.

"(2) The name and address of each person who—

"(A) owns or controls the business;

"(B) is a director or officer of the business; or

"(C) otherwise participates in the conduct of the affairs of the business.

"(3) The name and address of any depository institution at which the business maintains a transaction account (as defined in section 19(b)(1)(C) of the Federal Reserve Act).

"(4) An estimate of the volume of business to be reported annually.

"(5) Such other information as the Secretary of the Treasury may require.

"(c) AGENTS OF MONEY TRANSMITTING BUSINESSES.—

"(1) MAINTENANCE OF LISTS OF AGENTS OF MONEY TRANSMITTING BUSINESSES.—Pursuant to regulations which the Secretary of the Treasury shall prescribe, each money transmitting business shall—

"(A) maintain a list containing the names and addresses of all persons authorized to act as an agent for such business in connection with activities described in subsection (d)(1)(A) and such other information about such agents as the Secretary may require; and

"(B) make the list and other information available on request to any appropriate law enforcement agency.

"(2) TREATMENT OF AGENT AS MONEY TRANSMITTING BUSINESS.—The Secretary of the Treasury shall prescribe regulations establishing, on the basis of such criteria as the Secretary determines to be appropriate, a threshold point for treating an agent of a money transmitting business as a money transmitting business for purposes of this section.

"(d) DEFINITIONS.—For purposes of this section—

"(1) MONEY TRANSMITTING BUSINESS.—The term 'money transmitting business' means any business other than the United States Postal Service which—

"(A) provides check cashing, currency exchange, or money transmitting or remittance services, or issues or redeems money orders, travelers' checks, and other similar instruments;

"(B) is required to file reports under section 5313; and

"(C) is not a depository institution (as defined in section 19(b)(1)(A) of the Federal Reserve Act).

"(2) MONEY TRANSMITTING SERVICE.—The term 'money transmitting service' includes accepting currency or funds denominated in the currency of any country and transmitting the currency or funds, or the value of the currency or funds, by any means through a financial agency or institution, a Federal reserve bank or other facility of the Board of Governors of the Federal Reserve System, or an electronic funds transfer network.

"(e) CIVIL PENALTY FOR FAILURE TO COMPLY WITH REGISTRATION REQUIREMENTS.—

"(1) IN GENERAL.—Any person who fails to comply with the money transmitting business registration requirements under subsection (a) or regulations prescribed under such subsection shall be liable to the United States for a civil penalty of $5,000 for each such violation.

"(2) CONTINUING VIOLATION.—Each day a violation described in paragraph (1) continues shall constitute a separate violation for purposes of such paragraph.

"(3) ASSESSMENTS.—Any penalty imposed under this subsection shall be assessed and collected by the Secretary of the Treasury in the manner provided in section 5321 and any such assessment shall be subject to the provisions of such section.".

(c) CRIMINAL PENALTY FOR FAILURE TO COMPLY WITH REGISTRATION REQUIREMENTS.—Section 1960(b)(1) of title 18, United States Code, is amended to read as follows:

"(1) the term 'illegal money transmitting business' means a money transmitting business which affects interstate or foreign commerce in any manner or degree and—

"(A) is intentionally operated without an appropriate money transmitting license in a State where such operation is punishable as a misdemeanor or a felony under State law; or

"(B) fails to comply with the money transmitting business registration requirements under section 5329 of title 31, United States Code, or regulations prescribed under such section;".

(d) CIVIL FORFEITURE.—Section 981(a)(1)(A) of title 18, United States Code, is amended by striking "or of section 1956 or 1957 of this title," and inserting ", of section 1956, 1957, or 1960 of this title,".

(e) CLERICAL AMENDMENT.—The table of sections for chapter 53 of title 31, United States Code, is amended by inserting after the item relating to section 5328 the following new item:

"5329. Registration of money transmitting businesses.".

SEC. 409. CRIMINAL AND CIVIL PENALTY FOR STRUCTURING DOMESTIC AND INTERNATIONAL TRANSACTIONS.

(a) CRIMINAL PENALTY.—Section 5324 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(c) CRIMINAL PENALTY.—

"(1) IN GENERAL.—Whoever violates this section shall be fined in accordance with title 18, United States Code, imprisoned for not more than 5 years, or both.

"(2) ENHANCED PENALTY FOR AGGRAVATED CASES.—Whoever violates this section while violating another law of the United States or as part of a pattern of any illegal activity involving more than $100,000 in a 12-month period shall be fined twice the amount provided in subsection (b)(3) or (c)(3) (as the case may be) of section 3571 of title 18, United States Code, imprisoned for not more than 10 years, or both.".

(b) AMENDMENT RELATING TO CIVIL PENALTY.—Section 5321(a)(4)(A) of title 31, United States Code, is amended by striking "willfully".

(c) TECHNICAL AND CONFORMING AMENDMENT.—Subsections (a) and (b) of section 5322 of title 31, United States Code, are amended by inserting "or 5324" after "section 5315" each place such term appears.

SEC. 410. GAO STUDY OF CASHIERS' CHECKS.

(a) STUDY REQUIRED.—The Comptroller General of the United States shall conduct a study to determine—

(1) the extent to which the practice of issuing of cashiers' checks by financial institutions is vulnerable to money laundering schemes;

(2) the extent to which additional recordkeeping requirements should be imposed on financial institutions which issue cashiers' checks; and

(3) such other factors relating to the use and regulation of cashiers' checks as the Comptroller General determines to be appropriate.

(b) REPORT REQUIRED.—Before the end of the 180-day period beginning on the date of enactment of this Act, the Comptroller General shall submit a report to the Congress containing—

(1) the findings and conclusions in connection with the study conducted pursuant to subsection (a); and

(2) such recommendations for legislative and administrative action as the Comptroller General may determine to be appropriate.

RIEGLE (AND METZENBAUM) AMENDMENT NO. 1531

Mr. RIEGLE (for himself and Mr. METZENBAUM) proposed an amendment to the bill S. 1275, supra; as follows:

At the appropriate place insert:

SEC. . Section 609(a) of the Fair Credit Reporting Act (15 U.S.C. 1681g(a)) is amended by adding after paragraph (3) the following:

"(4) The dates, original payees, and amounts of any checks upon which is based any "negative information about the consumer included in the file at the time of the disclosure."

BAUCUS AND WALLOP AMENDMENT NO. 1532

Mr. RIEGLE (for Mr. BAUCUS for himself and Mr. WALLOP) proposed an amendment to the bill S. 1275, supra; as follows:

On page 56, line 24, strike "or";

On page 57, line 4, after ";" insert "or"; and

On page 57, between lines 4 and 5 insert:

"(c) in a community that has experienced a sudden and significant loss in total employment since the 1990 census or a major dislocation in its primary employment base."

NOTICES OF HEARINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will be holding a hearing on Wednesday, March 23, 1994, beginning at 9:30 a.m., in 485 Russell Senate Office Building on S. 1021, the Native American Free Exercise of Religion Act.

Those wishing additional information should contact the Committee on Indian Affairs at 224-2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTRY

Mr. RIEGLE. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Wednesday, March 16, 1994 at 9:30 a.m., in SR-332, on effect on dairy trade of the self help proposal.

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

COMMITTEE ON ARMED SERVICES

Mr. RIEGLE. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet jointly with the Committee on Governmental Affairs on Wednesday, March 16, 1994 at 2 p.m., in open session, to receive testimony on S. 1587, the Federal Acquisition Streamlining Act of 1993.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. RIEGLE. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 10 a.m., March 16, 1994, to receive testimony on the domestic and international implications of energy demand growth in China and the developing countries of the Pacific rim.

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

COMMITTEE ON FINANCE

Mr. RIEGLE. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet today at 10 a.m. to hear testimony on the subject of the Uruguay round, and to hear and consider the nominations of W. Booth Gardner to be a Deputy U.S. Trade Representative and Lynn Bragg to be a member of the International Trade Commission.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. RIEGLE. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorized to meet on Wednesday, March 16, 1994, at 2 p.m., for a joint hearing with the Armed Services Committee on the legislation: S. 1587, the Federal Acquisition Streamlining Act of 1993.

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

COMMITTEE ON THE JUDICIARY

Mr. RIEGLE. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, March 16, 1994, to hold a hearing on the nomination of Jamie Gorelick, to be Deputy Attorney General.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. RIEGLE. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on the Reemployment Act of 1994, during the session of the Senate on March 16, 1994, at 2:30 pm.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. RIEGLE. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on the current status of chapter I, during the session of the Senate on March 16, 1994, at 10 a.m.

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

SUBCOMMITTEE ON INTERNATIONAL FINANCE AND MONETARY POLICY

Mr. RIEGLE. Mr. President, I ask unanimous consent that the Subcommittee on International Finance and Monetary Policy of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, March 16, beginning at 10 a.m., to conduct a hearing on Alaskan crude oil.

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

SUBCOMMITTEE ON MINERAL RESOURCES DEVELOPMENT AND PRODUCTION AND SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. RIEGLE. Mr. President, I ask unanimous consent that the Subcommittee on Mineral Resources Development and Production and the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 2:30 p.m., March 16, 1994, to receive testimony on H.R. 1137, the Old Faithful Protection Act of 1993.

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

ADDITIONAL STATEMENTS

LITHUANIAN INDEPENDENCE DAY

• Mr. RIEGLE. Mr. President, I rise today to commemorate the 76th anniversary of Lithuania's declaration of independence, celebrated on February 16, 1994. Once again we are reminded of the difficulties the Lithuanian people have faced throughout their history, and the resilience with which they have confronted them. Their fortitude is even more pronounced now as they struggle to rebuild their country following Soviet occupation. I am proud to celebrate this day with the people of Lithuania and the Lithuanian-American community, and I offer my continued support as they face the numerous and formidable challenges of the future.

On February 16, 1918, the Lithuanian National Council first declared its independence from Czarist Russia, ending 300 years of foreign domination. Their new-found liberty lasted only until 1940, however, when Stalinist Russian troops invaded and annexed Lithuania, along with neighboring Latvia and Estonia. The Lithuanian people suffered under a brutal Soviet regime, yet they never gave up hope for freedom, independence, and self-determination. Lithuanians once again declared independence from the Soviet Union on March 11, 1990.

Lithuanian Independence Day is important not only as a remembrance of the many years Lithuania has spend under oppressive foreign rule, but also as an acknowledgement of the obstacles of Lithuania's continued autonomy. Freedom never came easily for the Lithuanian people—the Soviet Union at first refused to recognize the independence claim and in January 1991, 14 Lithuanians were killed and more than 500 injured by Soviet troops while defending the radio and TV tower in Vilnius. Even after the total collapse of the Soviet Union and the establishment of Lithuania as an independent nation, Lithuanians continue to face a precarious situation militarily, economically, and environmentally.

Clearly one of the most serious problems in Lithuania today is the shortage of energy. Lithuania is heavily dependent on Russian oil and natural gas, yet the Russian gas company GASPROM has repeatedly threatened to shut off the supply unless Lithuania pays off a $30 million debt. The only domestic source of energy is an aging nuclear powerplant in Ignalina which has undergone several emergency shutdowns in recent years due to its outdated and inadequate safety systems. The state of this powerplant highlights the danger of a new catastrophe that would compound the environmental damage already inflicted on Lithuania by 50 years of Soviet occupation.

Lithuania is plagued by economic and military problems as well. The transition to a free market economy has created numerous problems for the Lithuanian economy—inflation remains extremely high; there is a shortage of raw materials; and industrial production has fallen sharply in recent years. Finally, although all Russian troops have been removed from Lithuanian soil, thousands still remain in Latvia and Estonia. We must continue to monitor the removal of troops from the Baltics to ensure that Russia honors its commitment to complete its withdrawal by August 31, 1994.

The struggle of the Lithuanian people is far from over. The international community must continue to support Lithuania and its Baltic neighbors as they strive to build free societies, stable democracies, and market economies. As we celebrate with the people of Lithuania and the Lithuanian-American community here in the United States, let us recognize the challenges they face, and renew our commitment to support the Baltic nations in the future.•

ORDERS FOR TOMORROW

Mr. RIEGLE. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m., Thursday, March 17, 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 a.m., with Senators permitted to speak therein for up to 10 minutes each, with the first 20 minutes of morning business under the control of the majority leader or his designee; with Senators KOHL and KERREY recognized for up to 10 minutes each; with Senator SHELBY recognized for up to 20 minutes; that at 10 a.m., the Senate then resume consideration of S. 1275, the community development bank bill; that upon resuming the bill, Senator GRAMM be recognized to offer an amendment to amendment No. 1525, with the Gramm amendment relating to sunsetting.

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

RECESS UNTIL THURSDAY, MARCH 17, 1994 AT 9 A.M.

Mr. RIEGLE. Mr. President, if there is no further business to come before the Senate today, and if no other Senator is seeking recognition, I ask unanimous consent the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 6:34 p.m., recessed until 9 a.m., Thursday, March 17, 1994.

NOMINATIONS

Executive nominations received by the Senate March 16, 1994:

DEPARTMENT OF DEFENSE

WILLIAM T. COLEMAN III, OF MICHIGAN, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF THE ARMY, VICE WILLIAM JAMES HAYNES II, RESIGNED.

SARA E. LISTER, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF THE ARMY, VICE ROBERT S. SILBERMAN, RESIGNED.

FOREIGN SERVICE

THE FOLLOWING-NAMED PERSONS OF THE AGENCIES INDICATED FOR APPOINTMENT AS CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE CLASS STATED, AND ALSO FOR THE OTHER APPOINTMENT INDICATED HEREWITH:

FOR APPOINTMENT AS A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, AND A CONSULAR OFFICER AND A SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

AGENCY FOR INTERNATIONAL DEVELOPMENT

KELLY CHRISTIAN KAMMERER, OF THE DISTRICT OF COLUMBIA

FOR APPOINTMENT AS A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR:

DEPARTMENT OF STATE

DOUGLAS B. ARCHARD, OF VERMONT

THE FOLLOWING-NAMED PERSONS OF THE AGENCIES INDICATED FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASSES STATED, AND ALSO FOR THE OTHER APPOINTMENTS INDICATED HEREWITH:

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS ONE, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

JAMES EDMOND ROBERTSON, OF MARYLAND

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS THREE, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

CAROL ANN DENNISON, OF PENNSYLVANIA
DAVID T. NEWELL, OF THE DISTRICT OF COLUMBIA

DEPARTMENT OF AGRICULTURE

HASSAN F. AHMED, OF VIRGINIA
BERNADETTE BORRIS, OF NEW JERSEY
ASIF J. CHAUDHRY, OF WASHINGTON
ROBERT K. HOFF, OF TEXAS
JON K. JENNI, OF CALIFORNIA
JEFFREY W. JONES, OF WASHINGTON
KEVIN N. SMITH, OF ILLINOIS
BRUCE J. ZANIN, OF VIRGINIA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS FOUR, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

LARRY EDWARD ANDRE, JR., OF TEXAS
EDWARD P. BIRSNER, OF NEW JERSEY
ANN-CATHERINE BLANK, OF HAWAII
DIANA F. BROWN, OF MICHIGAN
DOUGLAS PAUL CLIMAN, OF CALIFORNIA
NANCY J. COOPER, OF NEW YORK
RHONDA L. FERGUSON-AUGUSTUS, OF NEW YORK
BRADLEY ALAN FREDEN, OF TEXAS
GREGORY WRIGHT FRENZEL, OF NEW JERSEY
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STEVEN CHRISTOPHER KOUTSIS, OF MASSACHUSETTS
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SUZANNE ILENE LAWRENCE, OF ARIZONA
MATTHEW FRANKLIN LEVEY, OF CONNECTICUT
KATHLEEN LOUISE LIST, OF CALIFORNIA
THOMAS AQUINAS MARTEN, OF VIRGINIA
KATHERINE ANNE MUNCHMEYER, OF TEXAS
DARIUS NASSIRY, OF CALIFORNIA
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LOIS ARLENE PRICE, OF OREGON
ERIC JAMES RUETER, OF CALIFORNIA
RICHARD SCOTT SACKS, OF NEW HAMPSHIRE
JOLEEN ANN SCHWEITZER, OF VIRGINIA
DAVID WILLIAM SECKLER, OF CALIFORNIA
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LAWRENCE C. YONTZ, OF OHIO

DEPARTMENT OF AGRICULTURE

CLAY M. HAMILTON, OF TEXAS

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENT OF STATE AND COMMERCE TO BE CONSULAR OFFICERS AND/OR SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA, AS INDICATED:

CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

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KATHLEEN L. ARCHIBALD, OF VIRGINIA
GEOFFREY M. BARRY, OF VIRGINIA
ROBERT STEPHEN BEECHCROFT, OF CALIFORNIA
CARRIE D. BENJAMIN, OF VIRGINIA
J. ANDREW BENNETT, OF VIRGINIA
RUTH G. BRANTLEY, OF THE DISTRICT OF COLUMBIA
SUZANNE L. BROWN, OF VIRGINIA
KATHERINE ANN BRUCKER, OF CALIFORNIA
MATHEW J. BURROWS, OF THE DISTRICT OF COLUMBIA
ANN E. BUTLER, OF VIRGINIA
JEFFREY M. CANOSE, OF VIRGINIA
CRAIG B. CHELLIS, OF VIRGINIA
PORTER P. CONERLY, OF VIRGINIA
SUSAN THERESA CONNOLLY, OF VIRGINIA
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LESTER. S. DUFFIN, OF VIRGINIA
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JAMES R. KNEIP, OF MARYLAND
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EVAN A. KOPP, OF CALIFORNIA
DALE G. KREISHER, OF OHIO
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MARK BRENDAN O'CONNOR, OF FLORIDA
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STUART E. PATT, OF CALIFORNIA
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PRIVATH UM, OF VIRGINIA
PEGGY JEANNE WALKER, OF VIRGINIA
RHONDA J. WATSON, OF MARYLAND
STEPHANIE TURCO WILLIAMS, OF THE DISTRICT OF COLUMBIA

DEPARTMENT OF DEFENSE

RUDY DELEON, OF CALIFORNIA, TO BE UNDER SECRETARY OF THE AIR FORCE, VICE ANNE NEWMAN FOREMAN, RESIGNED.

79-059 O—97 Vol. 140 (Pt. 4) 22