SENATE—*Thursday, March 17, 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 HERB KOHL, a Senator from the State of Wisconsin.

PRAYER

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

Let us pray:

Come unto me, all ye that labour and are heavy laden, and I will give you rest.—Matthew 11:28.

Gracious Father in Heaven, in a large family like the Senate many can be hurting and none of us know it. Powerful people have difficulty in exposing their vulnerability; powerless people are often ignored. Yet any of us may be hurting and in need of the encouragement of others. I think of the police officer whose mother is dying of cancer; of the food service person whose 19-year-old nephew was hit three times by a drive-by shooting and is in critical condition in the hospital; or the page who is lonesome for family and friends at home; or the staff person, struggling with finances or whose job is threatened.

Loving God, help us to be sensitive to those around us. Help us to treat each other as persons, not numbers. Help us to be willing to share our hurts and accept a caring response from others. And above all, mighty God, help us to hear our Lord's invitation, "Come unto me, all ye that labour and are heavy laden, and I will give you rest." Help us to appreciate Your availability and to respond to Your expression of loving care.

In His name who loved us and gave himself for us. 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 17, 1994.

To the Senate:

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

ROBERT C. BYRD,
President pro tempore.

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

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10 a.m., with Senators permitted to speak therein for not to exceed 10 minutes each. The first 20 minutes shall be under the control of the majority leader, or his designee.

Mr. REID addressed the Chair.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Nevada.

Mr. REID. Mr. President, I ask unanimous consent that the 20 minutes under the control of the majority leader be controlled by the Senator from Nevada.

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

HEALTH CARE COVERAGE IN AMERICA

Mr. REID. Mr. President, I yield myself 10 minutes.

The health plan that is now before Congress that has been given to us by the President of the United States builds on the current system. It is not a radical departure from what has been going on as it relates to how people will be cared for. It builds on a system of employer responsibility.

At present, there are 9 out of every 10 Americans who receive their health care coverage through their employers; that is, Mr. President, 90 percent of the people who have health insurance in America receive it as a result of their job. Only 10 percent of the health care coverage in America today is, in effect, private insurance, nonemployer driven.

Still, in spite of this fact, there are over 30 million Americans who work every day who have no insurance coverage for their health. In fact, 85 percent of uninsured Americans are in the working class. There is a false premise out in the public that those people who have no insurance are deadbeats, unwilling to work. In fact, that is not true. Eighty-five percent of the people who have no health insurance are people who work every day. These are people who need their coverage, should have their coverage.

Our present system is also a burden on those who cover their employees because they, in effect, are not competitive. I am sure, Mr. President, you had some of the same people visit you last week that visited me: People who represented retail merchants throughout America. One of the big problems they have is that the second largest employer in America employs some 600,000 people and provides insurance for only 10 percent of their employees; 90 percent of the employees have no insurance of this huge, huge employer. It is Wal-Mart, Mr. President.

There are some employees who work there that can get insurance through different methods, but basically, as we speak, I was told that 90 percent of the people who work at Wal-Mart have no insurance.

So those employers that provide insurance that are competing with that company are not able to compete because they are doing something that costs them a lot of money to provide for their employees. My point is that those who provide insurance for their employees really are going at it with some risk.

Those people who have no insurance are provided for in a very, very expensive way. I had visiting with me yesterday a gentleman who is a nurse. Prior to becoming a nurse, which was 3 years ago, he worked as a paramedic on an ambulance. He said there were numerous occasions—numerous, numerous occasions—in Nevada where a person could not afford a cab to be taken to the hospital or to a doctor, so they would call for an ambulance to be taken to the emergency room. At that time, the cost for the ambulance was $490-some-odd. Of course, the ambulance people never got paid and the person got the most expensive care available; that is, care in an emergency room at a hospital.

That is a tremendous burden on everyone—everyone. Anyone able to hear me today, that is a burden on them. Why? Because they have increased insurance premiums, higher hospital and doctor bills and, of course, higher taxes for indigent care.

We pay for those who have no insurance anyway. Therefore, what we are talking about with a system that is now before us is employer responsibility. Spread it out but make it fair.

On St. Patrick's Day, Mr. President, I think it is appropriate that we talk about a woman with an Irish name, by the name of Erin Dowell. I have talked about her on the floor on other occasions.

● 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

Approximately 5 weeks ago, she was in Washington, DC, testifying about the high cost of medical care. That was the first time I met this fine young woman from Reno, NV. But that was the beginning of a relationship I will never ever forget.

I have maintained, since that time, contact with Erin. She was here at a time when her disease—that is, some type of leukemia—was in remission. She was healthy, she was vibrant, she was able to testify. Just 10 days later, I saw her in Reno, NV, bedridden, totally different in appearance, ashen in color, covered with an electric blanket trying to stay warm, trying to be comfortable.

At that time I met her family for the first time. We were hopeful that she would get better.

See, the reason I am so concerned about Erin is that she has leukemia and can be cured. She has a perfect donor match, but because of the red-tape with our present medical system, she was not able to have that transplant when she was in remission.

Now, of course, she is not in remission. She is very, very ill. She is not now, Mr. President, home at bed covered with that electric blanket, but she is now in a hospital in Reno.

I am sad to say that about 10 days ago she had a serious condition and she had to be rushed to the intensive care ward. She had problems with her heart. She is now out of intensive care but is very, very, very ill.

I have not been able to speak with her for a couple of weeks—she has been that sick—so I have spoken to her family.

I mention this because I am going to stay on Erin Dowell's case. I am doing it with her permission. She wants the American public to know about people who get lost in the present system.

Mr. President, she realizes, we realize, she could die before she gets her bone marrow transplant. She may never come out of this sick condition she is in now. She may never again go into remission so that she can have this transplant.

She was working. She had an accident, industrial accident. She went on industrial compensation. The day before she was to go back to work, she was diagnosed as having leukemia. She has no insurance, and she has been shuttled around like a bag of potatoes. The fact is she has never had the opportunity to be treated during the last time she was in remission. This is really a sad example of what goes on in our present health care system.

Mr. President, businesses like the small businesses where Erin worked, where she was hurt originally, want to insure their employees. Forty percent of them do not. Why? They cannot afford it. Why? Because they pay 35 percent more for the same insurance that a big business has. Their premiums increase 50 percent more than big business. Forty cents of every dollar spent on health care goes to administrative costs, 10 percent for fraud. Preexisting condition restrictions prevent many companies from purchasing insurance.

Let me give you an example, Mr. President. There is a little organization, a nonprofit organization in Las Vegas, NV called the Nevada Association of Latin Americans, a wonderful organization that has been in existence for 25 years. They help the underprivileged.

I ask unanimous consent that a letter to Mrs. Clinton from them be printed in the RECORD.

I also ask unanimous consent that a letter to them denying coverage be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NEVADA ASSOCIATION OF
LATIN AMERICANS, INC.,
Reno, NV, October 1, 1993.

HILLARY RODHAM CLINTON,
White House, Office of the First Lady, Washington, DC.

DEAR FIRST LADY: Thank you for the enormous work you are doing for the Health Care Reform. I know you received over 700,000 letters and my letter won't add anything new to the fund of knowledge you already have.

However, I want to share with you our experiences here with Insurance companies. As you are testifying on Capitol Hill, we are being rejected by an HMO Insurance Carrier because one of our staff members has diabetes and two are pregnant. We are a small non-profit, social service agency, with a staff of twenty-three, which serves primarily the economically disadvantaged Hispanics of Southern Nevada. Our agency has been in existence for 25 years. The only benefit our staff receives is Group Health Insurance. Most of our staff start at $4.50 an hour. We are not insurable as a group because of the pre-existing conditions of three staff members.

Please do whatever is in your power to fight for us. We need the security of Universal Coverage which the President spoke about at the Joint Congressional Session. As far as we are concerned, Health Care Reform is not a political issue—it is our life and the life of poor people we serve. Please do not allow the Congress to delay the passage of the Health Care Reform Bill. We cannot wait without health insurance.

I wish you all the success in this endeavor.

Sincerely,

AVI L. ALMEIDA, Ph.D.,
LASW, President and
Chief Executive Officer.

FHP HEALTH CARE,
Las Vegas, NV, September 29, 1993.

Re: Nevada Association of Latin Americans

SCOTT CARSON,
Southwest Benefits,
Las Vegas, NV.

DEAR SCOTT: Thank you for considering FHP for your above mentioned client. Unfortunately, we are not able to offer our services to this group at the present time due to health conditions which currently exist.

If you have any questions regarding this matter, please feel free to contact me.

We at FHP appreciate your patronage, and strive to provide you with quality service.

Sincerely,

SALLY NOITZ,
Account Executive.

Mr. REID. They say their staff starts at $4.50 an hour. The only benefit they got was group health insurance. Now they cannot get that. Why? Because two of their employees were pregnant and one had diabetes so they were denied coverage.

So there is no misunderstanding, recognize, Mr. President, that the denial of coverage does not apply only to institutions dealing with the needy and the poor like the Nevada Association of Latin Americans but also the so-called rich have trouble getting insurance.

I went to an ophthalmologist in Las Vegas, and as we were sitting talking after my examination, he said, "Harry, I hope you can do something about the health care system." He said, "I have 27 employees." This is an outstanding physician who has been in practice for many years, has a wonderful reputation. He said, "Harry, I have 27 employees. One of my employees got cancer and they are not going to rewrite my policy. I am having a tough time finding somebody who will cover my 27 employees."

So this is endemic. It is a problem with everybody in America today. We have to change the system. The present system is simply not working. We need to understand that small businesses will be better off by far if we have a fair employer responsibility program. And we have one contained in the President's bill. It creates an even playing field which allows small businesses to pool. It eliminates insurance practices that discriminate. It reduces the administrative burden.

Shared employer responsibility, under the plan that I am talking about, will allow those who currently want to provide coverage to do so. It is imperative that we insure working Americans so they can have insurance coverage. We must spread the responsibility evenly. That is what this legislation will do. Businesses that provide coverage are bearing a disproportionate share of the health care burden. Businesses that do provide coverage are subsidizing the care of those that do not.

Remember, Mr. President, working Americans without coverage will still get care—care that will be paid for by you and me and those businesses providing coverage for their employees. Under the present system, the companies that provide coverage pay for everybody else. The example: People calling an ambulance so they can go to an emergency room. I don't think that is the fair way to do it.

Let us allow those 60 percent of small businesses to have fairness. Let us allow the other 40 percent to be covered so that we have an even playing field. We cannot afford to maintain the status quo. We have three choices: The status quo, the system that we are talking about now, or we have the employee bear all the responsibility. The

only one that is fair is shared responsibility; that is, the employer and the employee. I think it is time we put an end to the status quo by moving forward with this progressive, fair legislation.

Mr. President, I yield to the Senator from Washington the remaining time under my control.

Mrs. MURRAY. I thank my colleague from Nevada.

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

Mrs. MURRAY. Mr. President, I rise today to talk about a subject that has generated a great deal of debate in our discussion of health care reform: the so-called employer mandate. Some people prefer the term shared responsibility. Others talk about workplace benefits. If we spend time debating which term to use, we will never make real progress toward reform.

We will also miss a crucial point. Whatever term we choose, we are not talking about a new system, or something that has never been tried in this Nation. We are speaking about one of the cornerstones of our system today. That is right, the President's plan is built upon our present system, in which most of us with health care coverage get it through the workplace. It is as simple as that.

As we speak with employer mandates, I would also like to share with my colleagues what is going on in my State of Washington. While lobbyists in this Washington are arguing over alliances and mandates, we in the other Washington are doing health care reform.

After several years studying different ways to improve health care for the people of Washington, the Washington State Legislature in April 1993, passed landmark legislation to reform the health care system. The model for Washington State's plan was not an individual mandate, not single-payer, and not a tax-driven plan, but an employer mandate. This is the same model on which the Health Security Act, S. 1757, is based.

Like the President's plan, the Washington State Health Services Act will guarantee every citizen of the State a lifelong, comprehensive package of benefits, regardless of a person's employment or health status. There are no preexisting conditions and coverage can be ended only because of failure to pay.

The Washington State plan also has alliances—they are voluntary and we call them health insurance purchasing cooperatives—we have a choice of plans, we have cost containment, and we have discounts for small businesses. We have much of what is in the President's plan. The major difference is: as we speak, we in Washington State are implementing ours.

The Washington Health Services Act requires all Washington residents to be covered by a uniform benefits package from a certified health plan by no later than July 1, 1999. The act requires employers to pay at least half of the cost of an available certified health plan, and employees must be able to choose from one of three plans. Also, like the Clinton plan, you and your family will not lose health coverage if you change jobs, lose your job, or come down with a catastrophic illness.

Mandatory coverage is being implemented in phases over a 4-year period. By July 1, 1995, all employers with more than 500 employees must pay at least 50 percent of the lowest premium charged for an employee's coverage under an available certified health plan. By July 1, 1996, the employer must also pay at least half the cost of dependent care coverage for all dependents of the employee. Large employers may also contract directly with a certified health plan using combined employer and employee contributions. Employers with 100 or more employees come into the system by July 1, 1996 and small employers a year later.

We have provisions for covering part-time employees and migrant workers, and discounts for small businesses with fewer than 25 employees.

Naturally, these changes will not take place overnight. They are being implemented gradually, according to the schedule in the law. But they are being implemented.

I am especially proud of the employer's health purchasing co-op in Seattle. Discussions about creating the co-op predate enactment of the Washington Health Services Act, but the key features of the co-op closely track the requirements of the law. The co-op is working out final details for its formal establishment with the State Insurance Commissioner.

The co-op has 240 employer members. They include such diverse companies as Alaska Airlines, Airborne Express, Boise Cascade, Doubletree Hotels, Microsoft, Nordstrom's, the Port of Tacoma, REI, the Seattle Times, and Weyerhaeuser.

The co-op has an employee pool of about 600,000 individuals in the Puget Sound area. It is organized as an employer democracy: each employer has one vote. The co-op, acting as a kind of collective bargaining agent on behalf of its members, has contracted with three health plans for services. Each one had to provide guaranteed rates, a broad choice of providers with incentives to use managed care, and an emphasis on wellness and preventive care. Startup costs were about $450,000.

I believe the Puget Sound Employer's Health Purchasing Co-op offers a good example of what health care will look like under reform. It is certainly what it will look like in my State. I hope it is what it will look like throughout this country.

The 240 companies in the Puget Sound co-op are acting responsibly. They are not back here fighting against employer mandates. They are trying to improve health care for their employees, their families, and their communities. This is what health care reform is all about.

The idea of shared responsibility for health care is sound and it is fair. And, as I said earlier, it is not new. It is especially important for those who have remained on welfare to keep their Medicaid benefits. Under our reformed system, those individuals will be able to move into the work force without fear of losing their health coverage.

Last year, few believed the President and Congress would pass a budget that actually cuts the growth in the deficit. But we did it. This year, I will work just as hard to pass Federal health care reform legislation.

Mr. SHELBY addressed the Chair.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Alabama [Mr. SHELBY].

SENATOR SHELBY'S CONCLUSIONS ON THE PERSIAN GULF SYNDROME

Mr. SHELBY. Mr. President, I am here today to issue a report following my investigation into the possible presence of chemical and biological weapons agents in the theater of operations during the Persian Gulf war. Additionally, I will discuss the possible connection between service in the Persian Gulf and the unexplained illness affecting thousands of veterans and their families.

When Iraqi forces, at the direction of Saddam Hussein, crossed into Kuwait on August 2, 1990, they set off a chain reaction of events that resulted in the assembling of the largest coalition of forces since the Second World War. Countries that had been on opposite sides of the cold war were now joined with the expressed goal of driving Saddam Hussein's troops out of Kuwait.

The United States led this effort with over 600,000 members of our armed services, including over 200,000 reservists.

At the time of the Iraqi invasion, there was a strong belief among the coalition forces that chemical and even biological agents would be used as weapons by Iraq.

Within a year after the highly successful Desert Storm operation, reports surfaced of a mystery illness affecting many veterans, primarily members of the National Guard and Reserve, who served in Saudi Arabia.

This group is experiencing symptoms commonplace to many known illnesses. However, in the case of the Gulf War veterans, we have not been able to diagnose the causes of the illnesses and the illnesses themselves have not responded to any known treatments.

I have seen firsthand the devastating, frustrating, and debilitating effects

that this illness has had on many of these veterans. Citizens who were once healthy and able bodied can no longer hold jobs or participate as active members of society.

Little progress has been made even though Congress mandated the establishment of a Desert Shield-Desert Storm registry, and treatment centers were created for the Gulf war syndrome. Veterans, increasingly frustrated by the inability of the Department of Veterans Affairs to treat their illness, began to seek treatment outside of the Department of Defense and Department of Veterans Affairs medical community.

My involvement in this issue has spanned 2 years.

Early on, I met with a group of veterans after a town meeting that I held and pledged that I would do everything in my power to get them proper treatment and to find the causes of their ailments.

The anxiety and fear experienced by our ill veterans was intensified throughout this period by constant reports in foreign and domestic media about the presence of chemical weapons agents during the Gulf war.

I cannot imagine a greater fear than that experienced by someone who suffers from a mysterious illness and believes it may have been caused by exposure to chemical weapons.

As chairman of the Subcommittee on Force Requirements and Personnel of the Senate Armed Services Committee, I heard from afflicted veterans and saw first-hand the symptoms of these ailments.

Following this hearing, Dr. Charles Jackson of the Tuskegee Alabama Veterans Medical Center diagnosed a patient as suffering from Gulf war syndrome and chemical-biological warfare exposure. In response to this announcement and pressure from Congress, the Department of Veterans Affairs established a pilot program to test Persian Gulf veterans for possible exposure to chemical weapons agents.

As a result of these events, Senator SAM NUNN, chairman of the Committee on Armed Services, sent me, along with people on our staff and the people from DOD, to Europe and then to the Middle East to investigate the possible presence of chemical and biological weapon agents during Operation Desert Storm, as well as the possible connection between service in the Persian Gulf and the unexplained illness affecting thousands of veterans.

Mr. President, I went to Europe to determine the validity of the two then reported detections of chemical warfare agents by Czech soldiers. Instead, there were not only two, but five separate detections of chemical weapons agents in the Persian Gulf.

No one with whom I spoke could provide a solution to the mysterious illness; however, they could not rule out a possible link between the presence of chemical agents and the gulf war syndrome. Only the U.S. Department of Defense and the British Government have denied that chemical agents could have caused the illness.

In light of my involvement, I have come to five major conclusions which I would like to share with you today.

First, I have no doubt that chemical agents, accurately verified by the Czech chemical detection units, were present in the theater of operations during the Persian Gulf war.

Both Czech and French forces detected and verified the presence of nerve and mustard agents at low levels during Desert Storm.

Second, we may never be able to determine the origin of these chemical agents. While, I believe that we can rule out Iraqi Scud or Frog missiles, and Iraqi artillery, there still exists several possibilities. For example, the low-level chemical presence could have resulted from United States or coalition forces bombing Iraqi chemical weapons facilities or caches of Iraqi weapons on the Saudi border.

It is also feasible that a cloud of nerve agent, dissipating in intensity, could have traveled under the correct climate conditions. There is also the possibility of a training accident involving chemical agents among coalition forces. Finally, it is possible that the detections were the result of Saudi officials attempting to test the abilities of the Czechs whom they had engaged to assist in chemical detections.

Third, although a direct connection between the existence of low-levels of chemical agents in the theater of operations and the Persian Gulf syndrome cannot be established at this time, such a connection cannot and should not be discounted. Little information is available on exposure to low levels of chemical agents, but I believe that the work being done at Walter Reed Army Medical Center is on the right track in this area. We must give it our full support.

Fourth, the Department of Defense has proven reluctant to pursue or, in certain instances, to provide the information necessary to prove or disapprove allegations about the presence of chemical agents in the theater of operations. After my contact with our allies, we found that various chemical detections were reported to central command headquarters and were included in operational logs. Only then, and after traveling half-way around the world, did Department of Defense officials admit that they had been aware of these same instances.

While I have not yet determined the reason for this apparent aversion to full disclosure by DOD, the staff working on this issue from our committee has been constantly challenged by the Department's evasiveness, inconsistency, and reluctance to work toward a common goal here.

Finally, Mr. President, and I believe alarmingly, the Persian Gulf medical records of members of the 24th Naval Reserve Battalion are inexplicably missing from their files.

Mr. President, despite the Czech and French detections and numerous reports, the Department of Defense is still reluctant to admit that there were chemical weapons agents present in the Persian Gulf. I cannot understand why they have taken this stand since we fully expected to be confronted with chemical weapons when we went there.

I can only conclude, Mr. President, that when dealing with the Department of Defense on this issue, you have to ask the right question to receive the right answer. I do not believe they understand that we are only seeking the truth in a way to help our veterans. Therefore, I am going to continue to ask question after question until we find the right answer from DOD.

Mr. President, I ask unanimous consent that, following my remarks, first, a copy of my letter to SAM NUNN, chairman of the Committee on Armed Services, be printed in the RECORD; second, a copy of my interim report provided in December to Senators NUNN and THURMOND be printed in the RECORD; third, a copy of my report on my trip to the Middle East to continue the investigation into the Persian Gulf syndrome; and, fourth, my conclusions and recommendations in detail on the Persian Gulf syndrome be printed in the RECORD.

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

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC, March 16, 1994.

Hon. SAM NUNN,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am enclosing a full report of our investigation of the issues related to the possible presence of chemical and biological weapons agents in the theater of operations during Desert Storm and the possible connection between service in the Persian Gulf and the unexplained illness affecting thousands of veterans. This report includes:

Tab A: Interim report of European trip to investigate the Persian Gulf War Syndrome.

Tab B: Report of Middle East trip to continue the investigation into the Persian Gulf War Syndrome.

Tab C: Conclusions and Recommendations.

Tab D: Floor Statement regarding the our investigation of the Persian Gulf Syndrome on behalf of the Committee on Armed Services.

Iraq entered the conflict with a demonstrated chemical weapons capability—having used chemical weapons indiscriminately during the Iran-Iraq War, not only against the Iranians, but also against the Iraqi Kurds. Iraq was also suspected of developing a biological weapons capability, most likely antrax and botulism. As the coalition formed to fight Iraq's aggression, Suddam Hussein made inflamatory statements implying that he was willing to use these weapons to defeat the coalition by inflicting mass casualties.

With this knowledge and Saddam Hussein's threatening statements, the coalition forces strongly believed that Iraq would use chemical and biological weapons should there be a war. An array of defensive measures were adopted including an air campaign against all known chemical and biological weapons sites intended to disrupt Iraq's ability to use its chemical and biological weapons arsenal and signal to Iraqi military leaders that it would be in their interest to disobey any orders from Saddam Hussein to use chemical and biological weapons. Additionally, U.S. officials repeatedly made statements that the use of chemical and biological weapons would be taken very seriously.

While the threat of the use of chemical or biological weapons against the coalition forces was prevalent throughout the conflict, we received no indication from the Department of Defense that during or in the aftermath of the Persian Gulf conflict Iraqi forces used either chemical or biological warfare agents or that Coalition forces discovered any stocks of chemical or biological warfare agents.

Within a year after the highly successful Desert Storm operation, reports surfaced of a mystery illness affecting many veterans of the war. Symptoms included: joint pain, fatigue, headaches, decreased short-term memory, rashes, painful burning muscles, sleep disorders and diarrhea. While individually these manifestations are common to many illnesses, these particular series of ailments did not respond to any known treatments.

The National Defense Authorization Act for Fiscal Year 1992 required the establishment of a registry of all U.S. armed forces in the theater of operations during Operation Desert Storm who may have been exposed to fumes from burning oil well fires. Despite the establishment of this registry and the registry established by the Veterans' Affairs Committee of all participants in both Desert Shield and Desert Storm, little progress has been made on either the causes or the treatment of this mysterious illness. As a result, veterans have been seeking treatment outside of the Department of Defense and Department of Veterans Affairs medical community.

As the Chairman of the Subcommittee on Force Requirements and Personnel, I conducted a hearing on June 30, 1993, on military medical health care. I included a panel of Gulf War veterans consisting of Congressman Stephen Buyer of Indiana; Army Staff Sergeant Kerry Riegel; Petty Officer Sterling Sims, a member of the 24th Construction Battalion of the Naval Reserves; and Sergeant Willie Hicks, a member of the 644th Ordinance Company of the Alabama Army National Guard.

Just days before, a leading U.S. newspaper published a report that U.S. forces may have been exposed to chemical warfare agents during the Desert Storm. In testimony, both Petty Officer Sterling Sims and Sergeant Willie Hicks spoke in great detail about their possible exposure to chemical attacks.

On July 2, 1993, The Czech News Agency reported that Czechoslovakian military units detected chemical warfare agents, both nerve gas and mustard agent, in the Saudi theater of operations during the opening days of the air war against Iraq. G-series nerve gas was found by a Czech chemical detection unit attached to Saudi troops in the area of Hafar-Al-Batin on January 19, 1991. Mustard agent was found in a 20200 centimeter patch in the desert north of King Khalid Military City on January 24, 1991. A report of these detections was forwarded to the Department of Defense by the Czech government.

This announcement by the Czech News Agency led to a series of meetings with Department of Defense officials, including Undersecretary of Defense John Deutch. While Department of Defense officials maintained that they had no evidence of any chemical weapons attacks by Iraq during the Gulf War, the Department of Defense could not confirm or deny the presence of chemical warfare agents at low levels in the theater of operations.

It was in response to these events that you authorized my travel to the Czech Republic, the United Kingdom and France during the period of November 28 through December 5, 1993 and to Saudi Arabia, Syria, Egypt, Israel and Morocco from January 3 to January 15, 1994. I was accompanied by Dr. Edwin Dorn, then Assistant Secretary of Defense for Personnel and Readiness, on the first leg of this investigation. Major General Ronald Blanck, Commander of Walter Reed Army Medical Center, traveled with me on both legs of this journey.

In preparation for the trips, I, and members of my personal staff and the Committee on Armed Services staff received a briefing by Department of Defense officials. Upon our return, I tasked my personal staff and the SASC staff to meet again with Department of Defense officials in an attempt to answer questions and inconsistencies which arose as a result of information learned from these trips.

The following report provides details of my contacts with high-level representatives of the Coalition forces, several inescapable conclusions, and a floor statement addressing this issue.

Sincerely,

RICHARD SHELBY.

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC.

Memorandum to Senator Nunn and Senator Thurmond.
From: Senator Shelby.
CC: Senator Coats.
Subject: Report on trip to investigate "Persian Gulf syndrome."

The following is a report on my trip to investigate issues related to the possible presence of chemical/biological weapons agents in the theater of operations during the Persian Gulf War, and any possible connection between service in the Persian Gulf War and the illness among U.S. veterans referred to as the Persian Gulf Syndrome. The trip included visits to Prague, Czech Republic; London, England; and Paris, France.

Members of the Codel included two members of my personal staff, who serve as S. Res. to the SASC (Terry Lynch and Tom Young) and four members of the SASC staff with responsibilities in the area of manpower, personnel and chemical/biological defense (Charles Abell, Monica Chavez, P.T. Henry, and Frank Norton).

Additionally, the Codel included representatives from DOD (Assistant Secretary of Defense (Personnel and Readiness) Ed Dorn, Major General Ron Blanck, Commander, Walter Reed Army Medical Center and Colonel John Speigel, military assistant to ASD Dorn).

Although the trip was productive, our investigation is incomplete. I believe a trip to the Middle East to meet with our coalition allies stationed in the areas in question is necessary to resolve key questions about the possible presence of chemical agents in the theater of operations and the possible causes of the Persian Gulf Syndrome.

The following is a summary of what the Codel learned during its trip.

RHEIN MAIN AIRPORT, WEST GERMANY

Enroute to Prague, the Codel had a layover in Frankfurt, West Germany during which the Codel met with the Deputy Chief of Staff for Operations (DCSOPS) and representatives from the Headquarters of the US Army Europe (USAREUR), and received a briefing on the military and civilian draw down in Europe. During the briefing, the USAREUR representatives provided their assessment of possible chemical weapons use/employment during the Persian Gulf War.

The USAREUR representatives offered the following information:

On January 19, 1991, a Czech chemical unit detected G-series nerve agents in two locations on January 19 in concentrations which were militarily insignificant. U.S. chemical reconnaissance troops were called in to verify the detection and were unable to detect any agent at either of the two locations.

On January 24, 1991, a Czech chemical unit detected mustard agent in a wet sand patch, measuring 2 meters by sixty centimeters, two kilometers north of King Khalid Military City (KKMC). (Note: Other sources would place this detection 10 kilometers north of KKMC.)

On January 17, 1991, the U.S. bombed a chemical weapons munitions storage site at An Nasiryah, located 200 kilometers from the Saudi-Iraq border. The U.S. does not believe this action was the cause of the January 19 detection of nerve agent by the Czech chemical unit.

The USAREUR representatives believe that the Saudis had an underground chemical training facility in the vicinity of the "wet spot," which could account for the small amounts of chemical agents detected.

The USAREUR representatives also believe that the chemicals detected may have been a part of an attempt on the part of the Saudis to test the capabilities of the Czech chemical units. The briefers did not offer any information on where the Saudis would have gotten the chemical weapons agents.

PRAGUE, CZECHOSLOVAKIA

While in Prague, the Codel met with members of the Czech chemical unit that served in the Persian Gulf: Colonel Kozak, Chief of the Chemical Troops; Lieutenant Colonel Smehlik, Senior Chemical officer in the Persian Gulf; Major Zilinsky and Captain Ferus, leaders of the Czech chemical units in the Persian Gulf during the operations.

The following is a summary of what was learned in the discussions with the members of the Czech chemical unit:

The Czechs initially had 169 members in their chemical detection unit that deployed to the Persian Gulf. That number subsequently increased to approximately 190. These forces included chemical, medical, and other support personnel. The Czech chemical unit was under contract to the Saudi government to provide chemical weapons/agent detection to the Saudi government during the Persian Gulf War.

On January 19, 1991, Czech chemical units, that were working with 4th and 20th Saudi brigades and were separated by approximately 20 kilometers, made three nearly simultaneous detections of a low concentration of G-series nerve agent in the air. The Czechs consider the three nearly simultaneous detections to be "one" event. The Czechs indicated that the detections took place in the late afternoon and that the

event lasted approximately 40 minutes. The Czechs determined that, at ground level at the time of the event, the wind was blowing from the northwest. The Department of Defense had previously advised the Committee that the prevailing winds were blowing northeastward.

The Czechs took air samples from two of the three locations, and verified the contents of the air samples in their mobile laboratory to contain G-series nerve agent. The Czechs were not able to distinguish between sarin or soman. LTC Smehlik indicated, however, that they had excluded V-series agents. These air samples were sent back to then Czechoslovakia, and are no longer available, as they have been used up. An air sample from the third location was not taken for the purpose of verification because the Czech chemical unit was moving at the time of the alarm.

NOTE: In the U.S., G-series nerve agents Sarin and Tabun are considered to be nonpersistent, evaporating at the same rate as water. VX, a persistent nerve agent, evaporates much more slowly, and spills of liquid VX can persist for a long time under average weather conditions.

Captain Ferus, a leader of one of the Czech chemical units, informed us that on January 24, 1991, he was summoned by Saudi officials to an area 10 kilometers north of KKMC. His unit was accompanied to the area by Saudi soldiers, where he was asked to check the area for chemical agents. His unit detected mustard agent in the sand. No sample was taken because the presence of mustard agent was confirmed on the spot using a portable laboratory kit.

LTC Smehlik informed the Codel that he had recently learned that there had been another detection of mustard agent in the air near the Engineer School in KKMC 2-3 days prior to the detection on January 24, LTC Smehlik indicated that an air sample was taken, verified by the mobile laboratory, and forwarded to Czechoslovakia. This sequence of events was confirmed for the Codel by the Czech warrant officer who reported the actual detection.

The Czechs believe both detections of mustard agent to have been at levels that presented no danger to the health and safety of the troops in the area, and were, therefore, militarily insignificant.

Colonel Kozak informed the group that Czech units did not have any chemical agents in the Persian Gulf and they did not use live agents during their training with the Saudis.

The chemical detection equipment used by the Czechs consisted of Czech and Russian equipment of 1970's and 1980's vintage, yet, according to the Czechs, has a much lower threshold level for detection of chemical agents than does U.S. chemical detection equipment. The equipment used by the Czechs includes the GSP-11, a chemical agent detector/alarm which provides continuous monitoring capability; the portable CHP-71, a chemical analyzer used as a backup for the GSP-11; a portable laboratory which uses a litmus paper detection method, as well as other wet chemical analysis; and a mobile laboratory. We were told by the Czechs that the U.S. had arranged to examine the above mentioned equipment and that the equipment would be shipped to Edgewood Arsenal for testing.

During the conduct of discussions with representatives of the Czech military, several events were mentioned which were anecdotal in nature and based on hearsay. There is no documentary evidence of these matters. Nonetheless, I believe they merit further consideration.

LTC Smehlik claimed that an air sample of the mustard agent detected in the air in KKMC prior to January 24, 1991, was given to a U.S. special forces member. In subsequent discussions with the Codel staff, Smehlik indicated that the individual in question could also have been an intelligence specialist.

LTC Smehlik also mentioned that he had heard the Egyptians had detected mustard agent in the air in the vicinity of KKMC. Representatives of the French military offered the same thoughts on Egyptian detections.

GREAT BRITAIN

The Codel met with Dr. Graham Pearson, Director General, Chemical and Biological Defence Establishment; Mr. Brian Pitts, Surgeon General's Office; Ms. Jill Ferguson; LTC John Esmonde-White, and Colonel Christopher Box.

There were approximately 42,000 British soldiers who served in the Persian Gulf War. The representatives of the British government the Codel met were not very helpful.

They do not believe that the Czech units detected the presence of any chemical weapons, nerve or mustard agents, in the Persian Gulf. They spent a considerable amount of effort attempting to find plausible means of discrediting the Czech reports.

The British government does not recognize the possibility of any connection between service in the Persian Gulf and any illness that cannot be explained by conventional medical diagnosis. The British have about 30 veterans from the Persian Gulf with medical problems. These medical conditions are not considered peculiar to their service in the Persian Gulf. British citizens have, however, set up a Persian Gulf Families Hot Line, located in Glouchester, England, that serves as a clearing house for those who believe they have illnesses related to their service in the Persian Gulf. I met with Mr. Raymond Donn, a solicitor from Manchester, England, who is in the process of filing a class action suit against the British government to obtain compensation for these veterans. Mr. Donn informed me that there could be as many as 500 sick British veterans.

The British government does not recognize Multiple Chemical Toxicity/Sensitivity as a valid concept. Additionally, the representatives with whom the Codel met believe the Persian Gulf Syndrome is the result of American veterans attempting to increase their medical and disability benefits. The Codel was advised that the United States did not have to invent a new environmental disease to explain the symptoms being experienced by American veterans.

PARIS, FRANCE

While in Paris, the Codel met with Lieutenant Colonel Gerrard Emile Ferrand, a French Army infantry officer who served in the Persian Gulf. The French had about 12,000 personnel in the Gulf.

Colonel Ferrand informed the Codel that the French had detected nerve and mustard agent at a Logistics Facility approximately 26 or 27 kilometers south of KKMC on the evening of January 24th or January 25th. He indicated that the wind at ground level had been from the north—from Iraq. French chemical alarms were activated at two locations approximately 100 meters apart. Colonel Ferrand, who arrived at the location about 30 minutes after the initial alarm, indicated that litmus badges on the protective suits worn by French troops registered the presence of mustard agent. They contacted a Czech chemical unit and asked it to conduct tests to verify presence of the chemical agents. The Czech chemical unit arrived about 2 hours later, confirmed the presence of a mustard agent and a nerve agent—either Soman or Tabun—and decontaminated the area.

Colonel Ferrand also noted that, about 2 or 3 days later the French chemical alarms were again activated in the same area. At this time, the wind had shifted and was from the south. The French were unable to determine what chemical agent was present. They again asked the Czech chemical units for assistance, but none responded.

Colonel Ferrand reported both these events to the French command located at Riyadh. Colonel Ferrand believes these reports were forwarded to CENTCOM headquarters.

Members of the Codel also met with representatives of the French military medical community including Major General Lauric, head of the French Military Medical Service. The French have no empirical evidence on which to base a connection between service in the Persian Gulf and any illness that cannot be explained by conventional diagnosis. The French veterans were all volunteers from the Rapid Reaction Corps and the French Foreign Legion. As such, these individuals had spent considerable time in Africa and other areas which would have exposed them to hostile environmental influences, and, perhaps, made them less susceptible to environmental factors in the Persian Gulf. The French are, however, monitoring the medical conditions of their veterans.

(NOTE: In discussions with the members of the Czech chemical defense unit, they did not mention any contact with the French concerning a detection of either or both nerve agent or mustard agent. The French had no knowledge of the Czech chemical agent detections.)

QUESTIONS THAT REMAIN TO BE ANSWERED

(1). Did any of the coalition allies serving in the Persian Gulf have chemical weapons in the theater of operations or conduct chemical weapons training using live agents or simulants?

(2). Did representatives of any of the coalition allies receive any air samples from the Czechs while in the Gulf? Specifically, did a US Special Forces soldier or Intelligence Community member receive an air sample from the Czech chemical defense unit?

(3). Did any member of the allied coalition receive reports, other than the report of the January 19 event, from any coalition partner of a detection of chemical agents including any reports of chemical agents at a level considered to be militarily insignificant and no threat to the safety or health of U.S. troops, or other coalition personnel?

(4). What were the true weather (wind) conditions during the period in question. There is a discrepancy regarding the reported wind directions during the time the various detections were made.

RECOMMENDATION

1. In order to complete the investigation of possible presence of chemical/biological agents in the Persian Gulf and the possible causes of the Persian Gulf Syndrome, it is necessary for me to visit with members of the allied coalition and meet with the appropriate representatives of their foreign and defense ministries. Coalition allies stationed in the area in question includes Morocco, Syria, Egypt, and Saudi Arabia. Additionally, it would be useful to meet with appropriate defense and intelligence community representatives from Israel regarding any in-

formation they might have about the possible use of chemical weapons. I believe it would be in the Committee's interest for me to travel to the Middle East for this purpose during the first two weeks of January 1994.

2. Prior to my travelling to the Middle East, the Department of Defense should provide maps to the Committee showing the locations of battalion-level and above units during the period from January 17, 1991, through February 1, 1991. Additionally, the Department of Defense should provide maps showing the dates, times, and locations of all bombings of chemical production or storage facilities and ammunition storage areas.

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC, February 28, 1994.

Memorandum Senator Nunn and Senator Thurmond.
From: Senator Shelby.
CC: Senator Coats.
Subject: Report on trip to Middle East to continue the investigation into the Persian Gulf syndrome.

Upon the completion of my trip in December to Czechoslovakia, the United Kingdom and France to investigate issues related to the possible presence of chemical/biological weapons agents in the theater of operations during the Persian Gulf War, and any possible connection between service in the Persian Gulf War and the illness among U.S. veterans referred to as the Persian Gulf Syndrome, I informed you that I believed the investigation would not be complete without meeting with other coalition allies stationed in the theater of operations. On January 3–15, I travelled to Riyadh, King Khalid Military City, and Jubail, Saudi Arabia, Damascus, Syria; Cairo, Egypt; Tel Aviv and Jerusalem, Israel; and Rabat, Morocco to continue my investigation into this matter.

Members of the Codel included two members of my personal staff who serve as S. Res.' to the SASC (Terry Lynch and Tom Young), four members of the SASC staff with responsibilities in the areas of manpower, personnel and chemical/biological defense (Charles Abell, Monica Chavez, P.T. Henry and Frank Norton), and a representative from the Department of Defense (Major General Ron Blanck, Commander, Walter Reed Army Medical Center).

I believe the investigation of this issue has been productive and is complete, to the extent that the Congress can conclude the investigation. This report summarizes our meetings and discussions in the Middle East and North Africa with coalition allies on the possible presence of chemical agents in the theater of operations and the possible causes of the Persian Gulf Syndrome.

RIYADH AND JUBAIL, SAUDI ARABIA

On January 4–6, we visited Riyadh, King Khalid Military City (KKMC) and Jubail, Saudi Arabia and met with several high ranking members of the Saudi Arabian military, and civilian representatives of the firms located in the Jubail industrial region.

Riyadh

Major General Nazir Abd-Al Azziz al-Arfaj, Director of Military Intelligence and Security, advised the Codel that, on January 19 and 24, the dates when very low levels of nerve agent and mustard agent were detected and verified by the Czech chemical units, the Czechs reported this to the Saudi Arabian military. In the absence of any evidence of a delivery vehicle (missile, bomb, etc.), the Saudi's determined that these low levels did not pose a threat to the public health or to animals. He provided the following additional information:

To date, no Saudi military personnel or civilians have complained of illnesses that can be attributed to service in the theater of operations during the Persian Gulf War.

The Saudi Arabian government has no evidence of the use of biological agents during the Persian Gulf War, although the United Nations subsequently discovered evidence of research and development on biological agents.

On January 24, 1991, the French reported a possible chemical agent detection to the Saudis (the "wet spot" north of KKMC) who then contacted the Czech chemical defense unit. The Czechs detected and verified the presence of mustard agent on the ground. This incident was reported by the Saudis to CENTCOM Headquarters. U.S. personnel were sent to the area in question but were unable to detect a chemical agent.

Saudi intelligence had no information to offer regarding the possible source of the low-level chemicals.

When the wet spot was located (later determined by the Czech chemical defense unit to be mustard agent), the Saudi troops did not don chemical defense gear.

The Saudis do not believe the symptoms suffered by the U.S. soldiers are a result of exposure to chemical weapons. Major General Nazir Abd-al Azziz al-Arfaj indicated that the Saudis did not have chemical agents or simulants and did not know if the other Coalition forces had chemical agents in the theater. It is possible that the Egyptians and Syrians could have had chemical agents/weapons, but the Saudi military personnel do not have offensive chemical weapons in the area and did not conduct defensive chemical weapons training. He did, however, believe the reports of the Czech and French detections.

With regard to assistance from the Chinese, Major General Nazir Abd-Al Azziz al-Arfaj indicated that, while the Saudis have a relationship with the Chinese government because of the CSS-2 missiles, the Chinese Military had no liaison in the theater of operation during the Persian Gulf War.

General Mohammed Saleh al Hammad, Chief of Staff, Minister of Defense Education, had very little to offer regarding the subject of the Codel's inquiry. He expressed confidence in the reliability of the Czech and French detections. When asked about from where the nerve agent and mustard agent could have come, he stated that he had no idea. He speculated, however, that they could have come from either friendly or aggressor forces. He also speculated that perhaps the U.S. military brought it.

King Khalid Military City (KKMC)

On January 6, the Codel flew to King Khalid Military City, where mustard agent had been detected in two locations. The Codel met with Major General Al Alhami, Northern Area Commander, who commanded KKMC during the Persian Gulf War.

General Al Alhami indicated that, during the war, he received no evidence of any detections of chemical agents nor of any medical problems that could be viewed as "unusual." He indicated that, every time the Iraqis fired SCUDs, all troops donned MOPP chemical protective gear (MOPP gear includes a full body suit and mask with hood). Additionally, he had no recollection of the French reporting their detection of mustard agent to the KKMC Headquarters.

He has no knowledge of the Saudis, U.S. or Syrians, or any other Coalition forces, having chemical agents/weapons with their forces during the Persian Gulf War.

Jubail Industrial Center

Also on January 6, the Codel travelled to the Jubail Industrial Center to discuss the possibility of industrial chemical releases during the Persian Gulf War. The Codel met with Mr. Terry Velanzano of the Jubail Planning Group and a number of officials from the various civilian industrial concerns located at Jubail. Most of those with whom the Codel met were present at Jubail during the War.

The industrialists advised the Codel that there were no instances in which industrial chemicals were released either intentionally or unintentionally during the periods of time when coalition forces were located in the Jubail region. They specifically denied the intentional release of chemicals from pressurized systems in response to warnings of SCUD attacks.

The industrialists also advised the Codel that there were no and are no instances of medical ailments among the Jubail work force and their families that could be construed as "unusual" or in any way linked to chemical agents during the War.

DAMASCUS, SYRIA

In Damascus, the Codel met with Major General Mohmend Zughaybi, Chief of Medical Services, Ministry of Defense; General Yaff, Director, Shrian Hospital; Mr. Assan, Assistant Director; and Mr. Amur, Director, Department of Americas, Ministry of Foreign Affairs; and Dr. Nejdi Jazzar, Assistant Secretary for American Affairs, Ministry of Foreign Affairs.

The Chief of Medical Services initially emphasized that he had no knowledge of Syrian chemical agents, weapons, their capabilities or of a Syrian chemical defense program. However, toward the end of the meeting, he responded affirmatively that Syrian troops conducted chemical defense training, but do not use chemical agents/weapons or simulants in that training. He later told the Codel that Syrian chemical defense equipment was of Eastern European origin. He indicated that the Syrians did not conduct any chemical defense exercises training in the theater of operation using chemical agents or chemical simulants.

General Zughaybi indicated that Syrian troops were stationed near Hafir al Batin. He remarked that U.S. troops panicked when the chemical alarms went off. He also indicated that, when the Syrian troops responded to the chemical alarms, they only put on masks, not protective suits.

He advised the Codel that, to his knowledge, the Syrians were not aware of any coalition allies having chemical weapons in the theater of operation, and that, although other Arab countries have chemical weapons, he did not think Syria has chemical weapons.

General Zughaybi was not aware of the Egyptians or Saudis being informed of chemical agent detections, or whether they complained that they were not informed.

The diseases suffered by the Syrian military personnel who participated in the Persian Gulf War are similar to symptoms of illnesses that occur in peacetime.

General Zughaybi asked General Blanck whether the diagnosis was PTS (post traumatic stress), or psychological. General Blanck replied that he believed it was organic. Additionally, General Zughaybi added that he did not know about the long term effects of exposure to chemical agents—or rather, the occupance of symptoms long after exposure to low levels of chemical agents. He did add, however, that Syrian military personnel have different psycho-

logical mindset to the desert. The underlying inference to be drawn is that, in his opinion, the Persian Gulf Syndrome may in fact be psychological in origin.

CAIRO, EGYPT

On January 9, the Codel traveled to Cairo, Egypt. While in Cairo, the Codel received a country team briefing from U.S. Embassy personnel. Senator Shelby met with President Mubarak.

On January 10, the Codel met with Lieutenant General Salah Halaby, Chief of Staff, Egyptian Armed Forces, and his staff. General Halaby advised the Codel that Egypt had its own chemical defense unit, which was very good, but he had no recollection that they had detected any chemical agents during the Persian Gulf War.

General Halaby indicated that Egypt's chemical defense equipment is from Eastern Europe and from the West, and that their detection equipment is more sophisticated than the Czech equipment. The Egyptians use an American chemical agent alarm (the M-1) and a Russian chemical agent detector (the bulb and probe). The Egyptians also use chemical agent detection strips. He further indicated that the Egyptian chemical defense unit took air samples every day and night to check for changes.

He suggested that the chemicals detected were not chemical warfare agents, but industrial chemicals or substances used in the construction and structure of the A-10 aircraft. (An A-10 crashed near KKMC during the time frame when the KKMC detections were made). He did not believe the aircraft carried chemical weapons or chemical agents.

General Halaby and his staff commented that Egypt has no chemical weapons, only chemical defense equipment (protective gear). He said that, although Egyptian troops conduct chemical defense training, they do not use chemical stimulants in their training other than tear gas. General Halaby was not aware of the Syrians having had chemical agents/weapons in the theater. He was certain that no Iraqi aircraft or artillery (which could have been used to deliver chemical agents) had crossed the border.

He asked whether the illnesses suffered by the U.S. troops resulted from their exposure to depleted uranium.

The Egyptian troops were located approximately 6 miles north of the French troops in KKMC. At one point, General Halaby said they were not aware of the detection of chemical agent by the Czech chemical defense unit, but later in the interview, he acknowledged that they were aware of the detections but did not verify any chemical agents or equipment. General Halaby commented that he knew that chemical agent alarms could be tripped off by cigarette smoke. He suggested that the French and Czech detections could have been false alarms because the atmosphere was so full of petrochemical smoke.

President Mubarak

President Mubarak acknowledged that Egypt has some chemical weapons. He speculated that perhaps the chemical agents about which the Codel was concerned came from Iran. He then discussed with Senator Shelby general foreign policy issues related to U.S. relations with Egypt, the peace process between Israel and Syria, as well as Egypt's relations with Iraq prior to the Persian Gulf War.

JERUSALEM, ISRAEL

In Jerusalem, the Codel met with an intelligence officer of the Israeli Defense Force. He indicated that he was aware of chemical agents being used by Iraq during the Iran-Iraq War, and did not understand why they were not used in the Gulf War. He believed that it was very significant that no chemical weapons or delivery systems were found in theater following the war. He surmised that there had been no preparation for their use or they were withdrawn prior to D-Day.

The Israeli Officer indicated that he did not believe the Iraqis had a chemical weapons project underway but cautioned that they could restart one at any moment.

The Israeli Officer also noted that the symptoms of the Persian Gulf Illness did not fit any of the symptoms traditionally associated with exposure to chemical agents. He offered that, perhaps, the United States should focus some attention on biological agents. He was convinced that the Iraqis had a small biological weapons capability but indicated that no biological weapons or delivery systems had been found.

He indicated that the Israelis believed the Czech chemical units to be very proficient and that their equipment is very good. He noted, however, the prevalence of false alarms.

He suggested that we study the symptoms of those exposed to chemical agents during the Iran-Iraq War and that we discuss the Persian Gulf Syndrome with Iranian doctors.

Contrary to information provided to the Codel in other countries, the Israeli Officer indicated that all the Coalition forces, especially Egypt and Syria use chemical agent simulants in their training.

RABAT, MOROCCO

On January 13, the Codel traveled to Rabat, Morocco. In preparation for our meetings with Moroccan government officials, the U.S. Embassy conducted a country team briefing and informed us that during the Persian Gulf War, Morocco and Saudi Arabia had a bilateral agreement which placed Moroccan military personnel under the authority of the Saudi military. Morocco sent a motorized infantry unit from the Western Sahara to the vicinity a petrochemical facility north of Jubail about 50 kilometers from the Kuwait border.

In Rabat, the Codel met with Colonel Major Mohamed Beuboumaudi, Inspector, Military Health Services. He indicated that no Moroccan military personnel saw any chemical weapons or equipment. He mentioned that, on one occasion, his troops went to check the location in which an artillery shell exploded for chemical agent. There were no indications of any chemical agents present.

The Moroccan troops did not experience any illnesses symptomatic of exposure to chemical agents. Additionally, he pointed out that Moroccan troops were acclimated to service in the desert. The inference here being the possible psychological or environmental origin of the Persian Gulf Syndrome.

With regard to the origin of Moroccan military chemical defense equipment, he indicated that they used chemical detection badges and gas masks provided by the Saudi military. He noted that Morocco was a signatory of the Chemical Weapons Convention (CC).

In response to questions regarding the presence of chemical agents or weapons in the theater of operations, and knowledge as to whether coalition allies possessed chemical weapons or agents, Colonel Major Beudoumaudi provided negative responses. He indicated that he was not aware of Moroccan troops participating in chemical defense training with simulants during the Persian Gulf War.

The Codel also met with deputy minister of foreign affairs, who reiterated the comments made by Colonel Major Beudoumaudi regarding the Morocco military personnel's not being aware of the presence of chemical weapons/agent in the theater of operations and not having any knowledge of other coalition allies in possession of chemical weapons/agent in the theater of operation.

CONCLUSIONS AND RECOMMENDATIONS ON THE PERSIAN GULF SYNDROME

After numerous Congressional hearings, after many meetings with official of the Department of Defense and Department of Veterans officials and after two trips abroad I have come to the following conclusions regarding the possible presence of chemical/biological weapons agents in the theater of operations during the Persian Gulf War, and possible connection between service in the Persian Gulf War and the illness among U.S. veterans referred to as the Persian Gulf Syndrome.

1. Chemical agents were present in the theater of operations during the Persian Gulf War. These chemical agents were accurately verified by the Czech Chemical Units and reported to CENTCOM Headquarters.

On this vital issue I have no doubt. Czech and French forces detected both nerve gas and mustard agent at low levels during the early days of Desert Storm. In each instance these chemical agents were verified by Czech equipment. The Codel had the opportunity to view this equipment and received a demonstration. Department of Defense officials have informed us that the Czech detection equipment, which is more sensitive than U.S. equipment, is more than adequate and that Czech personnel are well trained.

2. The origin of these chemical agents cannot be determined.

Although I have also concluded that we may never be able to determine the origin of these chemical agents there are several plausible scenarios. I believe that we can rule out Iraqi Scud or Frog missiles. We can also rule out Iraqi artillery—the distance from the Iraqi border is too far. The presence of low-level chemical weapons agents could have resulted from U.S. or coalition forces bombing either Iraqi chemical weapons facilities or caches of Iraqi weapons on the Saudi border. Hafar-Al-Batin is approximately 100 miles from the Saudi/Iraqi border. A cloud of nerve agent, dissipating in intensity, could possibly have traveled under the correct climate conditions to Hafar-Al-Batin. There is also the possibility of an accident involving chemical agents among coalition forces. Finally, it has been offered that these detections, especially those in Hafar-Al-Batin and the detection of the mustard agent on the ground north of KKMC, were the result of Saudi Officials attempting to test the abilities of the Czechs who they had engaged to assist Saudi troops in chemical detections.

3. While a direct connection between the existence of low-levels of chemical agents in the theater of operations and the Persian Gulf Syndrome cannot be established based on the information available at this time, such a connection cannot and should not be discounted.

This is the most difficult issue that confronted my investigation. There is very little information available on studies of exposure to low-levels of chemical agents. I am confident that the work being accomplished under Major General Ronald Blanck, USA, Commander, Walter Reed Army Medical Center is on the right track. I urge the Department of Defense and the Department of Vet-

erans Affairs to finalize a case definition for the Gulf War Syndrome. The Department of Defense and the Department of Veterans Affairs should initiate a serious project which focuses on the long term effects of exposure to low-levels of chemical agents. Additionally, the Department of Defense and the Department of Veterans Affairs must cut through bureaucratic red tape and seek all possible medical treatments for the Gulf War Syndrome.

4. The Department of Defense has proven reluctant to pursue or, in certain instances, to provide the information necessary to prove or disprove allegations about the presence of chemical agents in the theater of operations during the Persian Gulf War. The reason for this apparent aversion to "full disclosure" has not been determined. Staff working on this issue were constantly challenged by the Department's evasiveness, inconsistency, and reluctance to work together toward a common goal.

Several examples will illustrate this point:

During a briefing I attended on November 19, 1993, Dr. John Deutch, the Under Secretary of Defense for Acquisition, advised that, while the Department could neither confirm nor deny the Czech detections and verifications, the Department position was that categorically there were no chemical warfare agents present in the theater of operations.

Having been advised by the Department of Defense that it had no information to offer regarding the possible presence of chemical warfare agents in the theater of operations, I determined, with your concurrence, to travel to Europe and the Middle East to pursue this matter with our allies. Only after the Committee staff confronted the Department regarding specific events that I learned about during these travels, did the Department acknowledge that it had been aware of these same events.

Similarly, it was only after my contact with our allies revealed that they had, in fact, reported various chemical detections to the Central Command Headquarters, that the Department acknowledged evidence of this reporting in the operational logs.

On page 45 of the history of the 2nd Marine division in Operation Desert Shield and Desert Storm, which was published by Marine Corps' History and Museum Division, there is a detailed incident in which Marines of the 2nd Marine Division detected mustard agent. I am at a loss to explain how an official Marine Corps publication can document such an event and the Department of Defense could deny any evidence regarding chemical weapons agents in the theater of operations.

Persian Gulf medical records of members of the 24th Naval Reserve Battalion are missing from their files.

This passivity on the part of the Department when combined with rather obvious attempts to dissuade the Committee staff from the need for further investigation typifies the Department's attitude toward the Committee on this matter.

REPORT AND CONCLUSIONS ON THE PERSIAN GULF SYNDROME

(By Senator Richard C. Shelby)

When Iraqi forces, at the direction of Saddam Hussein, crossed into Kuwait on August 2, 1990, they set off a chain reaction of events that resulted in the assembling of the largest coalition of forces since the Second World War. Countries that had been on the opposite sides of the Cold War were now joined with the expressed goal of driving Saddam Hussein's troops out of Kuwait.

Soldiers, sailors, airmen and marines were sent to Saudi Arabia from all over the globe. The U.S. led the way with over 600,000 members of our armed services, including over 200,000 reservists. Troops were sent from Great Britain, France, Italy, Egypt, Syria, Morocco and many other nations. Czechoslovakia, at the behest of the Saudi Arabian government, provided chemical warfare agent detection units.

There was a strong belief among the coalition forces that chemical and even biological agents would be used as weapons by Iraq should the coalition forces invade Kuwait and Iraq. Iraq was known to posses G-series nerve and mustard agents and it was believed that they also possessed Anthrax and possibly other biological agents. After all, Saddam Hussein had freely and indiscriminately used chemical weapons, delivered in artillery shells and dropped as bombs, during his war with Iran, not only against Iranians, but also against Kurds.

When Desert Storm began on January 17, 1991, there was obvious concern among Coalition Forces about Saddam Hussein's reaction to allied air strikes. U.S. bombing was stealthy and effective, knocking out Iraqi communications in the first hours of the war and Saddam Hussein's nuclear and chemical warfare factories were targeted and destroyed. Additionally, B-52's bombed Iraqi positions along the Kuwaiti and Iraqi borders with Saudi Arabia.

Saddam Hussein responded by launching Scud missiles toward Saudi Arabia and Israel. Because there was always the possibility of an Iraqi launch of a Scud armed with a chemical warhead, gas masks and chemical protection suits were donned at the first sign of attack. These Scud attacks were met with moderate success by U.S. Patriot Missile batteries. With the exception of one missile which landed on a company of Pennsylvania reservists, the Scuds had more success as a weapon of terror than as a weapon of physical destruction.

On February 24, 1991, Coalition forces began the ground phase of the campaign as they charged into Iraq and Kuwait. Within 100 hours Kuwait was in the hands of the Coalition, and what was left of Saddam Hussein's forces was fleeing toward Baghdad. A great victory had been won. General Norman Schwartzkopf, Commander-in-Chief of U.S. Central Command; and General Colin Powell, Chairman of the Joint-Chiefs-of-Staff; were heroes and by the end of May 1991 the vast majority of U.S. troops were home.

However, by the summer of 1992, Gulf War veterans, primarily members of the National Guard and Reserves, were relating stories of a mystery illness affecting many who had served in Saudi Arabia. Symptoms included: joint pain, fatigue, headaches, decreased short-term memory, unexplained rashes, painful burning muscles, sleep disorders and diarrhea. While most of us have experienced similar symptoms at one time or another, these ailments were not responding to treatment.

In response to possible Gulf War-related illness, the Senate Armed Services Committee included a provision in the Department of Defense Authorization Act for Fiscal Year 1992 that established a registry for members of our armed forces who served in the Persian Gulf theater of operations and may have been exposed to fumes from burning oil wells. The smoke from oil well fires, deliberately set by Iraqi soldiers as they retreated from Kuwait, caused acute respiratory problems which could result in long-term health problems. However, none of these sick veterans were among those who had been exposed to smoke from oil well fires. To assist in the investigation of this issue a Desert Shield/Desert Storm registry was established in the Department of Veterans Affairs Authorization Bill for Fiscal Year 1993.

By January 1993, the veterans were becoming increasingly frustrated by the inability of the Veterans Department to treat their illnesses. I met with a group of Alabama veterans after a town meeting that I held in Bessemer and pledged that I would do everything in my power to get them proper treatment and to find the cause of their ailments.

In February 1993, I met with Secretary of Veterans Affairs Jesse Brown and received his pledge to assist these veterans. Following this meeting, the Department of Defense and the Department of Veterans Affairs announced that centers would be established for the treatment of what had become known as the Gulf War Syndrome. However, when little progress was made, veterans were prompted to seek treatment outside of the Department of Defense and Department of Veterans Affairs medical community.

As Chairman of the Subcommittee on Force Requirements and Personnel, I included a panel of Gulf War veterans consisting of Congressman Stephen Buyer of Indiana; Army Staff Sergeant Kerry Riegel; Petty Officer Sterling Sims, a member of the 24th Construction Battalion of the Navy Reserves; and Sergeant Willie Hicks, a member of the 644th Ordinance Company of the Alabama Army National Guard in my June 30, 1993 hearing on military medical health care.

Just days before the hearing, a leading U.S. newspaper reported that U.S. forces may have been exposed to chemical warfare agents during Desert Storm and testimony from both Petty Officer Sims and Sergeant Hicks confirmed the possibility of their exposure to chemical attacks while serving in the Persian Gulf War.

I believe the most dramatic event of the investigation occurred in the early morning hours of January 20, 1991, when an explosion went off in the sky above Jabail along the North East coast of Saudi Arabia alerting Seabees in the 24th Construction Battalion to donn their chemical defensive gear. After the all clear signal was given, a group of Seabees were hit with a burning mist that smelled of ammonia and caused their khaki colored t-shirts to turn purple.

On July 2, 1993, possibly responding to reports in American newspapers, the Czech News Agency reported that Czech military units had detected chemical warfare agents, both nerve gas and mustard agents in Saudi Arabia during the opening days of the air war against Iraq. Nerve Gas was detected by a Czechoslovakian unit attached to the Saudi troops in the area of Hafar-Al-Batin on January 19, 1991 and Mustard Agent was allegedly detected in a 20200 centimeter patch in the desert north of King Khalid Military City on January 24, 1991. A report of these detections was supposedly forwarded to the U.S. Department of Defense by the Czech government.

This announcement led to a series of meetings with Department of Defense officials, which continued throughout the fall of 1993 and included a meeting with Undersecretary of Defense John Deutch. Although a multitude of chemical alarms were sounded during Operation Desert Storm, the Department of Defense maintained that they had no evidence of any chemical weapons attacks by Iraq during the Gulf War and they could not confirm the detection of chemical warfare

agents. While Department of Defense officials did not deny that the Czechs had detected chemical warfare agents at low levels, they could not or would not confirm the presence of chemical warfare agents in the theater of operations.

On October 27, 1993, Dr. Charles Jackson of the Tuskegee, Alabama Veterans Medical Center diagnosed a patient as suffering from Gulf War Syndrome and Chemical-Biological Warfare Exposure. In response to both this announcement and pressure from Congress, Secretary Brown announced, on November 1, 1993, that the Department of Veterans Affairs was establishing a pilot program in Birmingham, Alabama to test Persian Gulf veterans from Alabama and Georgia for exposure to chemical weapons agents, and on November 10, 1993, Secretary of Defense Les Aspin announced a blue-ribbon task force, headed by Dr. Josh Letterberg, to study the Gulf War Syndrome.

It was in response to these events that Sen. Sam Nunn, Chairman of the Committee on Armed Services, sent me to both Europe and the Middle East to investigate all issues related to the possible presence of chemical and biological weapon agents in the theater of operations during Operation Desert Storm and the possible connection between service in the Persian Gulf and the unexplained illness affecting thousands of veterans.

The initial stage of my investigation of these issues led me to Prague; London; and Paris. Dr. Edwin Dorn, then Assistant Secretary of Defense for Personnel and Readiness and Maj. Gen. Ronald Blanck, Commander of Walter Reed Army Medical Center, and members of both my personal staff and the Senate Armed Services Committee staff accompanied me.

Enroute to Prague, we met with the Deputy Chief of Staff for Operations (DCSOPS) and representatives from the Headquarters of the U.S. Army Europe (USAREUR) and were provided with their assessment of possible chemical weapons use and/or employment during the Persian Gulf War.

According to the representatives, on January 19, 1991, a Czech chemical unit detected G-series nerve agents in two locations in concentrations which were militarily insignificant. U.S. chemical reconnaissance troops were called in to verify the detection and were unable to detect any agent at either of the two locations. Also, on January 24, 1991, a Czech chemical unit detected mustard agent in a wet sand patch measuring two meters by 60 centimeters, two kilometers north of King Khalid Military City (KKMC). (Note: Other sources would place this detection 10 kilometers north of KKMC.) Additionally, on January 17, 1991, the U.S. bombed a chemical weapons munitions storage site at An Nasiryah, located 200 kilometers from the Saudi-Iraq border, but the U.S. does not believe this action was the cause of the January 19, detection of nerve agent by the Czech chemical detection unit.

The representatives from U.S. Army Europe continued by saying that they believed the Saudis had an underground chemical training facility in the vicinity of the "wet spot," which could account for the small amounts of chemical agents detected. Finally, they believed that the chemicals detected may have been part of an attempt by the Saudis to test the capabilities of the Czech chemical detection unit, but no information was offered on the part of the representatives on where the Saudis would have gotten the chemical weapons agents.

THE CZECH REPUBLIC

In Prague, I met with members of the Czech chemical detection unit that served in the Persian Gulf, including: Col. Kozak, Chief of the Chemical Troops; Lt. Col. Smehlik, Senior Chemical officer in the Persian Gulf; Maj. Zilinsky and Capt. Ferus, leaders of the Czech chemical detection units on the Persian Gulf during the operations.

Initially, the Czechs' chemical detection unit deployed to the Persian Gulf with 169 members, but increased to approximately 190 members and included chemical, medical and other support personnel. In addition, we were told that this unit was under contract to the Saudi government to provide chemical weapon and/or agent detection to the Saudi government during the Persian Gulf War.

Lt. Col. Smehlik informed us that on January 19, 1991, Czech chemical units, that were working approximately 20 kilometers apart with 4th and 20th Saudi brigades, made three nearly simultaneous detections of a low concentration of G-series nerve agent in the air. The Czechs condsider these detections to have resulted from one event that occurred in the late afternoon which lasted approximately 40 minutes. At ground level, at the time of the event, they said the wind was blowing from the northwest—a direct contrast to what Department of Defense officials said to the Senate Armed Services Committee earlier when they claimed that the prevailing winds were blowing from the northeast.

The Czechs took air samples from two of the three locations and verified that the samples contained G-series nerve agent. While they were not able to distinguish between sarin or soman, Lt. Col. Smehlik indicated that they had excluded the existence of V-series agents. These air samples were sent back to then Czechoslovakia, and are no longer available. An air sample from the third location was not taken for the purpose of verification because the Czech chemical detection unit was moving at the time of the alarm.

As discussions continued, Capt. Ferus, a leader of one of the Czech chemical units, informed us that on January 24, 1991, he was summoned by Saudi officials to an area 10 kilometers north of KKMC to test the area for chemical agents. Using a portable laboratory kit, he detected mustard agent in the sand—the on-site detection made the retention of samples unnecessary.

According to Lt. Col. Smehlik, another detection of mustard agent in the air near the Engineer School in KKMC had been made two to three days prior to the detection January 24. He indicated that an air sample was taken, verified by the mobile laboratory and forwarded to Czechoslovakia; this sequence of events was confirmed for the group by the Czech warrant officer who reported the actual detection. It is important to note that these detections had not been made public previously. In discussion with Czech officials, we were able to determine that until recently there had been no discussion between Czech units stationed with Saudi troops near Hafar-Al-Batin and those stationed in KKMC. The Czechs believe that both detections of mustard agent and nerve agent were at levels that presented no danger to the health and safety of the troops in the area, and were, therefore, militarily insignificant.

Although they were unable to provide any documentary evidence to support certain events, I believe that it is necessary to acknowledge that the Czechs claim that an air sample of the mustard agent detected in the air in KKMC prior to January 24, 1991, was given to a U.S. special forces member. In subsequent discussions with our group, Lt. Col. Smehlik indicated that the individual in question may have been an intelligence officer.

The Czech units did not have any chemical agents in the Persian Gulf, according to Col. Kozak, and did not use live agents during their training with the Saudis. Their chemical detection equipment, which we examined and watched as it was demonstrated, was 1970s and 1980s Czech and Russian. However, according to the Czechs, the equipment has much lower threshold for chemical detection than does U.S. chemical detection equipment. In addition, we were informed that the equipment would be shipped to Edgewood Arsenal for testing.

GREAT BRITAIN

While in London, we met with Dr. Graham Pearson, Director General of the Chemical & Biological Defense Establishment; Mr. Brian Pitts from the Surgeon General's Office; Ms. Jill Ferguson; Lt. Col. John Esmonde-White and Col. Christopher Box. We were informed that approximately 42,000 British soldiers served in the Persian Gulf War. Apart from this information, the representatives of the British government the group met were not very helpful.

Officials in the British government do not believe that the Czech units detected the presence of any chemical weapons, nerve or mustard agents in the Persian Gulf and they spent a considerable amount of effort attempting to find plausible means of discrediting the Czech reports.

In addition, the British government does not recognize the possible of any connection between service in the Persian Gulf and any illness that cannot be explained by conventional medical diagnosis. The British government has about 30 veterans from the Persian Gulf who have reported medical problems and does not consider these medical conditions peculiar to service in the Persian Gulf.

Furthermore, the British government does not recognize Multiple Chemical Toxicity/Sensitivity as a valid concept. The representatives with whom we met believe the Persian Gulf Syndrome is the result of American veterans attempting to increase their medical and disability benefits and we were advised that the United States did not have to invent a new environmental disease to explain the symptoms being experienced by American veterans.

Aside from the British government's lack of cooperation, or acknowledgement of these existing conditions, British citizens have set up a Persian Gulf Families Hot Line, located in Glouchester, England, that serves as a clearing house for those who believe they have illnesses related to their service in the Persian Gulf. I met with Mr. Raymond Donn, a solicitor from Manchester, England, who is in the process of filing a class action suit against the British government to obtain compensation for these veterans. He told me that there could be as many as 500 British veterans afflicted with the Gulf War Illness.

FRANCE

While in Paris, we met with Lt. Col. Gerrard Emile Ferrand, a French Army infantry officer who served in the Persian Gulf. He informed us that the French had detected nerve and mustard agent at a Logistics Facility approximately 26 or 27 kilometers south of KKMC on the evening of January 24 or January 25 and he indicated that the wind at ground level had been from the north (from Iraq). French chemical alarms were activated at two locations approximately 100 meters apart and Colonel Ferrand, who arrived at the location about 30 minutes after

the initial alarm, indicated that litmus badges on the protective suits worn by French troops registered the presence of mustard agent. A Czech chemical detection unit was contacted to verify the presence of chemical agents, confirmed as both mustard agent and nerve agent—either Soman or Tabun, and the area was decontaminated.

Lt. Col. Ferrand also noted that approximately two or three days later, the French chemical alarms were again activated in the same area. This time, the wind had shifted and was from the south. Unable to determine what chemical agent was present, the French again asked the Czech chemical detection units for assistance, but none responded. Lt. Col. Ferrand reported both these events to the French command located at Riyadh and believes these reports were forwarded to CENTCOM headquarters.

It is interesting to note that the Czech chemical detection unit did not mention any contact with the French concerning a detection of either or both nerve agent or mustard agent during our discussions with them, and the French had no knowledge of previous Czech chemical agent detections.

Although the trip to Europe was productive, our investigation remained incomplete. It was necessary to travel to the Middle East to meet with our coalition allies stationed in the areas in question to resolve key questions about the presence of chemical agents in the theater of operations and the possible causes of the Persian Gulf Syndrome. Unanswered questions we set out to answer included the following:

Did any of the coalition allies serving in the Persian Gulf have chemical weapons in the theater of operations or conducted chemical weapons training using live agents or stimulants?

Did representatives of any of the coalition allies receive any air samples from the Czechs while in the Gulf?

Did a U.S. Special Forces soldier or Intelligence Community member receive an air sample from the Czech chemical defense unit?

Did any member of the allied coalition receive reports, other than the report of the January 19 event, from any coalition partner of a detection of chemical agents including any reports of chemical agents at a level considered to be militarily insignificant and no threat to the safety or health of U.S. troops or other coalition personnel?

SAUDI ARABIA

On January 3, 1994, I, accompanied again by Maj. Gen. Ronald Blanck, staff members from both my personal office and the Committee on Armed Services, left for the Middle East. Our first stop was in Saudi Arabia where we visited Riyadh, KKMC and Jubail and met with several high ranking members of the Saudi Arabian military and civilian representatives of the firms located in the Jubail industrial region.

According to the director of Military Intelligence and Security, on January 19 and 24, 1991, the Czechs chemical detection units detected and verified low levels of nerve agent and mustard agent and reported this to the Saudi Arabian military. In the absence of any evidence of a delivery vehicle (missile, bomb, etc.), the Saudi military determined that these low levels did not pose a threat to the public health or to animals. In addition, he substantiated this claim by explaining that to date, no Saudi military personnel or civilians have complained of illnesses that can be attributed to service in the theater of operations during the Persian Gulf War, and the Saudi Arabian government has no evidence of the use of biological agents, even though the United Nations subsequently discovered evidence of research and development on biological agents.

In addition, on January 24, 1991, the French reported the possible detection of chemical agents (the so-called "wet spot" north of KKMC) to the Saudis who did not don protective chemical defense gear, but contacted the Czech chemical detection unit. The Czechs detected and verified the presence of mustard agent on the ground and the incident was reported by the Saudis to CENTCOM Headquarters. U.S. personnel were sent to the area in question but were unable to detect a chemical agent.

Saudi intelligence had no information to offer regarding the possible source of the low-level chemical agents.

The Saudis do not believe the symptoms suffered by the U.S. veterans occurred as a result of exposure to chemical weapons, according to the head of Saudi military intelligence. He said that the Saudis did not have chemical agents or stimulants and was not aware if the other Coalition forces had chemical agents in the theater. He indicated that it is possible that the Egyptians and Syrians could have had chemical agents and/or weapons, but the Saudi military personnel did not have offensive chemical weapons in the area, not did they conduct defensive chemical weapons training. He did, however, believe the reports of the Czech and French detections.

We also met with Mohammed Saleh al Hammad, Chief of Staff and Minister of Defense Education. He had little to offer regarding the subject of our inquiry, but be expressed confidence in the reliability of the Czech and French detections. When asked about the origin of nerve and mustard agents, he said he did not know, but he speculated that they could have come from either friendly or aggressor forces. He also speculated that the U.S. military might have brought it.

On January 6, our group flew to KKMC, where mustard agent had been detected in two locations. The base commander, Major General Al Alhami, indicated that during the war he received no evidence of any detections of chemical agents nor of any medical problems that could be viewed as unusual. He indicated that every time the Iraqis fired SCUDs, all troops donned MOPP chemical protective gear (which includes a full body suit and mask with hood). Additionally, he had no recollection of the French reporting their detection of mustard agent to the KKMC Headquarters, nor any knowledge of the Saudis, U.S., Syrians or any other Coalition forces having chemical agents and/or weapons with their forces during the Persian Gulf War.

On January 6, we travelled to the Jubail Industrial Center to discuss the possibility of industrial chemical releases during the Persian Gulf War. Our group met with Mr. Terry Velanzano of the Jubail Planning Group and a number of officials from the various civilian industrial interests located at Jubail. Most of those with whom we met were present at Jubail during the War.

The industrialists advised us that there were no instances in which industrial chemicals were released either intentionally or unintentionally during the periods of time when coalition forces were located in the Jubail region. They specifically denied the intentional release of chemicals from pressurized systems in response to warnings of SCUD attacks.

In addition, they advised us that there have been no instances of medical ailments among the Jubail work force and their families that could be construed as unusual or in any way linked to chemical agents during the War.

SYRIA

Our group continued its investigation in Damascus, Syria where we met with a series of Syrian military and Foreign Ministry officials. While the Chief of Medical Services initially emphasized that he had no knowledge of Syrian chemical agents, weapons, or of a Syrian chemical defense program, near the end of the meeting, he admitted that Syrian troops conducted chemical defense training, but do not use chemical agents and/or weapons or stimulants in that training and did not conduct any chemical defense exercise training in the theater of operation using chemical agents or chemical stimulants. Later, he told us that Syrian chemical defense equipment was of Eastern European origin.

We were informed that Syrian troops were stationed near Hafir al Batin. He remarked that U.S. troops frequently panicked when the chemical alarms went off. He also indicated that when the Syrian troops responded to the chemical alarms they only put on masks, not protective suits. Furthermore, he advised the Codel that the Syrians were not aware of any coalition allies having chemical weapons in the theater of operation and that, although other Arab countries have chemical weapons, he did not think Syria has chemical weapons. According to him, the Syrians did not know whether the Egyptians or Saudis has been informed of chemical agent detections.

EGYPT

President Mubarak, with whom I met in Cairo, acknowledged that Egypt has some chemical weapons. During our discussion, he speculated that the chemical agents we were concerned about may have come from Iran. Additionally, we discussed foreign policy issues related to U.S. relations with Egypt, the peace process between Israel and Syria, as well as Egypt's relations with Iraq prior to the Persian Gulf War.

We also met with Lt. Gen. Salah Halaby, Chief of Staff for the Egyptian Armed Forces, and his staff. Gen. Halaby advised us that Egypt had its own chemical defense unit, which was very good, but he did not recall their having detected any chemical agents during the Persian Gulf War. When asked about the chemical detections that were made, he suggested that they were not chemical warfare agents, but industrial chemicals or substances used in the construction and structure of the A-10 aircraft. An A-10 crashed near KKMC at the approximate time of the KKMC detections; however, he did not believe the aircraft carried chemical weapons or chemical agents.

Lt. Gen. Halaby and his staff commented that Egypt has no chemical weapons, only chemical defense equipment (protective gear). He said although Egyptian troops conduct chemical defense training, they do not use chemical stimulants, with the exception of tear gas, in their training. Gen. Halaby was not aware of the Syrians having had chemical agents/weapons in the theater. He was certain that no Iraqi aircraft or artillery (which could have been used to deliver chemical agents) had crossed the border.

At one point, Lt. Gen. Halaby said they were not aware of the detection of chemical agents by the Czech chemical detection unit, but later in the interview, he acknowledged that they were aware of the detections but did not verify any chemical agents or equip-

ment. Lt. Gen. Halaby commented that he knew that chemical agent alarms could be tripped off by cigarette smoke. He suggested that the French and Czech detections could have been false alarms because the atmosphere was so full of petrochemical smoke.

ISRAEL

In Jerusalem, we met with an intelligence officer of the Israeli Defense Force. He indicated that he was aware of chemical agents being used by Iraq during the Iran-Iraq War, and did not understand why they were not used in the Gulf War. In addition, he believed that it was very significant that no chemical weapons or delivery systems were found in the theater following the war and he surmised that there had been no preparation for their use or they were withdrawn prior to D-Day. The Israeli Officer indicated that he did not believe that Iraq had a chemical weapons project underway but cautioned that they could restart one at any moment.

He continued by saying that the Israelis believe the Czech chemical detection unit to be very proficient and that their equipment is very good. He noted, however, the prevalence of false alarms. In addition, he suggested that we study the symptoms of those exposed to chemical agents during the Iran-Iraq War and discuss the Persian Gulf Syndrome with Iranian doctors. Contrary to information provided to us in other countries, the Israeli Officer indicated that all the Coalition forces, especially Egypt and Syria, use chemical agent stimulants in their training.

MOROCCO

On January 13, we traveled to Rabat. In preparation for our meetings with Moroccan government officials, the U.S. Embassy conducted a country team briefing and informed us that during the Persian Gulf War, Morocco and Saudi Arabia had a bilateral agreement which placed Moroccan military personnel under the authority of the Saudi military. Morocco sent a motorized infantry unit from the Western Sahara to the vicinity a petrochemical facility north of Jubail about 50 kilometers from the Kuwait border.

In Rabat, we met with Colonel Major Mohammed Beuboumaudi, Inspector, Military Health Services. He indicated that no Moroccan military personnel saw any chemical weapons or equipment. He mentioned that, on one occasion, his troops went to check the location in which an artillery shell exploded for chemical agent. There were no indications of any chemical agents present.

The Moroccan troops did not experience any illnesses symptomatic of exposure to chemical agents. Additionally, he pointed out that Moroccan troops were acclimated to service in the desert. The inference here being the possible psychological or environmental origin of the Persian Gulf Syndrome.

In response to questions regarding the presence of chemical agents or weapons in the theater of operations and knowledge as to whether coalition allies possessed chemical weapons or agents, Col. Maj. Beudoumaudi provided negative responses. He indicated that he was not aware of Moroccan troops participating in chemical defense training with stimulants during the Persian Gulf War.

Finally, we met with the deputy minister of foreign affairs who reiterated the comments made by Col. Maj. Beudoumaudi regarding the Morocco military personnel's not being aware of the presence of chemical weapons and/or agents in the theater of operations and not having any knowledge of other coalition allies in possession of chemical weapons and/or agents in the theater of operation.

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

The PRESIDING OFFICER (Mr. REID). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. KASSEBAUM. 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 Kansas is recognized.

Mrs. KASSEBAUM. I thank the Chair.

(The remarks of Mrs. KASSEBAUM and Mr. KERREY pertaining to the introduction of S. 1943 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. KERREY. Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. Dorgan). The Senator from Nebraska yields the floor.

Who seeks recognition?

The Chair recognizes the Senator from Wisconsin, Mr. KOHL.

Mr. KOHL. I thank the Chair.

(The remarks of Mr. KOHL pertaining to the introduction of S. 1944 and S. 1947 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. Who seeks recognition?

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. EXON. I thank the Chair.

(The remarks of Mr. EXON pertaining to the introduction of S. 1942 and S.J. Res. 173 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

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

The legislative clerk proceeded to call the roll.

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

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

Mr. DORGAN. Mr. President, I ask unanimous consent that I may speak for 5 minutes as if in morning business.

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

GUN-FREE SCHOOLS

Mr. DORGAN. Mr. President, today there is a conference going on between the House and the Senate on a bill called Goals 2000.

I rise today, on behalf of myself and Senator FEINSTEIN from California, to once again encourage in the strongest possible terms that the conference continue to keep in the conference report a provision that we passed here in the Senate that deals with gun-free schools.

Let me, if I might, offer the Senate a few clippings from the local newspaper. This is, of course, only from one city, Washington, DC.

The Washington Post, January 27, 1994: "School Shootings Break Out in D.C." I would go through the story but the headline says it: Shootings break out in our schools in the District of Columbia.

February 2, headline: "For Third Time in a Week in D.C., Shots Ring Out In or Near a School." The third time in a week in the District of Columbia, "shots ring out in or near a school."

Last week, March 10: "Student Shot in Eastern High School; 2 Students' Argument Started With a Bump in the Hallway, Police Say." This is not in the streets. This is in our schools.

Senator FEINSTEIN, myself and some others, offered a provision in Goals 2000 that is very simple and very direct. It says we want every school district in this country to have a policy and the policy should be simple: If you bring a gun to school, you are expelled for a year. Guns and schools do not mix. Guns have no place in schools.

When we send our children to school, we send them there to learn and we expect the school to be safe. Too often all across this country these days we are seeing gunfire in the hallways of our schools. Children cannot learn if they are not safe, and parents should not want to send their kids to school unless they have some measure of understanding that their kids are going to be safe.

Our legislation says every school district in America shall have a policy: If a kid brings a gun to school, he or she is expelled for a year. There is an escape clause. It allows the head of the school district to make an exception on a case-by-case basis. Let us say somebody for one reason or another a student brings a starter pistol to school in a backpack with no notion that this is a dangerous weapon and it was an accident that it was in the backpack in the first place. Should there be an exception? Yes. That is fine.

But, generally speaking, we ought to send a message all across this country in Goals 2000, the legislation that is now being dealt with in conference, that everyone in this country should understand if a kid brings a gun to school, that kid is going to be expelled for a year. We should not be reading headlines in the newspapers that talk about killings in our schools from gunfights in the hallways.

I went to Eastern High School about 2 months ago and spent some time with the principal. That is a wonderful school. I walked through the metal detector at the front door when I went in. They have metal detectors, security

devices, security officers, and a terrific principal. Yet when kids get through that front door with guns and disagreements occur, in today's culture, unfortunately, it all too often ends in tragedy.

One thing, the least we can do, in my judgment, is to send a message all across this country we will not permit kids to bring guns to our schools and, as a matter of public policy, there will be immediate and certain sanctions that are tough, no-nonsense sanctions, for those kids that do. I want kids to understand that and I want parents to understand that.

I just finished talking with Senator KENNEDY a few minutes ago about this provision. I must compliment him because he is the lead conferee on the Senate side and at this point they have kept this provision in at conference. I understand there are some on the other side who would like to weaken it or take it out, and I would very much like to see this provision remain in Goals 2000 when the conference report comes back to us so it becomes the law of the land.

Mr. President, I yield the floor.

75TH ANNIVERSARY OF POWDER RIVER COUNTY

Mr. BURNS. Mr. President, I rise today to pay tribute to Powder River County, MT, which on this day, March 17, 1994, is celebrating its 75th year as a county in the State of Montana.

Powder River County is a land of astonishing terrain, and a people just as arduous. The Powder River is known for its mud, and gumbo, and the county for its lofty red-shale hills and beautiful valleys. Appropriately enough, Powder River County is also known for the rugged individualists that have been a part of it from the start. This robustness is in part, what enticed people to the Powder River country to begin with. They wanted to do their own thinking, have their own property, and manage things their own way. They found this in the Powder River, and it has accordingly, through its never-ending challenges, cultured the land and the people who chose the hard life of the Powder River.

The Powder River country's past is painted with prehistoric dinosaurs, American Indians, and a legend that boasts a Canadian-born Frenchman to be the first white man ever to see Montana since it is likely he saw only the corner of our State where Powder River is located. After 1900, came the homestead boom, and the sodbusters who forever transformed Montana, and set in motion the greatest land boom in our State's history. They came by rail to Montana in hopes of finding good land, a new start, and their own part of the "last great agricultural frontier." This homestead rush coincided with the United States entering into World War I, and a "Food will win the war!" appeal by President Woodrow Wilson was responded to by patriotic grain farmers adding a final boost to the great Montana boom, especially in southeastern Montana.

Inevitably, after the great land rush, the huge counties in eastern Montana changed. Originally, southeastern Montana was all one big county, Custer County, with Miles City as the county seat. This did not suit the people of the Powder River who had to travel vast distances to transact their legal business. So, the people of Powder River saw to it that they got a county of their own—Powder River County.

This came about principally through the efforts of Frank Kelsey, who in 1919 was elected as a representative to the Montana legislature, and introduced the bill creating Powder River County. With the influx of settlers into Montana, county-splitting was the trend, and on March 17, 1919, Powder River officially became a county. The first meeting of the county commissioners determined where the county seat should be, and with three men present to decide the issue, Broadus received two votes, and the town of Olive, only one.

As with the rest of Montana, Powder River County has had its ups and downs and prevailed. Montanans are as resilient as the land they live in, and this is evident when you look at Powder River County.

Mr. President, I appreciate the opportunity to commemorate Powder River County on its 75th birthday as a county in Montana. I wish them the best in the years ahead, and I yield the floor.

KEEPING GUNS OUT OF AMERICA'S SCHOOLS

Mrs. FEINSTEIN. Mr. President, I am pleased to join Senator DORGAN to speak once again about rising crime on school grounds throughout this country.

Senator DORGAN and I offered the "zero tolerance" amendment during the Goals 2000 discussion.

The amendment is simple: if a student carries a gun to school—which has increasingly become a common occurrence—he or she will be expelled.

The House-Senate conference committee that is meeting on the education bill has initially approved the amendment and it must be in the final bill that will be ratified by both houses.

Let me explain why this amendment is so important. In fact, I believe removing guns from schools is absolutely essential to achieving the national education goals embodied in Goals 2000.

Jennifer Chien, a 16-year-old student at University High School in Irvine, recently wrote an op-ed piece for the Los Angeles Times that I think summarizes the fear so prevalent on school campuses:

Violence has even spread to our schools. Last year, there were thousands of incidents in the United States of students taking weapons to school. Kids. Not young adults or even adolescents, but children.

School children should not have in their hands the means for slaying their classmates over simple disputes. In the past, a fistfight would have ended the quarrel; now a gun is the solution. Imagine what would happen if students shot each other every time there was a disagreement. No one would be left to attend class.

Jennifer is absolutely correct.

What kind of a nation is this when students must go to school in constant fear of being shot, stabbed or attacked?

What kind of a learning environment can there be when youngsters bring guns to school?

How can we expect students to learn when so many resources are spent on metal detectors and safety personnel?

The facts are clear:

One out of every five children regularly carries a firearm, knife, or a club to school.

One out of every eight teachers has been physically threatened in the classroom.

Fifty-nine percent of all children in 6th through 12th grade know where to get a handgun (According to Joyce Foundation survey last year.)

Between 1980 and 1990 there was a 79 percent increase in the number of young people committing murder with guns.

Juveniles arrested for murder and manslaughter increased 93 percent between 1982 and 1991?

According to a recently released study of by the California Department of Health Services, teenagers in 1992 were 10 to 15 times more likely to be murdered than their counterparts in the 1950's and 1960's.

STATISTICS ON GUNS IN SCHOOLS

According to the Department of Justice Office of Juvenile Justice Prevention, California school officials confiscated 8,539 weapons, including 789 guns, in a single year—July 1987 and June 1988.

While most confiscated firearms are handguns, schools throughout the State are experiencing an arms race, as students bring in more powerful weapons: A student in Garden Grove, CA, was found with a loaded Uzi 9mm in his duffel bag.

And, this problem is not limited to older students in high school:

Sixty percent of all students who carry guns to schools are in middle school, according to the Oakland Police Department.

A 7-year-old from Stockton Elementary School in San Francisco took his parent's loaded gun to school last November.

LOS ANGELES UNIFIED SCHOOL DISTRICT

In 1993, on campuses in Los Angeles, there were four shootings—two of them fatal:

In January, a 16-year-old was shot and killed after a gun in another stu-

dent's backpack accidentally discharged at Fairfax High.

In February, a 17-year-old was shot and killed in a corridor at Reseda High.

On September 7, the first day of his school year, a 15-year-old was shot and seriously injured as he registered for classes at Dorsey High School.

In December, a 17-year-old student waiting for his mother to pick him up at Chatsworth High was shot and injured after he refused to give another teen-ager his backpack.

ZERO-TOLERANCE EXPULSION POLICIES

As a result of rising school violence, several school districts—including those in Los Angeles and San Diego—have adopted their own zero-tolerance expulsion policies for students caught with guns. Three hundred metal detectors are now in place at LA schools.

RESPONSIBILITY OF GOVERNMENT

I submit to this Senate that providing a gun-free learning environment for our students is not just a goal, it is a responsibility of all levels of government.

The mother of the student shot and killed at Reseda High School last year has filed a lawsuit against the school district for ignoring warnings about campus violence and failing to protect students.

Although I don't know the specifics of the case, I think this raises a central point to this discussion: schools should be safe places to learn and to set goals.

CONCLUSION

When will the mayhem end? When will safety and learning take a priority over guns?

The zero-tolerance amendment now part of Goals 2000 is reasonable and—indeed necessary—to stem the rising tide of violence. The amendment was drafted to even give local school boards the discretion to take extenuating circumstances into account.

Mandatory suspension is not the only approach to addressing the problem of guns in schools, and I applaud efforts in California and other States to focus on school violence through prevention and conflict resolution programs, links with community police efforts, and alternative school programs for repeat offenders.

But the fact is that, as stated by the Office of Juvenile Justice: "Students may be deterred from taking weapons to school if they know they face immediate expulsion."

The time has come to remove weapons from the schools of America.

MOVING TO THE ACCOUNTABLE HEALTH PLAN

Mr. DURENBERGER. Mr. President, I rise today to commend and bring to your attention a study done by the University of Minnesota and Hennepin County Medical Center. The report indicates that the elderly poor in Twin Cities Medicaid-HMO plans are as happy with their care and as healthy as those who are in fee-for-service plans. Yet the cost of their care is considerably less than that of fee-for-service plans.

It is critical for us to heed the implications of this study as we consider how to move forward with health care reform. It points us toward answers to two important questions: How do we contain costs and how do we expand access to the poor and uninsured?

HOW DO WE CONTAIN COSTS?

Much of the health reform debate has focused on the buyer side of the market. It is equally important to focus on the sellers or providers of care. Cost containment will only occur if there are changes in the way medicine is practiced and care is delivered. The key to making this change is the accountable health plan [AHP].

HMO's, like the ones in this study, are an integrated delivery system that bring efficiencies, economies of scale, managed utilization and capitated prepayment. The prepaid, capitated premium shifts the risk from a third party payer to the provider of care, who must manage the risk. HMO's have moved from the traditional indemnity insurance bill-paying model to a true merger of risk management and provision of care.

What, then, is an AHP? The AHP adds a public accountability feature to the integrated system and is oriented to health outcomes. Information on the impact of health care on patient health, functioning and well-being, and patient satisfaction are available for comparative purposes.

The HMO's in the Twin Cities are beginning the evolutionary process of becoming an AHP. The study in Minnesota found that the average per-person cost for Medicaid for those in HMO's was 27 percent less than those in the fee-for-service plans. There was no significant difference in health outcomes in spite of the fact that those in HMO's had fewer doctor visits, fewer visits to emergency rooms, and shorter hospital stays.

Furthermore, patients in the HMO's were as satisfied with their care as fee-for-service patients, with 92 percent of HMO patients self-reporting as very satisfied or satisfied, compared with a 94 percent rate for fee-for-service patients. By adding data on patient satisfaction, an accountability measure, HMO's will begin the process of changing to an outcome orientation, or an AHP.

HOW DO WE EXPAND ACCESS TO THE POOR AND UNINSURED?

I have been grappling with questions of how to expand access to care for the poor and uninsured, how to structure their integration into the health care system without creating a two-tiered system, and how to finance it. This study points us in a definite direction and the organizations like those in the study are the way we will get there.

The Hennepin County Medicaid experiment, which began in 1985, mainstreamed Medicaid individuals into HMO's whose doctors were expected to use the same standards in caring for the poor as they did for others. Including the elderly poor in HMO's with the non-poor and providing adequate reimbursement for the plan insured that this group of elderly poor patients received the same quality of care that the nonpoor received.

By adding an emphasis on quality of care and outcomes, these HMO's are continuing the process of becoming an AHP. Because of its public accountability and orientation toward outcomes, the AHP is the best advocate for the poor and low income.

Our objective in health care reform is to get the system to change so that people buy health services based on value. The AHP is what will make the difference, not only for the poor, but for everyone. What is happening in the Twin Cities for the elderly poor is an exciting example of how our system is beginning the process of moving toward AHP's and how it can work to benefit the poor.

We will not have either cost containment or universal access unless we have accountable health plans that compete and are accountable to the public on the basis of cost and quality. I would like to request that the report and the newspaper article about the report accompany this statement in the RECORD.

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

[From the Annals of Internal Medicine, Mar. 15, 1994]

MOVING TO THE ACCOUNTABLE HEALTH PLAN

(From the University of Minnesota Schools of Medicine and Public Health and the Hennepin County Medical Center, Minneapolis, Minnesota. For current author addresses, see end of text)

(By Nicole Lurie, MD, MSPH; Jon Christianson, PhD; Michael Finch, PhD; and Ira Moscovice, PhD)

Purpose: To determine the effect on health and functional status outcomes of enrollment of noninstitutionalized elderly Medicaid recipients in prepaid plans compared with traditional fee-for-service Medicaid.

Design: A randomized controlled trial. Beneficiaries were randomly assigned to prepaid care in one of seven capitated health plans compared with fee-for-service care. Only the Medicaid portion of their care was capitated. Patients were followed for 1 year.

Setting: The Medicaid Demonstration Project in Hennepin County, Minnesota, which includes Minneapolis.

Patients: 800 Medicaid beneficiaries who were 65 years or older at the beginning of the evaluation. Beneficiaries were interviewed at baseline (time 1) and 1 year later (time 2). Ninety-six percent of beneficiaries were available for follow-up interviews at time 2.

Main Outcome Measures: General health status, physical functioning, mental health

status, activities of daily living, instrumental activities of daily living, corrected visual acuity, and blood pressure and glycosylated hemoglobin measurements for hypertensive and diabetic persons, respectively.

Results: There were no differences between prepaid and fee-for-service groups in the number of deaths (20 compared with 24, P>0.2), the proportion in fair or poor health (56.5% compared with 59.7%, P>0.2), physical functioning, activities of daily living, visual acuity, or blood pressure or diabetic control. Patients in the prepaid group reported a trend toward better general health rating scores (10.2 compared with 9.8, P=0.06) and well-being scores (10.0 compared with 9.7, P=0.07) than patients in the fee-for-service group. The difference in the likelihood of a patient in the prepaid group having a physician visit relative to the fee-for-service group was −16.5% (adjusted odds ratio, 0.46; 95% CI, 0.29 to 0.74) and for an inpatient visit was −11.2% (adjusted odds ratio, 0.55; CI, 0.32 to 0.94).

Conclusions: There was no evidence of harmful effects of enrolling elderly Medicaid patients in prepaid plans, at least in the short run. Whether these findings also apply to settings in which health maintenance organizations are formed exclusively for Medicaid patients should be studied further.

The desirability of capitated health care has been intensely debated by purchasers of health care and policymakers alike, especially with respect to its suitability for public sector programs. Currently, 36 states offer capitated health plans to the poor, and enrolling Medicaid beneficiaries in capitated plans is gaining in popularity as a way to reduce state Medicaid expenditures (1). Quality of care and health outcomes under capitation in public programs have been little studied, but because early attempts to enroll Medicaid beneficiaries in prepaid care were plagued by inadequate access to care and fraud, critics have focused debate on these aspects of capitation (2).

Enrolling the elderly in prepaid plans raises a number of additional issues. In theory, health maintenance organizations may provide better continuity and coordination for care of chronic disease than the fee-for-service system (3). Yet, some authors have expressed concern that health maintenance organizations may be insensitive to special needs of the elderly because their highly structured care systems may be difficult for elderly patients to use, creating nonfinancial barriers to care (4). Under prepayment, physicians may respond to economic incentives to restrict services by seeing chronically ill patients less often (5). Incentives to limit treatment may be particularly powerful among high-cost enrollees such as the elderly.

Previous studies of the effects of capitation have focused on either nonelderly poor or elderly nonpoor persons. None has studied populations that are both elderly and poor, which may be at particular risk for underservice in prepaid plans. Further, they suffer either from incomplete follow-up of study patients or from the fact that patients were not randomly assigned to prepaid and fee-for-service groups, introducing the substantial threat of selection bias. We describe the experience of noninstitutionalized elderly Medicaid beneficiaries who were randomly assigned to prepaid compared with fee-for-service Medicaid care.

METHODS

The study was conducted as part of the Hennepin County Medicaid Demonstration Project, one of the Health Care Financing Administration-sponsored Medicaid Competition Demonstration sites. This site enrolled a broad range of Medicaid beneficiaries, including the elderly, and randomly assigned 35% of them to prepaid care. The remaining 65% continued to use fee-for-service providers participating in Medicaid. Once randomly assigned to the capitation group, beneficiaries were given an opportunity to choose among seven health plans. These included a closed-panel health maintenance organization, a county-sponsored network health maintenance organization that formed in response to the demonstration, and five independent practice association plans. The 8% of persons who did not voluntarily choose a plan were randomly assigned to one. Beneficiaries were required to remain in the plan for at least a year, unless they successfully appealed.

Because over 40% of the Twin Cities' population is enrolled in health maintenance organizations, it is likely that nearly all physicians caring for study patients had some patients in their practices for whom they were reimbursed on a capitation or reduced-fee basis, with risk-sharing through "withhold" arrangements in which part of their compensation was determined by their success in containing costs.

Almost the entire study sample was enrolled in both Medicare and Medicaid, and the Medicaid portion of care for the prepaid group was capitated as part of the demonstration. Under this capitation payment, Medicaid paid for the copayment and deductible portion of the Medicare, such as drugs, dental care, and physical, speech, and occupational therapy. These Medicaid costs were fixed at 95% of estimated fee-for-service costs, which constituted about half of total health care expenditures for this population. Plan participation was voluntary, but all plans participating in the demonstration chose to enroll elderly patients.

We identified from Medicaid tapes all 1496 noninstitutionalized, aged (≥65 years) Medicaid beneficiaries in Hennepin County, Minnesota, and randomly selected 400 beneficiaries for an experimental (prepaid) group and 400 beneficiaries for comparison group for evaluation. Sample members who identified themselves as hypertensive or diabetic at baseline were included in a predesigned substudy to assess physiologic outcomes. Sample sizes were chosen on an alpha of 0.05, a beta of 0.8, and estimates of the prevalence of hypertensive and diabetic persons in the population. The sample was designed to include enough hypertensive persons to detect a 10 mm Hg change in systolic and a 5 mm Hg change in diastolic blood pressure, enough diabetic persons to detect a 15% change in glycosylated hemoglobin, and a ±4 percentage point difference for dichotomous outcome variables for the entire study sample.

Overall, health status was assessed along the dimensions specified by the World Health Organization (6). Patients rated their health as excellent, good, fair, or poor. Physical functioning was assessed with the nine-item battery used in the RAND Health Insurance Experiment (7). Social functioning was measured using a modified five-item scale developed by Kane and colleagues (8). Role function was measured with a two-item scale, and general health perceptions were measured with a four-item general health scale, both from the RAND Health Insurance Experiment (7); Activities of Daily Living and Instrumental Activities of Daily Living were assessed with standard measures (9, 10). Other than the physical functioning, Activities of Daily Living and Instrumental Activities of Daily Living measures, which are scored in terms of numbers of limitations, measures were scored such that a high score indicated better health.

Three domains of mental health status were measured: well-being, anxiety, and depression. Well-being was measured using items from the RAND Health Insurance Experiment (7). Anxiety was measured with items from the Hopkins Symptom Checklist (11), and depression was measured with items from the Zung Depression Scale (12). In all cases, a higher score indicated better health. Because pilot testing indicated that beneficiaries found the long mental health scales to be too intrusive, we used the three items from each scale with the highest published factor loadings.

We selected three physiologic indicators of health status: blood pressure control for hypertensive persons, glycosylated hemoglobin in diabetic persons, and visual acuity for the entire elderly population. These were chosen because they have been shown to be sensitive to changes in access to care (13, 14). In the RAND Health Insurance Experiment, far visual acuity was better among low-income enrollees receiving free care (15), and we hypothesized that access to eye glasses or cataract surgery might differ among the fee-for-service and prepaid enrollees. Finally, we collected information regarding sociodemographic characteristics, access to care (usual source of care, delay and refusals of care, travel and waiting time), satisfaction with care (global satisfaction and satisfaction with provider and staff), and use of health services. Utilization data were available from client self-report at baseline and 1 year later and from the state Medicaid program and Part A Medicare claims for the demonstration year.

We used Medicare and Medicaid claims to measure inpatient use during the demonstration year. However, when we conducted an audit of medical records to validate a sample of the outpatient claims submitted to the state by the health plans, we found that they were incomplete, that there was substantial under- and over-reporting, and that he degree of accuracy varied by plan. Thus, in our analyses we use only self-reported outpatient use.

We interviewed sample members at baseline, which was the period between assignment to prepaid plans and 2 weeks after coverage started for experimental group patients. Control group interviews were conducted during a similar period. All patients were reinterviewed 1 year later, at which time we also interviewed proxy respondents when patients had died or were too ill to be interviewed. Methods for achieving high response rates are described, in part, by Bindman and colleagues (16).

Near and far visual acuity were measured for all patients using standard Snellen charts. Patients were instructed to use glasses if they routinely wore them.

After patients were interviewed for the evaluation, those who reported having hypertension or diabetes or both were visited by a physician or medical student. Standardized blood pressure measurements were obtained for all hypertensive persons; glycosylated hemoglobin levels were measured for all diabetic persons. These were repeated at the 1-year follow-up interview.

DATA ANALYSIS

We compared the distributions of variables between experimental and control populations for the baseline and follow-up periods using *t*-tests and chi-square techniques. In

analyzing follow-up data, ordinary least-squares techniques were used to analyze continuous variables, whereas logistic regression was used for dichotomous variables. In all these analyses, the dependent variable was a health status measure at the follow-up interview. In addition, for health status measures that were continuous variables, we computed the difference between the value of the variable at baseline and follow-up and used the difference as the dependent variable. These results were similar to those in which the dependent variable was a health status measure at follow-up. For hospitalization and nursing home utilization data, we used tobit regression (17), a method for handling censored data (because of the large number of people with no admissions) as well as logistic regression. To minimize the loss of data, mean sample values were substituted for missing values of independent variables if the number of observations for which data on a specific variable were missing was less than 10%. Otherwise, the variable with missing data was not included in any analyses. In the regression models, we controlled for baseline values of sociodemographic characteristics, inpatient and outpatient use, general health status, physical function, activities of daily living, instrumental activities of daily living, social function insurance, and length of time in the plan. For the health status variables, the regression-adjusted results were similar in magnitude and direction to the unadjusted findings, and the results of analyses using the dependent value at follow-up did not differ from those using change scores as the dependent variable. Thus, we report only unadjusted data. Regression adjustment did alter the magnitude of the utilization differences, however. Thus, unadjusted and regression-adjusted scores are presented for these data. For the logistic regression analyses, we report both the odds of having a visit in the prepaid group compared with fee-for-service group as well as the difference in the likelihood of a patient in the prepaid group having a visit compared with a patient in the fee-for-service group.

Finally, we calculated the average annual expenditures per person. For the fee-for-service group, this was the total of actual Medicare and Medicaid payments for the sample divided by the total number of beneficiaries. For the prepaid group, this was the total of capitation payments and estimated reinsurance payments divided by the total number of beneficiaries plus the Medicare payments.

TABLE 1.—SAMPLE SIZES AT BASELINE AND FOLLOW-UP

Sample Size	Prepaid	Fee-for-Service
Total sample at baseline, *n*	400.0	400.0
Completed follow-up,* *n*	387.0	384.0
Refused	10.0	13.0
Moved out of state	3.0	3.0

TABLE 1.—SAMPLE SIZES AT BASELINE AND FOLLOW-UP—Continued

Sample Size	Prepaid	Fee-for-Service
Response rate at follow-up, %	96.9	96.0

* For sample members who had died, 24 elderly control and 20 elderly experimental interviews were completed by proxies. Proxy respondents also completed interviews for six elderly control group members and two elderly experimental group members who were too ill to complete the interview.

RESULTS

We obtained second interviews for 387 control and 384 experimental group patients 1 year after the baseline interview, yielding 96% and 97% completion rates, respectively. Reasons for loss to follow-up appear in Table 1. Prepaid and fee-for-service groups did not differ significantly in any sociodemographic characteristics, baseline utilization (Table 2), or baseline health status measures (Table 3). Patients were mostly female and white, and had, on average, three chronic conditions. Consistent with our expectations, the study sample reported significantly poorer health than did the overall Medicare population in the Twin Cities, based on survey data collected in 1989 (Wisner C. Personal communication). Sixty percent reported being in fair or poor health, in contrast to only 13% of the general Medicare population.

Use of services was lower in the prepaid group (Table 4). Based on logistic regression analyses, the difference in the likelihood of a patient in the prepaid group reporting an outpatient visit compared with a patient in the fee-for-service group was −16.6% (adjusted odds ratio, 0.44; CI, 0.29 to 0.74) and −21.2% for an emergency department visit (odds ratio, 0.40; CI, 0.25 to 0.63). Claims data indicated that, relative to the fee-for-service group, the difference in likelihood of hospitalization for the prepaid group was −11.2% (odds ratio, 0.55; CI, 0.32 to 0.94) and that considering all patients, length of stay for the prepaid group was 1.3 days shorter than for the fee-for-service group (CI, −0.06 to −7.78 days). The likelihood of being admitted to a nursing home did not change.

TABLE 2.—BASELINE CHARACTERISTICS OF PREPAID AND FEE-FOR-SERVICE SAMPLES

Baseline Characteristics	Prepaid (*n*=384)	Fee-for-Service (*n*=387)
Age (mean) *y*	76	76
Female, %	81	78
Married, %	9.8	11.9
Education (mean), *y*	9.6	9.7
White, %	80	81
Monthly income, $	381	400
Chronic health conditions (mean), *n*	2.9	3.2
Any physician visit in the past 3 months, %	80.6	78.5
Physician visits in the past 3 months (mean), *n*	3.3	3.4
Any hospital admissions in the past 12 months, %	23.6	26.1
Hospital admissions (mean) in the past 12 months, *n*	0.4	0.4
Any nursing home admissions in the past 12 months, %	3.6	6.2
Nursing home admissions in the past 12 months, *n*	0.04	0.06

Despite these differences in use, beneficiaries' reports of access to or satisfaction with care did not differ. For example, 92% of prepaid and 94% of fee-for-service patients were "very satisfied" or "satisfied" with their care ($P>0.2$). Eighty-six percent of each group reported having a usual source of care, and 16.5% of prepaid and 18.6% of fee-for-service patients reported "at least some" difficulty getting emergency care ($P>0.2$). The difference in average annual per-person expenditures made by Medicaid was $715 (CI, $103 to $1326), which was 27% lower for patients in the prepaid group. Medicare expenditures did not differ statistically between the two groups ($462; CI, −$1118 to $194).

Forty-four patients died during the 1-year follow-up period; 24 were in the fee-for-service group and 20 received capitated care ($P>0.2$). Table 3 compares health outcomes of the prepaid and fee-for-service groups at baseline and follow-up. Blood pressure and glycosylated hemoglobin for hypertensive and diabetic persons, respectively, were similar in both groups, as were self-rated health, physical functioning, mental health and Activities of Daily Living and Instrumental Activities of Daily Living dependencies for the entire study population. Patients in the fee-for-service group reported slightly worse general health than patients in the prepaid group at follow-up, and these differences remained statistically significant after regression adjustment (0.4 points; CI, 0.06 to 0.72 points).

DISCUSSION

The current health reform debate focuses on expanding access to care while maintaining quality and controlling costs. Capitation, managed care, and competition are seen by some as desired features of health care reform. This study is the first to report on use of service and quality of care from a randomized trial of capitated compared with fee-for-service Medicaid payment for elderly poor, a group at particular risk for adverse health outcomes as well as underservice. It reports on beneficiary outcomes aggregated across seven health plans of different types. States contemplating the use of capitation for elderly Medicaid beneficiaries, nearly all of whom are also Medicare beneficiaries, will only be able to capitate the Medicaid contribution for eligible patients. Thus, this demonstration represents a "real world" test of capitation for high-risk elderly Medicaid beneficiaries. Partially on the basis of this demonstration experience, health care for Medicaid recipients in Hennepin County is now being delivered via a capitation arrangement.

TABLE 3.—HEALTH STATUS AT BASELINE AND FOLLOW-UP FOR PREPAID AND FEE-FOR-SERVICE GROUP *

Variables	Unadjusted values				Adjusted prepaid-fee-for-service difference at time 2 (95% CI)
	Time 1		Time 2		
	Prepaid	Fee-for-service	Prepaid	Fee-for-service	
Physiologic measures (mean values):					
Systolic blood pressure (hypertensive patients), mm Hg	147.5	147.9	145.1	145.0	0.1 (−6.03 to 5.12)
Diastolic blood pressure (hypertensive patients), mm HG	79.1	76.9	75.5	76.9	−1.4 (−2.37 to 3.63)
Glycosylated hemoglobin (diabetic patients), %	9.2	9.7	9.4	9.5	−0.1 (−6.68 to 10.65)
Visual acuity:					
Near vision >20/200, %	45.4	41.6	46.2	51.7	−5.5 (−6.4 to 4.6)
Far vision >20/50, %	74.4	75.1	87.0	85.6	−1.4 (−1.47 to 1.33)
Perceived general health:					
Fair to poor health, %	61.6	62.5	56.5	59.7	−3.2 (−3.27 to −3.13)
General health index (mean) [range = 4 to 12]	9.9	9.8	10.2	9.8	0.4 (0.06 to 0.72)

TABLE 3.—HEALTH STATUS AT BASELINE AND FOLLOW-UP FOR PREPAID AND FEE-FOR-SERVICE GROUP *—Continued

Variables	Unadjusted values				Adjusted prepaid-fee-for-service difference at time 2 (95% CI)
	Time 1		Time 2		
	Prepaid	Fee-for-service	Prepaid	Fee-for-service	
Mental health status (mean) [range = 3 to 12]:					
Well-being	10.2	10.3	10.0	9.7	0.3 (−0.62 to 0.03)
Depression	8.4	8.5	8.2	8.2	0(−0.38 to 0.35)
Anxiety	9.8	9.8	9.3	9.3	0(−0.34 to 0.31)
Physical functioning index (mean) [range = 0 to 9]	5.7	5.4	5.7	5.7	0(−0.50 to 0.51)
LADL dependencies:					
Number of LADL dependencies (mean) [range = 0 to 8], n	1.8	2.0	2.3	2.6	−0.3(−0.23 to 0.47)
Dependent in, %					
Using telephone	2.9	2.3	5.4	5.4	
Taking medications	5.0	5.7	8.4	12.2	
Doing laundry	31.0	33.9	38.3	42.0	
Doing routine housework	36.8	39.4	41.0	44.8	
Cooking own meals	13.8	14.9	19.8	20.0	
Managing finances	14.4	12.7	17.4	20.5	
Shopping for groceries	40.2	46.6	56.0	51.9	
Traveling in community	37.2	39.8	44.6	45.8	
ADL dependencies:					
Number of ADL dependencies (mean) [range = 0 to 8], n	0.6	0.7	0.5	0.6	−0.12(−0.23 to 47)
Dependent in, %					
Eating	0.8	1.3	1.0	3.1	
Dressing	2.3	4.7	6.0	7.8	
Grooming	4.2	3.4	5.5	8.3	
Mobility	8.6	8.0	11.7	17.1	
Transferring	3.4	5.2	5.7	9.6	
Bathing	9.4	11.6	14.9	18.4	
Toileting	2.3	2.6	4.7	7.0	
Bowel and bladder control	25.8	29.2	27.8	30.6	

*All of the measures were for the entire study population, except for blood pressure and glycosylated hemoglobin. For hypertensive patients, n = 146 prepaid and 145 for fee-for-service patients. For diabetic patients, 41 were prepaid and 50 were for fee-for-service at baseline, ADL = activities of daily living; LADL = instrumental activities of daily living.

Although enrollees in the prepaid group used significantly less care, there was no evidence that they experienced poorer health during the study period, and beneficiary reports of access and satisfaction were comparable. Such findings are consistent with those of the National Medicare Competition Evaluation, in which Medicare enrollees in health maintenance organizations received equivalent or better quality care for selected conditions and had comparable health outcomes (18, 19–21) to those in fee-for-service Medicare. However, capitated and fee-for-service groups in those evaluations often differed in their characteristics, and follow-up data in some cases were incomplete. Studies of private employed groups that have addressed similar issues have generally not used a randomized design and therefore may suffer from selection bias because enrollees in prepaid plans may have differed in important ways from those who were cared for in the fee-for-service sector (22). The only randomized trial to date examined the experience with capitation in the RAND Health Insurance Experiment (23). This study found that the rate of hospital admissions for prepaid health plan enrollees were 40% lower than for fee-for-service patients. Two other studies from the same experiment (24, 25) reached differing conclusions regarding health outcomes. However, the health maintenance organization studied in the RAND Health Insurance Experiment was a staff model health maintenance organization with salaried physicians, which is not typical of most current prepaid plans.

Our results are also consistent with recent studies about outcomes of capitated care for poor, nonelderly populations. Carey and colleagues (26, 27) compared Medicaid enrollees receiving Aid to Families with Dependent Children (AFDC) in counties with capitated demonstration programs to AFDC populations in similar counties with traditional Medicaid fee-for-service care and found no difference in several aspects of process of care. Finally, Lurie and colleagues (28) found that health outcomes of chronically mentally ill Medicaid beneficiaries enrolled in capitated health plans did not differ statistically from those remaining under fee-for-service care.

TABLE 4.—USE OF HEALTH SERVICES FOLLOW-UP FOR PREPAID AND FEE-FOR-SERVICE ENROLLEES

Variable	Time 2 (Unadjusted Means)		Adjusted Prepaid-Fee-for-Service Difference (Odds Ratios) [95% CI]*
	Prepaid (n=335)	Fee-for-Service (n=336)	
Self-reported:			
Any physician visit in the past 3 months, %	67.9	72.8	16.5 (0.44) [0.29 to 0.74]
Physician visits in the past 3 months, n	2.3	2.3	−0.8† (−1.68 to 0.25)
Any emergency department visit in the past 3 months, %	14.8	16.3	21.2 (0.40) [0.25 to 0.63]
Emergency room visits in the past 3 months (mean), n	0.2	0.2	−0.19† (−0.31 to −0.04)
Claims reported:			
Any hospital admissions in the past 12 months, %	22.8	26.2	−11.2† (0.55) [0.32 to 0.94]
Hospital admissions in the past 12 months (mean), n	0.4	0.5	−0.6† (−1.15 to −0.01)
Hospital days in the past 12 months (mean), n	2.0	3.2	−5.5† [−10.32 to −0.19]
Any nursing home admissions in the past 12 months, %	0.1	0.1	4.03 [−0.09 to 1.86]
Nursing home admissions in the past 12 months, n	0.12	0.12	———
Nursing home days in the past 12 months (mean), n	6.6	8.5	———

*For logit analyses, we present both the difference in likelihood elasticity of a visit, calculated at the mean for a person in the prepaid group relative to fee-for-service and the odds ratio for a probability of a visit in the prepaid group relative to fee for seivice and 95% CIs. Tobit adjusted means were used for number of hospitalizations and nursing home admissions because of the proportion of patients with no visits. Tobit adjustment was not calculated for nursing home admissions because tobit regression is not robust enough for the limited number of nursing home admissions that occurred.

†< P < 0.01.

†< P < 0.05.

Although neither sample sizes nor our previous agreements with the health plans permit plans-specific analyses, it is important to consider the reasons that use may have been lower for the prepaid group. Switching Medicaid beneficiaries from fee-for-service to capitation Medicaid financing might reduce their use because of changes in the financial incentives faced by their physicians, the application of managed-care techniques to control service use, or disruption in the continuity of care for beneficiaries that reduced use until new care patterns were established. Fortunately, because most patients did not change doctors, we can exclude disruption as the cause of lower use. Most of the physicians serving beneficiaries in our sample continued to receive fee-for-service payments from plans, often with discounts on fees and risk-sharing through a "withhold pool." Because the county-sponsored health

maintenance organization was formed in response to the demonstration, this was the first exposure to capitation for many physicians practicing there. All of the plans used managed-care techniques such as prior authorization for surgery or physical therapy, concurrent review during hospitalization, or restricted formularies. Thus, it seems most likely that the observed reductions in services are caused largely by these efforts.

Several study limitations should be noted. First, because patients were followed for only a year, we do not know if adverse effects would have become evident over a longer period. However, the demonstration continued after our evaluation ended, and 101 prepaid and 111 fee-for-service group enrollees died in the first 3 years of the demonstration ($P > 0.2$). Although this is a crude measure of outcome, it is consistent with our other findings. Second, because only the Medicaid portion of expenditures was capitated, we cannot be certain that the findings would be similar if Medicare payments had also been capitated. Third, we made many comparisons between the prepaid and fee-for-service groups. The relatively few significant differences observed between the groups may have occurred on the basis of chance alone. Because of the large numbers of comparisons made and the consistent findings, it seems unlikely that use of additional measures would have altered the general conclusions of the study. Also, blood pressure and glycosylated hemoglobin levels vary from hour to hour, so measurements made at baseline and 1 year later are liable to substantial sampling error. Fourth, our outpatient use measures are based on client self-report because claims data proved inaccurate. However, we know of no reason that there would be differential self-reporting between the two groups that would influence our comparisons of use. Finally, most patients were enrolled in plans that also cared for privately insured populations, and we doubt that they treated study patients differently than their other capitated enrollees. Other Medicaid programs may enroll patients in prepaid plans serving only Medicaid patients. The evidence on whether others would fare as well in such plans is inconclusive, but the specter of the California Medicaid scandals in the 1970s is a reminder that the enrollment of Medicaid beneficiaries in such settings should be carefully monitored.

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STUDY: ELDERLY POOR HAPPY WITH HMO'S—PLANS COST LESS THAN FEE-FOR-SERVICE DOCTORS

(By Gordon Slovut)

A University of Minnesota study indicates that the elderly in Twin Cities Medicaid-HMO plans are just as happy with their care as those whose doctors are paid on a fee-for-service basis.

The study found that the patients are just as healthy, and that the cost of providing care for them is considerably less.

The researchers randomly assigned 800 Medicare-covered poor people over age 65 in Hennepin County to (HMO) or fee-for-service doctors and followed them for a year.

"We find no significant differences in outcomes or satisfaction," said Dr. Nicole Lurie, a researcher for the University of Minnesota and Hennepin County Medical Center who headed the study.

The results are important as national health care reform appears to be moving the nation toward prepaid health plans such as HMOs, Lurie said.

She said the results are based on data collected from the enrollees, not from the HMOs.

She said that HMOs tended to underreport or overreport the services they provided and that different HMOs don't tabulate their data in the same ways, making HMO-to-HMO comparisons virtually impossible.

Lurie said that HMOs weren't even reliable on reporting how often a patient visited a doctor and that researchers therefore relied on patients to tell them how often they saw doctors. She said any recollection problems should have evened out, as the researchers had to rely on patients' memories on visits to both HMO and fee-for-service doctors.

The Star Tribune reported on Sunday that the Minnesota Department of Human Services shelved a study designed to see if the state saves money by sending Medicaid patients to HMOs rather than paying episodically for their care. Lurie, who was not

involved in that study, said it will be virtually impossible to do such research adequately until the HMOs move into standardized reporting.

She said the elderly in the plan, who were examined for the study initially in the late 1980s, were covered by Medicare but also needed Medicaid because they did not have sufficient income to cover the gap between what Medicare pays and what doctors and hospitals charge.

Medicaid paid a flat fee (on top of what Medicare paid), based on the individual's age and physical condition, to HMOs—equal to about 95 percent of what that person would be expected to pay.

Fee-for-service doctors are paid on the basis of services they provide to their patients. So the greater the number of visits and tests a patient needs, the higher a doctor's income is.

Researchers also reviewed the patients' general health status, physical function, mental health status, activities of daily living, corrected vision, blood pressure if they had high blood pressure and blood sugar levels if they had diabetes.

They expected that corrected vision would indicate that patients received adequate eye testing and had eyeglasses prescribed for proper correction, and if cataracts, for example, had developed and been treated if necessary.

Blood pressure levels and whether diabetes was under control would indicate the relative effectiveness of therapy for two very common diseases in the elderly.

"The outcomes were comparable at a year, including the number of deaths [20 among HMO members, 24 among fee-for-service patients]," Lurie said. "We have looked at deaths three years out, and they are still comparable [101 among HMO patients, 111 among fee-for-service patients]."

She said that any long-term differences, such as whether preventive measures are more effective in the HMO or fee-for-service systems, probably wouldn't show up for 10 years. Medicaid covers preventive care in fee-for-service programs.

Lurie said it is important to note that in the Hennepin County Medicaid experiment, which began in 1985, the poor have been "mainstreamed" into HMOs such as Group Health and Medica, whose doctors would be expected to use the same standards in caring for the poor as they do for others. She said the results might be different for people if they were assigned to HMOs that serve only the poor.

Those assigned to HMOs were given a choice of seven, including Hennepin County's Metropolitan Health Plan, which provides prepaid care for county employees as well as poor people.

The study, in which Lurie collaborated with Jon Christianson, Michael Finch and Ira Moscovevic of the university, is the first to compare people who are both elderly and poor, Lurie said. Other research on prepaid plans has focused on the nonelderly poor or the elderly nonpoor, she said.

There were differences, however, in how HMO and fee-for-service patients were treated.

Those in HMOs had fewer doctor visits and fewer visits to hospital emergency rooms. They had shorter hospital stays—1.3 fewer days, on average. Nursing home use was the same.

In their report, which appears in today's issue of Annals of Internal Medicine, the journal of the American College of Physicians, the Minnesotans wrote that "92 percent of prepaid [HMO] and 94 percent of fee-for-service patients were 'very satisfied" or 'satisfied' with their care."

The average annual per-person cost for Medicaid for those in HMOs was 27 percent less than for those in the fee-for-service plan under which Medicaid paid doctors and others on the basis of visits, tests and treatment. That figure does not mean the total cost was 27 percent less; Medicare covered roughly the first 50 percent of the cost for all of the 800 in the trial.

The researchers' conclusion:

"Although enrollees in the prepaid group used significantly less care, there was no evidence that they experienced poorer health during the study period, and beneficiary reports of access and satisfaction were comparable."

They stopped short of saying that HMOs provided better care. The HMOs often promote themselves as providing superior care because they place more emphasis on prevention. Lurie said it might take years for such a difference to show up.

FRANK KELLY REMINDS US IT'S TIME AGAIN TO SAY "GIVE PEACE A CHANCE"

Mr. PELL. Mr. President, Frank Kelly, for many years a leader of the Center for the Study of Democratic Institutions, is one of the "wise men" of our age. His life has spanned most of the years in this century, and he has witnessed the many ways in which our world has been torn apart by violence, the countless millions who have become refugees, the abandonment of ethical principles, what he refers to as "the moral meltdown of our times."

For over a quarter of a century Frank Kelly has advocated the convening of "summit meetings for humanity." The first such meeting took place in Santa Barbara, CA, in July, 1993, sponsored by the Nuclear Age Peace Foundation of which he is senior vice president. A second meeting is scheduled for July 5–7 of this year.

Frank Kelly calls attention to a proposed "planetary code of ethics" drafted by the Parliament of the World's Religions, representing more than 100 religious organizations that assembled in Chicago in 1993. The leaders who attended included the Dalai Lama, other Buddhists, representatives of Christian denominations and many other faiths. In their concluding statement, they condemned "the social disarray of nations, the anarchy overtaking our communities, and the insane death of our children by violence," and stated that "A common set of core values is found in the teachings of the religions, and these form the basis of a global ethic."

Frank Kelly believes that we can reverse the moral meltdown of our age. That is an ideal worth remembering, and he will be remembered for it.

TRIBUTE TO RAYMOND F. McCASKEY

Ms. MOSELEY-BRAUN. Mr. President, I would like to honor a distinguished Illinoisan, Raymond F. McCaskey, who is the 1994 recipient of the Anti-Defamation League's Distinguished Community Service Award. Mr. McCaskey is the Blue Cross and Blue Shield of Illinois president and chief executive officer.

Ray joined Blue Cross in 1976 as an associate actuary, and rose through the ranks to vice president, chief financial officer, and president. He was named chief executive officer in 1993, overseeing the operations of Illinois' oldest and largest health insurer.

Ray McCaskey has a strong commitment to people, and to service. Blue Cross has nurtured many community projects and programs under his tenure. Every day, Blue Cross CareVans travel to Chicago's poorest neighborhoods helping in the battle against disease. Since the program began in 1989, CareVan nurses have administered nearly 100,000 immunizations.

Blue Cross is a corporate sponsor of Chicago Housing Authority's Midnight Basketball League, the Cabrini Green Summer Youth League and Cabrini Greens, the gardening program which has planted seeds of hope and pride at one of the city's largest public housing projects. Ray McCaskey also has continued the fight against illiteracy begun by his predecessor, S. Martin Hickman. Blue Cross is the major underwriter of Chicago United's Family Learning Center project to promote early childhood development and adult literacy.

Under Ray's leadership, Blue Cross has been a strong advocate of health care reform on the national and State levels. He serves on Illinois Governor Jim Edgar's Health Care Reform Task Force as one of two key committee chairmen. Ray also serves on the board of directors of the Mental Health Association in Illinois.

As head of one of the major employers in Illinois, Ray McCaskey has promoted equal employment opportunity and affirmative action. Blue Cross has a strong commitment to hiring and promoting minorities, women, veterans, and persons with disabilities. In numerous communications with Blue Cross employees, and most importantly by personal example, Ray has made clear that everyone must respect and appreciate individual differences.

In presenting its 1994 Distinguished Community Service Award to Ray McCaskey, the Anti-Defamation League said it is "proud to honor this distinguished American whose life and works embody our very highest ideals and aspirations."

I wish to convey my heartfelt congratulations to Ray as he receives this special honor.

NATIONAL AGRICULTURE DAY—MARCH 20, 1994

Mr. HOLLINGS. Mr. President, I rise today to recognize an important indi-

vidual we often forget—the American farmer. Each time we walk into a grocery store, look through our cupboards or sit down with our family for dinner, we should remember the people who dedicate their lives to this often overlooked profession. As National Agriculture Day approaches, I want to take this time to remind the American public of the hardships our producers encountered last year, and to encourage America's farmers to face the coming season with hope.

Last year, thousands of farmers found themselves at the mercy of Mother Nature. Midwesterners faced endless days of unprecedented rainfall, while those in the Southeast suffered through one of the worst droughts of modern time. In my own State of South Carolina, more than 37,000 farmers suffered crop and livestock losses totaling more than $264 million. The drought of 1993 destroyed 95 percent of our corn crop, 40 percent of soybeans and cotton, and a quarter of the normal tobacco yield. As for livestock, more than 1.8 million turkeys and chickens, 3,100 hogs, and 860 head of cattle were lost. Thanks to the dedication of Secretary of Agriculture Mike Espy, we were able to work together to provide relief funds for South Carolina farmers, and many of them are recovering well and looking forward to a new year.

However, for many livestock producers in South Carolina, the effects of the drought are far from over. Last year, scorching temperatures destroyed almost the entire hay crop in our State, and farmers now are having to pay as much as four times the average market price for feed. To provide some relief, dairy farmer Tom Trantham and I have been working on Operation Haylift which will provide more than 4,000 bales of donated hay for needy farmers. I am hopeful that the free hay will be transported from Indiana to South Carolina in the next 2 weeks.

As we reflect on the troubled times of 1993, South Carolina farmers have much to offer, and much to look forward to as the first day of spring approaches. South Carolina remains a versatile farming State and leads our country in the production of several crops. For example, we rank 2d in the Nation for peach production, 2d in flue-cured tobacco, 3d in tomatoes, 8th in sweet potatoes, 10th in turkeys, and 15th in broilers. Certainly, such numbers are something for which all South Carolinians can be proud.

These figures give us hope that Mother Nature will be kind to America's farmers during 1994, and will provide them with a healthy, bountiful season. Mr. President, I thank our farmers for their hard work and dedication, and remind all Americans that every day is a good day to recognize the contributions of the American farmer.

BUDGET SCOREKEEPING REPORT

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

This report shows the effects of congressional action on the budget through March 11, 1994. The estimates of budget authority, outlays, and revenues, which are consistent with the technical and economic assumptions of the concurrent resolution on the budget (H. Con. Res. 287), show that current level spending is below the budget resolution by $4.4 billion in budget authority and $0.7 billion in outlays. Current level is $0.1 billion above the revenue floor in 1994 and below by $30.3 billion over the 5 years, 1994–98. The current estimate of the deficit for purposes of calculating the maximum deficit amount is $312.1 billion, $0.7 billion below the maximum deficit amount for 1994 of $312.8 billion.

There has been no action that affects the current level of budget authority, outlays, or revenues since the last report, dated March 8, 1994.

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

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, DC, March 15, 1994.

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

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the 1994 budget and is current through March 11, 1994. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the Concurrent Resolution on the Budget (H. Con. Res. 64). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, dated March 7, 1994, there has been no action that affects the current level of budget authority, outlays, or revenues.

Sincerely,

JAMES L. BLUM
(For Robert D. Reischauer).

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, FISCAL YEAR 1994, 103D CONGRESS, 2D SESSION, AS OF CLOSE OF BUSINESS MARCH 11, 1994

[In billions of dollars]

	Budget resolution (H. Con. Res. 64)[1]	Current level[2]	Current level over/under resolution
ON-BUDGET			
Budget authority	1,223.2	1,218.9	−4.4

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, FISCAL YEAR 1994, 103D CONGRESS, 2D SESSION, AS OF CLOSE OF BUSINESS MARCH 11, 1994—Continued

[In billions of dollars]

	Budget resolution (H. Con. Res. 64)[1]	Current level[2]	Current level over/under resolution
Outlays	1,218.1	1,217.5	−0.7
Revenues:			
1994	905.3	905.4	0.1
1994–1998	5,153.1	5,122.8	−30.3
Maximum deficit amount	312.8	312.1	−0.7
Debt subject to limit	4,731.9	4,456.8	−275.1
OFF-BUDGET			
Social Security outlays:			
1994	274.8	274.8	(3)
1994–1998	1,486.5	1,486.5	(3)
Social Security revenues:			
1994	336.3	335.2	−1.1
1994–1998	1,872.0	1,871.4	−0.6

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

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

[3] Less than $50 million.

Note.—Detail may not add due to rounding.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 103D CONG., 2D SESS.—SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1994, AS OF CLOSE OF BUSINESS MAR. 11, 1994

[In millions of dollars]

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

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

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

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

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

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

HUMAN RIGHTS ABUSES IN NORTHERN IRELAND

Mr. FEINGOLD. Mr. President, I rise today—St. Patrick's Day—to call attention to human rights abuses in Northern Ireland. I became particularly aware of "the Troubles," as the conflict there is known, when I was a student at Oxford in the 1970's. The events in Northern Ireland greatly disturbed me then, as they do now, and I

never fathomed how long these events would restrict the lives and freedoms of the people of Northern Ireland.

Over 20 years and over 3,000 lives later, the violence continues. We must vigorously condemn the heinous crimes, the murdering and the maiming, the terror, and the torture inflicted upon innocent civilians by both Loyalist and Republican paramilitary organizations. I condemn the recent mortar attacks on Heathrow Airport in London and threats of further attacks there and on Gatwick Airport. These terrorist acts are despicable and cannot be rewarded in any way. Yet, as Britain seeks to control and punish such acts of terror, it cannot abuse the rights of innocents.

So, today, I want to speak not about these patently offensive acts but against other insidious activites. Today, I want to speak about the human rights abuses and civil liberties violations committed by the British Government against Irish Catholics in Northern Ireland.

This is a difficult subject for Americans. Great Britain is a good friend and ally of the United States. But I strongly believe our special relationship with Britain cannot allow us to turn a blind eye to violations of fundamental, basic human rights, no matter where they occur. The offenses of which I speak were outlined by Amnesty International in its 1994 report on political killings in Northern Ireland, and in the State Department's 1993 Report on Human Rights Practices in the United Kingdom.

According to these reports, human rights abuses taking place in Northern Ireland include: searches and arrests without warrants; detention and interrogation of criminal suspects without access to legal representation; and the inference of guilt in criminal trials based solely on the silence of the accused.

There have also been allegations of mistreatment of criminal suspects, including physical and mental abuse, and the use of confessions obtained through these methods.

Mr. President, some of these practices are brought to light in the film "In the Name of the Father," which was, for the most part, an actual account of a casualty of "the Troubles." Although this film tells the story of one man, in truth it tells the story of many, for some of the practices dramatized in the film continue to this very day, as is indicated in the report of our State Department.

The wrongful arrest, conviction, and imprisonment of the Guildford Four was not an isolated incident. The Winchester 3 and the Birmingham 6 can tell you that much. Miscarriages of justice continue for the Irish Catholics of Northern Ireland and will do so until the British Government attempts to mend serious flaws in its legal system.

While I find these practices abhorrent, even more serious in my mind are allegations of collusion in political killings between members of the British Government's security forces and armed paramilitary groups such as the Ulster Defense Association and the Ulster Volunteer Force.

According to Amnesty International, "Allegations of collusion range from direct involvement of security force personnel in Loyalist death squads, complicity by authorities in such killings, to aiding and abetting such actions through the passing on of intelligence information." Amnesty International points out that the victims are "almost always members of the minority Catholic community and often targeted solely because of their religion."

It is, indeed, hard to believe that this kind of activity is perpetuated by a country whose political traditions inspired some of our legal and democratic processes and institutions. While no system is without its flaws, including our own, I believe that at the very least it is the responsibility of a government to investigate and prosecute the individuals involved in these kinds of activities.

The United Kingdom is a cherished friend to our Nation, but the United States must also be a friend to the people of Northern Ireland who suffer as a consequence of existing policies. Our strong ties to the people of Great Britain—Catholic and Protestant and all other religions alike—compel us to urge the British Government to pursue the course of justice in these matters. I am encouraged by recent improvements in the situation in Northern Ireland and the apparent willingness of all parties to work to achieve peace. This process can only be strengthened and expedited by the restoration of human rights to the people of Northern Ireland.

Mr. President, America's first settlers fled Britain to escape the discrimination and persecution they faced because of their religion. Four hundred years later, the Catholics of Northern Ireland live under the shadow of this history. On this day when we celebrate the Irish in all Americans, I urge the British Government to return to these people their rightful liberties for the sake of decency and for the sake of peace.

LEGISLATION TO TERMINATE THE MILSTAR PROGRAM

Mr. CONRAD. Mr. President, I am pleased to join Senator BUMPERS in introducing legislation to terminate the Milstar Satellite Program. This bill would result in an estimated savings of $3.9 billion over 5 years.

The Milstar satellite is, quite frankly, an anachronism. Some have called it a dinosaur of the cold war. It was designed in the 1980's as a super-secret program to provide secure communications during a nuclear exchange. The satellite is built to survive a 6-month nuclear war.

Is this the kind of capability that we need? Clearly, the answer is no. Milstar has features for which we have absolutely no use in a post-cold-war world. Our satellites do not need to be hardened from a nuclear blast, nor do they need to perform complex maneuvers to avoid antisatellite weapons. Yet, Milstar has these capabilities, as well as others that add weight to the satellite and cost to the program.

Top defense officials have told me that Milstar is no longer needed. The General Accounting Office [GAO] and the Rand Corp. have studied Milstar and raised very serious concerns about continuing the program. They conclude that we can both save money and put a more capable system in place by terminating Milstar. Frankly, I haven't found too many people who are supportive of Milstar. This is a perfect example of a system that we can afford to do without.

How costly is Milstar, Mr. President? It is expensive, even by Department of Defense standards. We have already spent over $10 billion on the program, and the Department of Defense projects we will spend over $10 billion more. Each satellite alone costs $1 billion to construct. In addition, Milstar is so heavy that it can only be launched by our most powerful rocket, the $400 million Titan IV-Centaur. The Titan IV, by the way, is our least reliable launch vehicle. One blew up during a launch at Vandenberg Air Force Base just last year.

For all this tremendous expenditure, we will get a satellite that does not even meet the current needs of our military forces. Milstar has a low data transmission capacity designed to carry messages from the national command authority to our nuclear commanders. Today, our military needs a satellite system that links up conventional battlefield commanders and handles very high amounts of data. Milstar can't adequately meet this requirement.

According to program assessment, a more modern and more capable satellite can be designed and launched for significantly less than Milstar. Despite this fact, the military plans to build both Milstar and a follow-on system. I believe we would be better served to cut Milstar right now. We are working under severe budget pressures and straining to provide the funding necessary to keep our military trained and ready. There is no need to allocate valuable resources to a program that we simply cannot afford or justify.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt stood at $4,550,473,471,421.39 as of the close of business on Wednesday, March 16. Averaged out, every man, woman, and child in America owes a part of this massive debt, and that per capita share is $17,454.09.

HONORING GREGORY JAMES CARNEY

Mr. COATS. Mr. President, this week it was my pleasure to meet a remarkable young man from Indianapolis. Gregory James Carney came to Washington as part of the Boy Scouts of America's "Report to the Nation" program. Greg is a Cub Scout, a member of Pack 110, and was selected for this prestigious honor because of an act of exceptional heroism.

Last year, Greg was at his Indianapolis home with his sister when they encountered an intruder. As the intruder began to attack Greg, the young Scout fought back, striking the intruder and immobilizing him and thereby enabling Greg and his sister to escape. Mr. President, what makes this story most unusual is that Greg Carney was only 7 years old at the time.

For his bravery and coolheadedness, Greg earned Scouting's Medal of Merit. And for his defense of his sister and his home, I am pleased to commend Greg in the CONGRESSIONAL RECORD as a most courageous young man. He is a credit to Indiana and an example to young people throughout the Nation.

FIGHTING RACISM AT THE SOURCE

Mr. HATFIELD. Mr. President, for more than a year now, the world has watched the horror of ethnic cleansing continue daily in war-torn Bosnia. Despite the tragedy of these events, many in the United States have learned little about the consequences of racial and ethnic hatred. Indeed, we have seen hate crimes and bigotry persist in this country almost undaunted.

The remarks of Khalid Abdul Muhammad, a minister of Louis Farrakhan, at Howard University last month triggered an extended debate among columnists, editorial boards, and community leaders about free speech and racism. While it is easy to watch this battle be fought in the abstract on the printed page, we must also accept responsibility for fighting it in concrete terms. Spokespeople can fight this battle for us, but generals alone do not win wars.

None of us is a passive spectator in the war on racism and bigotry, we are all active participants. To borrow a military term, this is not a limited conflict, it is an expansive one which involves every person opposed to bigotry.

Martin Niemoller once wrote:

First the Nazis came for the Communists and I didn't speak up because I wasn't a Communist. Then they came for the Jews and I didn't speak up because I wasn't a Jew. Then they came for the trade unionists and I didn't speak up because I wasn't a trade unionist. And when they came for the Catholics, I didn't speak up because I was a Protestant. Then they came for me. And by that time there was no one left to speak up for anyone.

Franklyn Jenifer, the president of Howard University, concurs. In a recent essay on this subject he asserted: "History has taught us that when people fail to speak out on issues of oppression, abuse, and hatred, they, in effect, acquiesce and condone these evils. Thus 'neutrality' becomes 'complicity'" which does not come without its consequences.

I ask unanimous consent that Mr. Jenifer's thoughtful essay be made a part of the RECORD following these remarks.

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

DECRYING ANTI-SEMITISM

(By Franklyn G. Jenifer)

As we move toward a more global community, one barrier that remains is the legacy of prejudice and discrimination.

A great philosopher once said that the natural state of man is conflict. That conflict has been fueled by racism, xenophobia, chauvinism and ethnocentrism, as we see so poignantly today both at home and abroad.

Through the ages, many viliant efforts have been waged to ameliorate these destructive forces. In fact, my institution, Howard University, was created 127 years ago as a means to combat racism, and we remain committed to that noble fight today.

Recent events in this nation and on our campus have shown us that bias does not just come in one flavor. It is my belief and the overwhelming belief of others in the Howard community, that all forms of ethnic bias, especially antisemitism, violate the principles on which our institution was founded. Those of us who are committed to social justice do not have the luxury of responding to prejudice just when it is directed at our own group. We must respond to this issue wherever it emerges and whatever the cost.

One of the strengths of America is that it has always attracted people from diverse cultures and backgrounds. However, one cannot and should not step on another to promote one's own agenda. To get ahead on the back of someone else is not getting ahead. It is callous exploitation, pure and simple.

History has taught us that when people fail to speak out on issues of oppression, abuse and hatred they, in effect, acquiesce and condone these evils. Thus "neutrality" becomes "complicity." Moreover, we must recognize that a socio-political climate in which it is acceptable for any one group to be vilified is a climate in which all other groups are vulnerable as well.

At the same time, we must remember that the right of free speech is inviolate, no matter how outrageous or offensive the message. Howard University, and indeed all Americans, should uphold and protect the principle of freedom of speech and thought. The nation's universities must remain places where all views and perspectives can be aired, even those we find abhorrent. Though this right is sometimes abused, it is so critical in the history of our nation and the struggle of our people that it must be protected, especially when it is not popular to do so.

While upholding the First Amendment rights of those with outrageous or offensive views, we must recognize the responsibility to challenge these views. In doing so, we must be wary of providing the individuals who espouse them with more exposure than they would have had otherwise. It is a time-worn propaganda technique to say something outrageous just to be provocative. These individuals use the outrageous to bait us. We should not jump for the bait.

One of the most disturbing aspects of this phenomenon of outrageous speech is that a small number of students on our campuses tend to be cavalier and even nonchalant about the implications and impact of these provocative utterances. Perhaps, reflecting popular culture, they buy the idea that the more outrageous the statement the more entertaining it is.

Two of the primary missions of our academic institutions are to teach critical thinking and to teach humanistic values. The present controversies demonstrate how important it is for university administrators and faculty to recommit themselves to these missions—for the good of our institutions and for the future of our country.

James Chaney, Andrew Goodman and Michael Schwerner—an African American and two Jewish Americans—paid the ultimate sacrifice almost 30 years ago in the struggle against bigotry and oppression. In their memory and in the memory of all those other valiant foot soldiers in that struggle, we can do no less than to decry the seeds of antisemitism that some would plant on the nation's campuses.

CARING FOR THE VETERANS OF THE PERSIAN GULF WAR

Mr. NUNN. Mr. President, Operation Desert Storm/Desert Shield in the Persian Gulf ended over 3 years ago, but many of the military men and women who served in that conflict are still suffering from the consequences of their service.

One of the diseases that military doctors have successfully diagnosed in a small number of Persian Gulf veterans is a parasitic disease called leishmaniasis. This disease can be contracted through the bites of sand flies found in the desert of southwest Asia, and attacks the immune and nervous systems of its victims. In the January 31 edition of Army Times newspaper, author George Wilson had a column about the courageous struggle of Army Captain Marcus Nerone, who is battling leishmaniasis with the help of Army doctors at Walter Reed hospital. I ask unanimous consent that George Wilson's article be included in the RECORD at the conclusion of my remarks.

Unfortunately, leishmaniasis is not the only ailment affecting many of the men and women who served in the Persian Gulf conflict. Within a year after the end of the war, some veterans began suffering from a mystery illness, the symptoms of which include joint

pain, fatigue, headaches, decreased short term memory, rashes, painful burning muscles, and sleep disorders. While individually these symptoms are common to many illnesses, so far doctors have been unable to identify the cause of what has been termed Persian Gulf syndrome.

Mr. President, we must do everything possible to properly diagnose and treat the Persian Gulf syndrome. We must not let what George Wilson calls "bureaucratic insensitivity" get in the way of providing the medical care that the veterans of the Persian Gulf conflict need and deserve.

The Force Requirements and Personnel Subcommittee of the Armed Services Committee under the capable leadership of its chairman Senator SHELBY has been very aggressive in investigating the possible causes of the Persian Gulf syndrome and in insuring that the Defense Department medical establishment gives this problem the highest priority. In the course of his investigation, Senator SHELBY has traveled to Europe and to the Middle East to meet with our coalition allies to look at their experience in diagnosing and treating the medical problems of their veterans, and to enlist their help in combating this illusive disease.

Mr. President, I want to assure the Members of the Senate—and the men and women who served in the Persian Gulf and their families—that the Armed Services Committee remains totally committed to insuring that the medical needs of all of those who served in the Persian Gulf conflict are met.

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

[From the Army Times, Jan. 31, 1994]

CURING WHAT AILS HIM AND OTHER GULF WAR VETS

(By George C. Wilson)

High in the reaches of Walter Reed Army Medical Center, a brave and caring soldier is fighting for his life against an enemy that may have infiltrated the bodies of thousands of other veterans of Operation Desert Storm without their knowing it.

Army Capt. Marcus Nerone, a strapping 35-year-old who started his career in 1981 as a private first class and believes there is no more noble title than soldier, is infested with tiny parasites that were injected into his body when a sand fly on the Saudi Arabian desert bit him.

Nobody knows much about this parasitic disease called leishmaniasis. Doctors do know that anybody can get it if bitten by the sand flies found in Saudi Arabia, and that the poison ejected by the parasites can kill you by destroying your immune and nervous systems.

What doctors do not know is how many Desert Storm veterans have the disease, how to quickly detect the disease—which can take years to reveal itself—or how to kill the parasites and cure their victims.

Nerone fears that many service men and women who served in the Persian Gulf are battling against some of the same symptoms he had—inexplicable fatigue, stomach cramps, diarrhea, night sweats, sleeplessness, sores, numbness—without realizing the cause is progressive poisoning by tiny parasites.

He apparently got bitten by a fly while serving in the Saudi desert west of Jabal as an intelligence officer with the 197th Infantry Brigade out of Forth Benning, GA. The brigade, like so many other outfits, slept in foxholes and tents where they were constantly exposed to flies and rodents. Nerone does not remember getting bitten but said it could have happened almost any time or anywhere while he was in Saudi Arabia.

Back at Benning after the war, Nerone tried to ignore the fatigue and other symptoms and make good on his new job as commander of the headquarters infantry company at the base. But leishmaniasis—undetected by the hospital at Benning despite dozens of tests for cancer and other ailments—eventually overwhelmed him. Dr. William Yost at Benning consulted with Dr. Alan J. Magill, an infectious disease specialist at Walter Reed. Magill discovered the leishmaniasis after Nerone was admitted to Walter Reed.

When an Army friend urged me to join him in visiting Nerone at the hospital, I expected to see a sick, dispirited man lying in bed with tubes sticking out all over. Instead, I found a vigorous, 6-foot-4 soldier with a booming voice and laugh who considered himself a lucky man with an important mission—even though he knew full well that leishmaniasis might kill him.

"'How can you say you're lucky?' people ask me. Well, I'm getting great care. But for every guy like me, there could be hundreds out there—many no longer in the Army—just out there with no support. Sure, I want to get better. But if there's something I can do to help someone else, I'll do it."

Nerone has volunteered himself as a guinea pig to such an extent that the other day he asked a nurse, "When are they going to put the wheel in my room?" He has donated blood to the National Institutes of Health for study; consented to painful bone marrow extractions and, most risky, authorized the intravenous feeding of experimental chemicals into his veins for seven hours at a time.

Doctors believe he is the first person to be given the powerful toxin, amphotericin B, for leishmaniasis. The idea is to outpoison the parasites, killing them but not Nerone. The chemical leaves the patient feeling so terrible that the nickname for it is ampho-terrible.

"I already know of one NCO with the disease who is sitting home waiting to see if this works," said Nerone of the chemotherapy experiment. The empathetic captain—son of retired infantry Col. Si Nerone—said the Walter Reed environment has given him a new appreciation for life and made it impossible to feel sorry for himself.

"The other day I was downstairs getting an illegal cup of coffee when a woman with no legs wheeled in. It made me ask of myself, 'What are you complaining about?'"

Nerone said he has learned from his stay at Walter Reed how precious but transitory life is and that the military family is real, as evidenced by all the support he has received inside and outside the hospital.

As Nerone continued with his upbeat account of his struggle against an enemy he cannot see, I thought of all the Vietnam War veterans who had showed me their rashes and described other ailments they attributed to being exposed to Agent Orange. The vets told me how angry and dispirited they felt when Department of Veterans Affairs officials and doctors dismissed their complaints and accused them of being malingerers.

I wondered while at Nerone's bedside, and wonder still, whether military and political leaders will be as insensitive toward Persian Gulf diseases like leishmaniasis as they were toward Agent Orange. We do not need another long, disgraceful, hurtful bureaucratic tap dance like we had on Agent Orange.

I did not have to ask the Persian Gulf vet on the bed if he shared my fears about bureaucratic insensitivity, perhaps getting him in trouble with superiors since he is still on active duty. What Nerone is doing speaks louder than any words to his concern for other casualties of Desert Storm and to his commitment to help get them well. The bureaucrats, and the rest of us, can learn something from Capt. Marcus Nerone.

REENGINING OF AIR FORCE KC-135 TANKERS

Mr. GLENN. Mr. President, I rise today to comment on a subject that I have followed closely during my years of service with the Senate Armed Services Committee—the modernization of the KC-135 tanker fleet used by all of our services. Mr. President, the successes our American fighting men and women achieved during Operations Desert Shield and Desert Storm would not have been possible without the Air Force tanker fleet working around the clock in support of some of the most massive airlifts in this Nation's history. In that effort, it is important to note that 33 percent of the Desert Storm aerial refueling missions were flown by the Air Force Reserve.

Today, Mr. President, the Air Force, demonstrating their commitment to a total force doctrine, is in the process of transferring much of this vital aerial refueling mission to the Air Guard. I agree with this effort and would like to further support it by stressing that, while all of the active KC-135 units in the force structure are being reengined into the modern KC-135R configuration, the Reserve components still have over 140 aircraft in the older KC-135E configuration. With the continuing emphasis on the transfer of this mission to the Air Guard, it is imperative that we give the Reserve component the best equipment possible, both to increase their operational capability through greatly improved aircraft efficiency and by the avoidance of the additional maintenance challenges caused by the operation of different aircraft configurations.

Mr. President, the Air Force's own mobility master plan, issued last October by Gen. Ron Fogelman, commander of the Air Mobility Command, states the need for this continued modernization effort clearly. The plan points out that, while experts agree that the R-model KC-135 will continue to operate economically well into the next century, the E-model's economic service life is markedly different. The plan goes on to point out that the age of the engines on the E-models will likely

make upkeep very expensive. Additionally, Mr. President, the plan also agrees with my contention that R-model conversion will promote the commonality necessary for efficient airlift operations.

Finally the mobility master plan notes that R-model conversion is needed for the KC–135 to meet FAA noise reduction requirements, and also to provide the service life extensions required to modernize the E-models so that they can keep pace with the remainder of the KC–135 fleet. Collaterally, I note that during October the Defense Department issued its strategic mobility study, which, while classified, also supports the conversion of E-model KC–135's to the R-model.

In closing, Mr. President, let me point out that not only do the engines for the R-model deliver 25 percent more thrust, but they do so while offering an 18-percent fuel savings. This equates to heavier takeoff capacities and improved off-load ability which allows three R-models to deliver the same amount of fuel as four E-models.

Getting more out of existing equipment is exactly what we need to be doing to conserve defense dollars, Mr. President, and that's exactly what we accomplish by carrying the KC–135 reengining program through to completion.

NUCLEAR NONPROLIFERATION IN SOUTH ASIA

Mr. PRESSLER. Mr. President, I have long been a strong advocate of nonproliferation policy.

In 1985, Congress enacted the Pressler amendment that prohibits aid to Pakistan unless the President can make a yearly certification that the country does not possess a nuclear explosive device. As many of my colleagues know, the sanctions in that law took effect when the President was unable to make the certification in 1990.

Recently, the Pressler amendment has been challenged both by the administration and some in Congress. This is both unfortunate and difficult to understand. The Pressler amendment is the only effective nonproliferation law we currently have on the books. Proliferation of nuclear weapons is the single greatest security threat facing the United States today. As part of the ongoing debate, I ask unanimous consent to submit, for the RECORD, a piece I wrote recently for the New York Times.

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

[From the New York Times, Mar. 5, 1994]

WE NEED AID LEVERAGE TO SLOW NUCLEAR RACE

TO THE EDITOR: I cannot agree with Representative Lee Hamilton's conclusions in "Bomb Scares" (Op-Ed, Feb. 22), concerning the Pressler Amendment.

Since 1985, Pakistan has been ineligible to purchase United States arms or receive most aid unless the President annually certifies that Pakistan does not possess a nuclear explosive device. In 1991, President Bush could not do so. As a result, for three years, some $600 million in annual American aid to Pakistan has been cut off.

Representative Hamilton and some in the Administration propose that Congress repeal the Pressler Amendment or authorize the president to waive it. The Administration has offered assurances that it would not allow arms sales to Pakistan while it possesses a nuclear device, but the presumption is that a waiver, once granted, would be exercised.

After extensive talks with leaders of Korea, India, Pakistan and the International Atomic Energy Agency, I am convinced we should keep the Pressler Amendment unchanged. President Clinton has stated that proliferation of weapons of mass destruction is the most critical national security issue facing the United States today. To repeal the Pressler Amendment would contradict the President's assessment.

Providing delivery resources to a country in South Asia we know possesses nuclear weapons would be disastrous. It would lead to an escalation of the nuclear arms race.

North Korea, other rogue states and countries on the threshold of acquiring nuclear weapons are looking closely to see whether or not we mean what we say. Backing away from the Pressler Amendment would suggest there is no penalty in the decision to go nuclear. In May 1979, President Carter imposed aid sanctions on Pakistan because of its nuclear program. Seven months later he removed those sanctions.

Pakistan assumed from our inconsistent policy that the United States was not serious on nuclear nonproliferation. It moved ahead with its program. Repeal the Pressler Amendment and other nations will follow.

Some specialists say that, but for the threat of United States aid termination, Egypt and other countries might now possess nuclear weapons.

Other members of Congress and I are prepared to fight efforts to overturn the Pressler Amendment. Congress should not weaken the toughest nuclear sanctions legislation ever enacted.

LARRY PRESSLER,
U.S. Senator from South Dakota.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. CAMPBELL). Under the previous order, morning business is closed.

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 resumed consideration of the bill.

Pending:

Riegle-D'Amato amendment No. 1525, to provide for fair trade in financial services.

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

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. 1525

Mr. RIEGLE. Mr. President, we are continuing now on the bill from the Banking Committee that we brought to the floor yesterday. Several of us had to be at Senate Budget Committee this morning for a sequence of votes beginning shortly after 10 a.m., which we have now completed. Other votes will occur later in the day in the Budget Committee. But that has required us to start a little later on the floor this morning than we otherwise had intended.

Pending before the Senate now is an amendment dealing with fair trade and financial services. This is an amendment that was a bill recently reported favorably out of the Senate Banking Committee. Our bill on fair trade and financial services now has passed the Senate three previous times. The amendment we are considering this morning was introduced on October 7 of last year on a bipartisan basis by a majority of the members of the Senate Banking Committee. It is designed to give U.S. negotiators new leverage to obtain the same quality of competitive opportunity for financial firms in the United States operating in foreign markets that we extend to foreign firms operating here in our own U.S. market.

On October 26 of last year, the committee held a hearing in which this bill I am now referring to, and which is now pending in amendment form, received united Clinton administration support, as well as support from the financial services industry. And then on February 10 of this year, the committee reported this bill out favorably by a vote of 17 to 2, which shows the strong bipartisan support that it enjoys.

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 and financial services, to publish in the Federal Register a determination that a given country is discriminating against U.S. financial institutions.

Following any such publication the Treasury Secretary may, after con-

sultation 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 discriminating country. Such denials would only affect opportunities for future expansion in the U.S. market and would not force foreign financial firms to have to actually shrink their existing operations here in the United States. So it would be a prohibition against future growth, but it would not shut down their existing operations.

So the bill, I think, is fair and balanced in that respect. It is designed to give our U.S. negotiators new leverage to force open foreign financial markets that are now closed to our firms when the firms from that very country have open access here in the United States.

President Clinton has spoken out on this issue forcefully, and I appreciate the fact that he has given new leadership to this question of fighting for fairness in the international markets with respect to those people from the United States who provide financial services.

On January 26 of this year, Senator D'AMATO and I received a joint letter from Secretary Bentsen and Trade Ambassador Kantor urging swift enactment of the Fair Trade and Financial Services Act because, they wrote, it is "an essential component of our strategy" to open foreign financial markets to U.S. institutions. The legislation is critical to the success of United States negotiators in both the ongoing negotiations under the auspices of the General Agreement on Tariffs and Trade, as well as the stalled United States-Japan Framework for New Economic Partnership discussions.

Under GATT, financial services are included within the General Agreement on Trade in Services, 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 far less than the United States had hoped for. The United States has, therefore, taken the most-favored-nation trade 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 outlined above.

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, and I want to read one key paragraph:

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.

Of course, I should add that means U.S. jobs. We are talking here about strengthening the U.S. economy, broadening our own job base, being able to compete fairly in foreign markets where we are now being blocked out.

So I urge my colleagues to heed this strong call for swift enactment of this legislation now incorporated in the pending amendment.

Mr. President, I ask unanimous consent that the letter that I just quoted from be printed in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. RIEGLE. Finally, the fair trade in financial services is absolutely critical to be accomplished at this time. We have been at this now for years. The negotiations that I have just cited illustrate the fact that we are not going to get the progress we need until we have this in place as a constructive lever to force open arbitrarily closed foreign markets.

So the time to do this is now. It is good for America. It is good for our economy. It will help our financial services sector as they fight for competitive equity in these foreign settings. And this is an opportunity for us to accomplish a piece of work that will well serve the American people.

EXHIBIT 1

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 trade and contribute to the prosperity of American industry and workers 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 able 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.

Mr. RIEGLE. Mr. President, I see no one else seeking recognition at this time. So 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. ROTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

The Senator from Delaware is recognized.

Mr. ROTH. Mr. President, I send an amendment to the desk——

The PRESIDING OFFICER. The Chair will inform the Senator from Delaware that there is a pending amendment, the Riegle-D'Amato amendment.

Mr. ROTH. I ask unanimous consent that we lay aside that particular amendment.

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

Mr. ROTH. I am sorry, I am sending this amendment as an amendment to the Riegle amendment.

Mr. KERRY. Mr. President, reserving the right to object, and I do not intend to necessarily.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. It is my understanding that under a unanimous consent agreement, the Senator from Texas was to bring an amendment; is that correct?

The PRESIDING OFFICER. That was the order.

Mr. KERRY. So now we would proceed to the amendment of the Senator from Delaware instead. I ask unanimous consent that I be permitted to proceed to an amendment following the Senator from Delaware.

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

Mr. KERRY. I thank the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

AMENDMENT NO. 1533 TO AMENDMENT NO. 1525

Mr. ROTH. Mr. President, I send an amendment in the second degree to the desk.

The PRESIDING OFFICER. The clerk will report the amendment by number.

The bill clerk read as follows:

The Senator from Delaware [Mr. ROTH] proposes an amendment numbered 1533 to amendment No. 1525.

Mr. ROTH. 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:

After section 403 of the Reigle amendment insert the following new section:

SEC. 404. EFFECTUATING THE PRINCIPLE OF NATIONAL TREATMENT FOR INSURERS AND REINSURERS.

(a) PURPOSE.—The purpose of this section is to encourage foreign countries to accord national treatment to United States insurers and reinsurers that operate or seek to operate in those countries.

(b) IDENTIFYING COUNTRIES THAT DENY NATIONAL TREATMENT TO UNITED STATES INSURERS OR REINSURERS.—The President or the President's designee shall identify whether and to what extent foreign countries deny national treatment to United States insurers or reinsurers—

(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 President deems appropriate.

(c) DETERMINING WHETHER DENIAL OF NATIONAL TREATMENT HAS SIGNIFICANT ADVERSE EFFECT.—

(1) IN GENERAL.—The President shall determine whether the denial of national treatment to United States insurers or reinsurers 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 insurers or reinsurers, and in determining the effect of any such denial on such insurers or reinsurers, the President 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 insurers or reinsurers operate or seek to operate in those markets;

(B) the extent to which United States insurers or reinsurers 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 insurers or reinsurers 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 effects of the regulatory policies of the foreign country on—

(i) the licensing policies of the insurance regulator of that country;

(ii) capital requirements applicable in that country;

(iii) restrictions on acquisitions or joint ventures and operations thereof by insurers or reinsurers in that country; and

(iv) restrictions on the operation and establishment of branches in that country.

(d) PUBLICATION OF DETERMINATION.—

(1) IN GENERAL.—If the President determines under subsection (c) that the denial of national treatment to United States insurers or reinsurers by a foreign country has a significant adverse effect on such organizations, the President—

(A) may, after initiating negotiations in accordance with subsection (f) publish that determination in the Federal Register;

(B) shall, not less frequently than annually, in consultation with any department or agency that the President deems appropriate, review each such determination to determine whether it should be rescinded; and

(C) shall inform State insurance commissioners of the publication of that determination.

(2) EXCEPTION FOR COUNTRIES THAT ARE PARTIES TO CERTAIN AGREEMENTS GOVERNING FINANCIAL SERVICES.—Paragrah (1) shall not apply to a foreign country to the extent that any authority under that paragraph would permit action to be taken that would be inconsistent with a bilateral or multilateral agreement including any dispute resolution procedures contained in such agreement that governs financial services, including insurance, 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) ACTIONS BY THE PRESIDENT.—

(A) IN GENERAL.—The President may recommend to the state insurance commissioners that they deny a foreign insurer's or reinsurer's request for authorization which is 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 President determines that—

(i) such action would assist the United States in negotiations to eliminate discrimination against United States insurers or reinsurers;

(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.—If the President delegates his authority under Sec. 4(b), the designee's authority under subparagraph (A) shall be exercised according to the specific direction (if any) of the President.

(C) COMPLIANCE EXCEPTIONS.—If the state insurance commissioners do not act within 90 days on the President's recommendations in subsection (A), or if the President determines that the procedure outlined in subsection (A) is either inappropriate or impractical to achieve the purpose of this section, the President may take such action as he or she considers necessary and appropriate to encourage foreign countries to accord national treatment to United States insurers and reinsurers that operate or seek to operate in those countries.

(2) STANDARDS FOR EXERCISE OF DISCRETION.—In exercising any discretion under subsection (e), the President shall consider, with respect to an insurer or reinsurer, branch, or other affiliated entity that is a person of a foreign country and is operating in the United States—

(A) the extent to which the foreign country is progressing toward according national treatment to United States insurers or reinsurers; and

(B) whether the foreign country permits United States insurers or reinsurers to expand their activities in that country, even if that country determined that the United States did not accord national treatment to the insurers or reinsurers of that country.

(f) NEGOTIATIONS.—

(1) IN GENERAL.—The President—

(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 insurers or reinsurers to ensure that the foreign country accords national treatment to such insurers or reinsurers.

(2) EXCEPTIONS.—Paragraphs (1) does not require the President to initiate negotiations with a foreign country if the President—

(A) determines that the negotiations—

(i) would be so unlikely to result in progress toward according national treatment to United States insurers and reinsurers 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 appropriate Senate and House committees.

(g) REPORT.—

(1) CONTENTS OF REPORT.—Not later than December 1, 1994, and biennially thereafter, the President 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 President 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.

(h) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) INSURER.—The term "insurer" means a party to a contract of insurance who assumes the risk and undertakes to indemnify the insured, or pay a certain sum on the happening of a specified contingency.

(2) NATIONAL TREATMENT.—A foreign country accords "national treatment" to United States insurers and reinsurers if it offers them the same competitive opportunities (including effective market access) as are available to its domestic insurers or reinsurers.

(3) 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).

(4) PRESIDENT.—The term "President" means the President of the United States or the President's designee.

(5) REINSURER.—The term "reinsurer" means an insurer which contracts to indemnify a ceding insurer for all or part of a risk originally undertaken by the ceding insurer.

(6) REQUEST FOR AUTHORIZATION.—The term "request for authorization" means—

(A) an application, registration, notice, or other request to commence engaging in the business of insurance in a state; or

(B) an application, registration, notice, or other request for renewal of authorization to engage in the business of insurance in a state.

Mr. ROTH. Mr. President, I rise to offer an amendment to the fair trade in financial services legislation to include one vital component of our financial services sector that is currently not covered under the legislation—insurance.

On two previous occasions the Senate has passed fair trade in financial services legislation and it is now being offered again to the bill now before us—S. 1275—by our distinguished chairman of the Banking Committee.

This important legislation would give the Secretary of the Treasury the authority to negotiate and, if necessary, recommend retaliation against countries which deny our banks and securities organizations access to foreign markets.

The Banking Committee has long believed that this kind of market access and market penetration is critical to these financial services companies' efforts to increase exports in this sector. The House has refused to accept this legislation and the Reagan and Bush administrations opposed it until just before the end of the Bush Presidency.

In contrast, this legislation is strongly endorsed by the Clinton administration.

This legislation has become a key element in the Uruguay round agreement to continue negotiations in financial services beyond the December 15, 1993 concluding date.

These negotiations, which are considered to be at the core of the attempt by the world's trading nations to bring for the first time services under GATT rules, include insurance as well as banking and securities. Unfortunately, S. 1527, as reported by the Banking Committee, does not cover insurance. My amendment would add this vital sector to the legislation. I believe it is critical that insurance be on an equal basis in these negotiations with the banking and securities.

I would like to elaborate briefly on some of the reasons why I am offering this amendment.

The first is that the continued Uruguay round negotiations include insurance but American negotiators' effort to obtain market opening concessions in insurance will not be viewed as credible unless the fair trade in financial services bill covers insurance as well as banking and securities. Lack of coverage for insurance will send the wrong message at the wrong time.

A second important reason for this amendment is that insurance was one of the few sectors involved in the failed framework talks with Japan and the absence of insurance in the fair trade in services bill will be taken as another bad signal that the American Government has given up on attempting to open the Japanese insurance market.

The Japanese insurance market is the second largest in the world after the United States, with a premium volume of $308 billion. After almost 50 years, the foreign share of the Japanese market is only 2.9 percent. This contrasts with foreign penetration in the United States which is almost 10 percent. The breakdown in the framework talks makes the inclusion of insurance in this legislation all the more critical.

A final point in support of this amendment is that the insurance industry is one of the most significant service industries in the world. Worldwide insurance premium income today is approximately $1.4 trillion. The insurance sector is critical to the U.S. economy and its expansion into other markets is essential to the growth of jobs and expansion here at home.

Mr. President, the insurance industry simply seeks equity with its sister financial services. The amendment I have offered mirrors the banking and securities provisions in S. 1527 with one major exception.

Unlike those provisions under which a federal regulator could take retaliatory action against a foreign bank or securities firm, since insurance is regulate at the State level, my amendment provides only that the President or his designee, which I assume would be the U.S. Trade Representative, may recommend to the State insurance commissioners that they deny a foreign insurers' request for authorization.

The State commissioners may ignore the request or respond to it. In either event, there is no attempt to affect in anyway the exclusive right of the State to regulate insurance.

Mr. President, this amendment is supported by the insurance companies which either are or desire to do business in foreign markets and the trade associations representing those companies. Included are the American International Group [AIG], the Chubb Co., the American Insurance Association representing over 250 large property and casualty insurers, the Council of Insurance Agents and Brokers, and the National Association of Insurance Brokers.

For all of the reasons mentioned above, it is absolutely critical that we include insurance as part of the fair trade in financial services legislation, and I urge the support of my colleagues for this amendment.

I yield the floor.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I ask unanimous consent that I be added as a cosponsor to the amendment of the Senator from Delaware.

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

Mr. D'AMATO. Mr. President, I commend the Senator from Delaware. I think it is absolutely an excellent amendment. This is an important financial industry. It employs hundreds of thousands of people. It is important in the capital markets. It is important they be permitted to compete abroad, and I think that this will have an effect of sending a very clear message that we are serious about seeing to it that free trade is fair; that financial services, and certainly the insurance industry is one of those, is an area that we are not going to permit to be abused, abused by those who would compete freely in our marketplace and yet deny us the same access.

So I commend the Senator from Delaware for this thoughtful legislation.

Mr. RIEGLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Mr. President, I, too, want to join the Senator from New York in commending the Senator from Delaware for offering this amendment. I think this strengthens fair trade in financial services and should include insurance. We have a number of very fine American companies that should be able to compete abroad that are now being prevented from doing so by arbitrary barriers to their entry.

This is an important addition to our amendment and it is one I support. It

now has been offered and at the desk as an amendment to our fair trade in financial services.

If no one wishes to speak on it, I urge the adoption of the amendment.

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

The amendment (No. 1533) was agreed to.

Mr. RIEGLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. RIEGLE. Mr. President, I have three other amendments, technical in nature, that have been cleared on both sides. I would like to just move through those at this time.

I ask unanimous consent to proceed to these three. I know Senator KERRY is locked in with his request to go next. These will only take 2 or 3 minutes. I would like to do that and still preserve his rights.

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

Mr. RIEGLE. Mr. President, I am offering a technical amendment on behalf of Senator DODD, Senator NUNN, and Senator COVERDELL to a previously agreed to amendment No. 1527, offered yesterday by Senator DODD. This is technical in nature and has been cleared on both sides. Let me send it to the desk and ask it be reported.

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 (Mr. AKAKA). Without objection, it is so ordered.

Mr. RIEGLE. Mr. President, let me now ask unanimous consent that the amendment I have just sent to the desk also momentarily be set aside so that I might offer a replacement amendment for the moment.

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

Mr. RIEGLE. Now, we have been working on this fair trade and financial services issue. We had a disagreement with Senator GRAMM of Texas. That has now been resolved. We have a modification that we want to make to our package which will enable us to incorporate his suggestion and thereby be able to move this matter at this time.

So let me yield to Senator D'AMATO so that he might present it to the Senate.

AMENDMENT NO. 1534

Mr. D'AMATO. Mr. President, I send an amendment to the desk on behalf of Senator GRAMM from Texas and ask for its immediate consideration as an amendment to the fair trade provisions.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from New York [Mr. D'AMATO], for Mr. GRAMM, proposes an amendment numbered 1534.

Mr. D'AMATO. 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:

Beginning on page 5, line 17 of the amendment, strike all after "SERVICES." through page 6, line 2, and insert in lieu thereof the following: "—Paragraph (1) shall not apply to a foreign country to the extent that any authority under that paragraph would permit action to be taken that would be inconsistent with a bilateral or multilateral agreement (including any dispute resolution procedures contained in such agreement) that governs financial services that—

(A) the President entered into with that country; and

(B) the Senate and House of Representatives approved; before the date of enactment of this section.".

Beginning on page 16, line 23, strike all after "SERVICES." through page 17, line 7, and insert in lieu thereof the following: "—Paragraph (2) shall not apply to a foreign country to the extent that any authority under that paragraph would permit action to be taken that would be inconsistent with a bilateral or multilateral agreement (including any dispute resolution procedures contained in such agreement) that governs financial services that—

(A) the President entered into with that country; and

(B) the Senate and House of Representatives approved; before the date of this section.".

Mr. D'AMATO. Mr. President, this amendment deals with Canada, Mexico, and Israel. What the amendment says in essence is that notwithstanding our attempt to see to it that the financial interests of our country are protected as it relates to the financial services area, this amendment will preclude and does not include Canada, Israel, or Mexico, and that it does not in any way disrupt those treaties that we have with these countries; that since those treaties do have their own enforcement and bilateral agreements with us, we want to make it clear that this effort in no way affects Canada, Israel, or Mexico.

Mr. RIEGLE. Mr. President, I appreciate the effort that has been made on both sides to resolve this issue in a proper manner. It has now been done.

The amendment is at the desk and I now urge its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, without objection, the amendment is agreed to.

So the amendment (No. 1534) was agreed to.

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

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1527, AS MODIFIED

Mr. RIEGLE. Mr. President, having settled the fair trade and financial services issue, let me now move back to the matter which I had proposed just before that, and let me restate my request.

I ask unanimous consent that amendment No. 1527 be modified with the language that I have now sent to the desk.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The amendment will be so modified.

So the amendment (No. 1527), as modified, was agreed to, as follows:

Strikes SEC. 334. (d)(3) COMMENCEMENT OF ISSUANCE and SEC. 334. (d)(4) SUNSET PROVISION and replace with:

SEC. 334. (d)(3) PERIOD FOR ISSUANCE.—The Secretary shall issue coins minted under this Act during the period beginning on January 15, 1995, and ending on December 31, 1995.

Mr. D'AMATO. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1535 TO AMENDMENT NO. 1525

Mr. RIEGLE. Mr. President, on behalf of Senator MACK, on page 31, line 7 of amendment No. 1525, we wish to add the following as a new section, section 405, the heading of which is "Federal Reserve Report on the Foreign Bank Supervision Enhancement Act of 1991."

I will not read the remaining text, but instead send it to the desk and ask that it be stated at this time.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. RIEGLE], for Mr. MACK, proposes an amendment numbered 1535 to amendment No. 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 amendment is as follows:

On page 31, line 7, of amendment No. 1525 add the following as a new Section 405:

SEC. 405. FEDERAL RESERVE REPORT ON THE FOREIGN BANK SUPERVISION ENHANCEMENT ACT OF 1991.

The Federal Reserve shall submit to the House and Senate Banking Committees within 60 days of enactment of this legislation a report on the Foreign Bank Supervision Enhancement Act of 1991 including:

(a) the number of applicants received and from what countries;

(b) the number of applications approved and from what countries;

(c) the amount of time taken on each application between receipt and approval or rejection of the application;

(d) other agencies involved in the approval process, how much time is taken by those

agencies, and any problems encountered with these agencies;

(e) coordination of processing applications and length of time for processing between the regional bank's and the Federal Reserve Board's staffs;

(f) efforts to define consolidated home country supervision on an international basis, and;

(g) suggestions for streamlining the process.

Mr. RIEGLE. Mr. President, this has been cleared on both sides. I now urge its adoption.

The PRESIDING OFFICER. Is there further debate on this amendment? If not, without objection, the amendment is agreed to.

So the amendment (No. 1535) was agreed to.

Mr. RIEGLE. I thank the Chair. Mr. President, I move to reconsider the vote.

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1536

(Purpose: To make a clarifying amendment relating to the Comptroller of the Currency and the Office of Thrift Supervision)

Mr. RIEGLE. Mr. President, I now offer the remaining amendment and will be sending that to the desk. Its purpose is to make a clarifying amendment relating to the Comptroller of the Currency and the Office of Thrift Supervision.

I am going to send it to the desk now, and before it is reported by the clerk I will just add this commentary.

I am offering this amendment, together with Senator D'AMATO, to supplement a previously agreed-to amendment clarifying the authority of the OCC and the OTS and giving them equivalent authority.

This amendment clarifies that the autonomy of the Director of the OTS and the Comptroller of the Currency extends to agency rulemaking proceedings and enforcement actions, a very important point.

Mr. D'AMATO. Mr. President, I am pleased to join in this effort. I wish to commend Senator RIEGLE for this amendment. We need this legislation regardless of who is in the White House, Republican or Democrat. Independent agencies must be protected, their integrity to do the job as they see fit, and that is what this legislation does.

So I commend Senator RIEGLE.

Mr. RIEGLE. I thank the Senator from New York. I now urge adoption of that amendment.

The PRESIDING OFFICER. Without objection, the pending amendment will be set aside and 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 1536.

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. . CLARIFICATION OF PROVISION RELATING TO ADMINISTRATIVE AUTONOMY.

Section 3(b)(3) of the Home Owners' Loan Act (12 U.S.C. 1462a) is amended by striking everything after "Director" and inserting in lieu thereof "(including agency rulemaking proceedings and enforcement actions) unless otherwise specifically provided by law.".

The PRESIDING OFFICER. Is there further debate? If not, without objection, the amendment is agreed to.

So the amendment (No. 1536) was agreed to.

Mr. RIEGLE. I thank the Chair. Mr. President, I move to reconsider the vote.

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, let me also say, if I may, if I can have the attention of the Senator from Texas, Mr. GRAMM, who is in the Chamber, I just want to indicate that I appreciate the cooperative effort with respect to resolving that last matter on fair trade and financial services. We just incorporated that amendment prior to the Senator's arrival in the Chamber.

But I appreciate the effort to work it out, and I think we have a package here that can help us a great deal with respect to opening up the game for American companies overseas.

I appreciate the cooperation of the Senator.

Mr. GRAMM. Mr. President, if the chairman will yield, I want to thank him for his cooperation. I think, basically, what I wanted to be sure of is in trying to open up markets for American financial companies that we did not in any way interfere with NAFTA. I think we have achieved that goal. I appreciate the chairman's help.

Mr. RIEGLE. I thank the Senator.

AMENDMENT NO. 1525

Let me now say to the Chair, I would like to move the adoption of amendment number 1525, which is the fair trade and financial services amendment.

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

The amendment (No. 1525), as amended, 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 thank everyone who has been involved in that. That is a very major hurdle, jump, and I think very much in the interest of our country.

Mr. President, I have now sent to the desk all technical amendments of which I am aware. So I know Senator KERRY has kindly deferred so that we could handle this matter prior to his bringing forward the issue that he now wants to present.

I thank him for his courtesy in doing so.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Massachusetts [Mr. KERRY].

Mr. KERRY. Mr. President, I thank the Chair, and I thank the distinguished manager of the bill. Also I thank the Senator from New York for his forbearance and for his counsel on this.

Mr. President, I am not yet about to send to the desk the amendment that I am contemplating in the hopes that a meeting that we have scheduled shortly with a couple of the principals dealing with this issue will bear fruit.

It is my hope that we will be able to reach some kind of accommodation. But I want to try to share with my colleagues a little bit of the background as to why I am considering an amendment at this moment, and what the stakes are for the Senate and for all of us as representatives of taxpayers.

The amendment that I am contemplating sending to the desk is an amendment with respect to flood insurance reform. As every Member knows, over the course of the last years we have seen increased amounts of damage being done by earthquakes, storms, flooding, hurricanes, and so forth.

In 1968, in recognition of the very large sums of money that the U.S. Government was paying on an annual basis to make up for bad choices people were making about where they would live, Congress created in 1968 the flood insurance program, the National Flood Insurance Program. This program was created with the view to trying to minimize the amount of damage that was being done to the flood plain areas and to homes in those areas.

Now we have reached a point where we are recognizing the number of studies that have been done—the Office of Technology Assessment, the National Academy of Sciences and others—and all of them have concluded, without any dissent, that we need to do a better job of mapping these hazards, of understanding the risks, and of making the flood insurance program sound. The fact is that we have only about a 19- or 20-percent compliance with this program of the millions of homes, some 11-plus million homes that are within what we call the flood plain. Only about 2.6 million actually carry flood insurance. They are all supposed to carry it. But enforcement has been nonexistent, and the result is that peo-

ple let their flood insurance lapse. They do not pay into the fund.

Very recently, the fund borrowed $100 million from the Treasury. We have paid out something like $4 billion of disaster assistance in the last years for flood-related damages. Nevertheless, we continue to ensure people in a way that makes it easier for them, attractive for them, to go build in a place where we know a disaster is going to take place. The result is not just the cost in terms of the loss to the flood program itself, which is self-sustaining for the moment.

Within the flood plain zones there are enough people still paying in that they have been able to cover the damage. I am not asserting that that is not happening. But what is happening is we are exposing ourselves to larger and larger numbers of homes which are increasing the overall liability of the U.S. Government, and there are costs that are not up-front costs of the loss of a home.

For instance, the insurance fund may pay for the actual structure that was lost. But the community has to pay for the clean up. The community has to pay for all of the incidental costs of infrastructure, telephones, sewer, roads, and all of the other things that go with that development. The community has to pay for the time of its public officials that are caught up dealing with these problems as a consequence. Ultimately, the taxpayers, broadly speaking, are at risk and paying.

The $100 million that is currently paying the deficiency of flood insurance for people living in areas where we know that there is going to be a disaster is being paid by people from the central part of Oklahoma, from western Massachusetts, from Nebraska, and a whole bunch of States that do not benefit or have nothing to do with it.

I am not going to go into all of the details of this flood insurance program. But I do want to point out a couple of things that I hope my colleagues will take note of as we think about this debate.

First of all, I would like to share with my colleagues what the National Taxpayers Union says in supporting my amendment. They say that:

The 250,000-member National Taxpayers Union strongly urges—

my colleagues—

to support this amendment which would stop the fiscally irresponsible practice of subsidizing development on land prone to flooding. The National Flood Insurance Program is now $100 million in debt. This debt could increase since the bulk of the program's policies, roughly 80 percent, insure development in areas prone to expensive losses from erosion, flooding, and storms, the Nation's coasts. In just the past 4 years, the flood insurance program last paid more than three-quarters of a billion dollars in claims from just 4 coastal storms: Hurricanes Hugo, Andrew, Iniki, and the December 1992 northeaster that hit the mid-Atlantic. It is folly to continue to subsidize new development in areas that have been hit and will be hit by destructive storms. We strongly support the rights of property owners to develop their own land. There is no right, however, to taxpayer subsidies for private development.

So what we are talking about here is whether or not we ought to engage in a broad encouragement, incentive, if you will, a subsidy, for people to be able to build in areas that create disasters.

Let me share with my colleagues what James Witt, the Director of FEMA, says about this.

He says:

I want to reiterate my strong support for the goals of Senate 1405. It furthers our goals—

skipping a couple of parts—

our goals to strengthen mitigation in disaster-prone areas while enforcing compliance. Both the Northridge earthquake and the Midwest floods have reinforced our shared concern that mitigation is underutilized throughout the country. The State and community mitigation assistance program and the mitigation insurance benefits will lower the number of structures vulnerable to flooding and reduce expenditures from the fund. In addition, it enables victims to overcome personal hardships by supporting efforts to elevate or relocate out of harm's way.

Director Witt goes on to say:

The increased lender compliance provisions will expand the number of structures protected by flood insurance. Fewer flood victims will turn to Government grants and low-interest loans for assistance through the insurance mechanism. They will pre-firm their own recovery.

Director Witt met with us the other day and reinforced a study called Managing Coastal Erosion. This is a study that was done by the National Academy of Sciences and the National Academy of Sciences says point blank:

FEMA has not identified erosion hazards zones in implementing the National Flood Insurance Program. An accurate delineation of coastlines subject to erosion is essential to effective erosion and flood loss reduction and to an actuarially sound program.

Mr. President, the reason I read that about erosion is that erosion is the one hangup right now, the one fundamental hangup. There are a couple of smaller ones, in preventing us from proceeding forward to perform the flood insurance program. We have reached a fundamental agreement on how we deal with compliance, with getting more people to take part in this program. And we have established a structure which will invite people—will require people, not invite—to escrow money through the home purchase plans. Wherever the Federal Government or Federal insured institution is involved, that will require their compliance.

The second component is what I just talked about with Director Witt—that is, the issue of mitigation. Mitigation, Mr. President, is the means by which we prevent these disasters from happening in the first place. We have learned a great deal about our ability to mitigate. For instance, we are currently engaged in many programs around the coasts of America in beach replenishment. We are currently engaged in programs to build jetties, or breakwaters, or other forms of preventing erosion damage or storm damage. We are engaged in a whole new set of standards for home building that resists the storm damage. Indeed, we know that those structures that have been built according to the standards, called post-firm standards, have far less damage as a consequence than those built before those standards were put in place.

So we have agreement, I believe, on the fundamentals of approaching the two significant issues: How do we make the fund more solvent? How are we more fiscally responsible, and how do we deal with the question of mitigation? How do we encourage people to undertake efforts to reduce the amount of damage they may be exposed to? But we are finding people who are resisting the notion that we ought to broadly examine precisely what the National Academy of Sciences has told us we should understand. It is called erosion.

Erosion is taking place on a constant basis. We know how to measure it. We have highly accurate means of measuring it. In fact, 15 States have already undertaken efforts to measure it and have standards with respect to erosion. But we are learning that erosion is not factored into the overall costs attendant to the flood insurance program. So, in effect, we are, all of us, subsidizing the damages that occur when people go and build in a place that they know is going to erode.

Mr. President, it seems to me the smallest amount of common sense that the Federal Government should not be going out and insuring people at an unaffordable private sector cost. We should not be insuring people to build somewhere that is not going to be there in 30 years. What is the public policy that says we want to insure a home in a place that we know we are going to have to pay the damage and it is going to disappear in 30 years? In the private sector, you could not possibly afford that kind of insurance. You simply could not afford it.

If the insurer looked at the risk of a particular spit of land disappearing, they would say: You are crazy. Do not build your home there. We are not going to insure that. It is going to cost you $10,000 a year to insure that for the next 20 years for the cost of the home you are building.

We in the Federal Government are willing to insure them by creating a pool of people within the flood zone, and we are willing to come in and say that the Federal Government is going to stand behind all of this liability. So we expose ourselves to increasing amounts of risk. The amount of risk we are now exposed to in the Federal Government is $250 billion. The fund is $100

million out of money; that is where we are. It is fiscally irresponsible. That is why the National Taxpayers' Union is supporting this effort to create a fiscally sensible approach to this.

Let me share with my colleagues an example of precisely what this means. Here are some photographs of some homes on a beach. They are all up on pylons. You can see these homes sitting nicely on their pylons, and they all have flood insurance. It is a great place to live for a while, until what is indicated in this other photograph happens. This white home right here is now this white home here on this photograph. That is the erosion that has taken place as a consequence of storms. We should not be allowing people to build in this kind of situation, with Federal flood insurance supporting it.

My bill does not do anything to take their insurance away. For anybody who has a home, you are grandfathered in. We do not even raise your rate. We are not even saying you cannot build. We are simply asking people to map the erosion areas, so people can know, and the Federal emergency assistance people can know, whether or not we ought to be engaged in promoting people living in these conditions. This is the example of what happens afterwards: People living out in the water. These are homes that we are covering. This is the same picture of the earlier shot, a before and after. This home here with a white roof is "before"—this is an example of homes on the beach—and this is "after." Here is the home with the white roof, and here are the homes out here.

This is an example of a clear situation where you run into this happening. There are not a lot of places like this. It is not something we ought to be frightened of doing. We ought to understand what the National Academy of Sciences has said, and I will read it one more time.

The National Academy says:

> FEMA has not identified erosion hazard zones. An accurate delineation of coastlines subject to erosion is essential to effective erosion and flood loss reduction and to an actuarially sound program.

Let me share with colleagues from the Office of Technology Assessment study on "Preparing for Uncertain Climate." This is the history of the program, and this is what the Office of Technology Assessment is telling us today:

> Congress made Federal flood insurance available in 1968 through the creation of the Flood Insurance Program. It was enacted to limit increased flood control and disaster relief, meet expenditures, and to provide a prefunded mechanism to more fully indemnify victims of flood-related disasters. It was also intended to limit unwise development in flood plains, while at the same time providing affordable Federal insurance for structures located there.

So we had two purposes. We wanted to prevent people from locating there, and we wanted to provide affordable insurance to people who were stuck there.

> Between 1978 and 1992, 430,000 flood insurance claims were made, and total payments, including claims from Hurricanes Hugo, Andrew, Iniki, have been nearly $4 billion.

We have paid out $4 billion, and all we are asking for in this bill is the right to spend $25 million to map erosion, so we can have true risk assessment in managing this program. We are not restricting anybody; we are not telling anybody you cannot build. We have not even restricted people at this point by saying: You cannot get the insurance. We are just saying: Map it so that you know what the risk is.

Here is what Technology Assessment says to us:

> The National Flood Insurance Program has been only partially successful. It has reduced somewhat the need for taxpayer-funded disaster assistance and has been a factor motivating local government mitigation efforts. Homes built in compliance with their regulations are 70 percent less likely to be damaged than those built before it.

So here we are knowing that a home built by the standards afterward is 70 percent less likely to be damaged. Yet for some reason we are unwilling to make a measurement of where that risk may exist so we can get more homes 70 percent less likely to be damaged so we do not have to come back to the U.S. Senate and ask for billions of dollars of bailout in the future.

This is a very important statement that the Office of Technology Assessment found—

> The program has also contributed to coastal development and has been criticized frequently for not adequately fostering prudent land use in hazardous areas.

That was one of the original goals of this program.

Mr. President, every scientific agency and all scientists who were involved in the study of erosion or the study of coastal management have agreed. There is not a dissenter. They agreed that we ought to proceed forward and have some means of understanding what the risk is from erosion.

The Office of Technology Assessment has told us that. The National Research Council/National Academy of Science have told us that. The Federal interagency floodplain management task force has told us that. The Natural Hazards Research and Applications Information Center has told us that. FEMA, the Federal Emergency Management Agency, has told us that. The Association of State Floodplain Managers tells us that.

Here are the experts, working on a regular basis to implement this program, saying to Congress, folks, if you want to save the taxpayers' money, if you want to act responsibly, then you have to begin the process of understanding what erosion is doing. If you do not, there is no way we can tell what the risk is. We cannot even arrive at actuarial rates that you are telling us we ought to charge.

So, we have a question here as to whether or not we can allow this process adequately to begin.

Mr. President, we have been working over the months—this has been 3 years in the working—and on several other occasions. The committee has held off from attaching this particular effort in an effort to try to work out the differences between us. But it is our sense that unless we can get some capacity to begin the process of mapping erosion, we are at loggerheads. Then we are going to have to ask colleagues in the Senate to help us decide whether this is indeed something that we ought to do as prudent fiscal managers of the Nation's financing, whether or not we should allow more disasters like the ones in the photographs I have showed, homes in North Carolina that just drop off a cliff. You can tell it is going to happen. We have them in Nantucket, MA. It is going to happen. You can see the cliff disappearing on an annual basis.

The question is whether we ought to be encouraging people to live in these kinds of conditions at the expense of taxpayers who are already hard enough pressed and who do not get to live on the beach to boot.

We are not changing any of the existing policies. I want to emphasize that. There are no existing policy changes. We grandfather in all existing homes. Nobody's rate is going to go up, according to this. We are just asking people to make the assessment, report back to Congress, and tell us whether or not this is something we ought to have in the future.

I think it is being prudent, and I think it is what we ought to do.

There is a lot more I can say and may say about this. I ask unanimous consent that whatever remarks I make on this at subsequent times be considered as one speech, not as separate speeches.

The PRESIDING OFFICER [Mrs. FEINSTEIN]. Without objection, it is so ordered.

Mr. KERRY. I thank the Chair.

Madam President, it is my hope to sit down with key colleagues on this and, hopefully, arrive at an agreement as to where we are going to proceed forward. This is an important measure.

We should not, I think, want to continue with a situation where we know that there is an enormous risk to the Federal Treasury. We are unwilling even to take the steps to try to measure it better. Every one of our weather agencies, whether it is NOAA or the National Weather Service, et cetera, are all telling us that over the course of the last 10 or 15 years we have lived through a very blessed period of reduced storms.

If you look at the 100-year norm, or the 50-year or 25-year norm, you will

see very significant storms like the 1992 northeaster or Hurricane Hugo, et cetera, that hit us regularly. We have actually seen a diminishment of that.

But for all of us who lived through one of the toughest winters in modern history, I think we ought to be warned that there is something changing in weather cycles. We saw very tough storms last year as the weather maps indicate, and they are an indication of the difference. You can see, in the last 18 years, 1970 to 1987, very few storms, very few black lines here. But from 1957 to 1969, a period of 13 years, there was an enormous number of storms coming into the east coast and to Texas, and so forth.

The far greater likelihood is that we are going to witness not a storm of the century once a century but we are going to have five or six storms of the century each year just as we did in the last couple of years.

The point is no private insurance company would sit there engaged in this behavior. They could not afford to because they would be asked to hold reserves in order to cover the difference. But we are sitting here with $250 billion of exposed property with erosion playing away, and the fund $100 million in debt.

It seems prudent, therefore, that while not penalizing anyone who lives where they live—they are there today, they got there for a whole lot of reasons—we do not want to penalize people and change land values. We do not want to do any injury, but we do want to try to look down the future and be fiscally responsible for whatever potential disasters may come down the road.

The fact is where you have beach mitigation the prices of homes go up, the appraisals go up. Where you have good conservation measures, you, in fact, raise the property values of a community and you, therefore, raise the assessments to the community, and so forth.

This is not just good environmental policy or something. This is good, sound fiscal policy with respect to a fund that is exposed to enormous damage.

Madam President, it is my hope that we can reach agreement.

AMENDMENT NO. 1541

(Purpose: To strengthen the National Flood Insurance Program and to reduce risk to the national flood insurance fund by increasing compliance, providing incentives for community floodplain management, providing for mitigation assistance, and for other purposes)

Mr. KERRY. Madam President, I am going to send this amendment to the desk at this point in time and ask that it be pending.

The PRESIDING OFFICER. The clerk will read the amendment.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KERRY] (for himself and Mr. DASCHLE, Mrs. MURRAY, Ms. MOSELEY-BRAUN, Mr. KOHL, and Mr. METZENBAUM) proposes an amendment numbered 1541.

Mr. KERRY. Madam 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. KERRY. Madam President, so the RECORD is very clear, I want to make certain that there is no ambiguity and I do not want to misrepresent any facts here in the course of this process.

A number of Senators and I have sat with FEMA over the course of the last days, and we have asked some good questions of FEMA to try to narrow down differences between us.

There clearly is an ability of areas that are in the floodplain now to provide enough cash today to support the current rate of damage that is being done today in most of those areas.

The $100 million that the fund is underneath today comes primarily as a consequence of what has taken place in the Midwest. But because of the effective erosion over a long period of time, absent mitigation, you could look to a future where obviously some of that could change. I cannot tell you that absolutely. I can tell you it will change in many places. I cannot tell you where. I cannot tell you when. I cannot tell you how much. And yet we continue to have a program out there that, notwithstanding that lack of knowledge, encourages people or helps them and assists them to be able to make these choices.

No one can tell me, if the Federal Government is prepared to insure a home up to $185,000, that does not facilitate the community getting the bank involved, making the decision, and proceeding forward. Of course it does.

So it is my sense that we ought to try to guarantee that we at least understand it.

A good analogy is the following: if you are a smoker, smoking is taken into account by insurance companies. Now, if you are a smoker, you may smoke a pack a day, you may have just started last week, or something. Well, you are not going to drop dead tomorrow, probably, at least from smoking. But we all know that over a period of time the likelihood is greater that you will, and you will at some point, under certain odds, come up with some disease related to that smoking.

It is the same thing here. Erosion works over a period of time. Sure, you can have a home sitting there or a bunch of homes in an erosion zone that are OK today, and the fund may be OK today to support them within that context. But we are saying, if we do not adopt this, that we are unwilling to find out whether the fund is going to be OK in 5 years or 10 years. And more and more homes are coming under the fund and the exposure is getting greater and greater.

Just a kind of classic example of this process taking place is a cartoon that appeared in the National Review in February of this year. The sign says, "Welcome to Nevada," on the coastline.

See? * * * I told you if we hung onto this chicken ranch long enough, we'd be retiring to a nice spot on the ocean.

Now, that is an exaggeration, but I will tell you something: In places in my home State this is happening. I could take you tomorrow to a home that is now 20 yards from the cliff, when only a few years ago it was 50 yards from the cliff. That house is going to drop off the cliff. Everybody knows it.

And there are places in other parts of the country where that is also true. We should understand where those places are.

The National Academy of Sciences tells us, "Understand it." FEMA tells us we want to understand it. All of the responsible groups involved with this who make the studies tell us, "Understand it."

Madam President, I suggest we ought to understand it, or we cannot have a fiscally sound fund. It is hard to go back to people who live way, way from the coast and say, "Hey, you are paying for the privilege of these people to put their home there. You are paying for them to rebuild their roads every other year. You are paying for them to re-setup the sewers, to adjust all the damages. You are paying for them to move their homes, because we allowed them to get there in the first place."

And in a time when we are cutting education and cutting a lot of other plans, it is hard to explain to people why they ought to be paying for stupid development policies.

Now, if they are not stupid, the mapping will come back and tell us that. If they are not stupid, the mapping will come back and say, "Senator, you are a 'Chicken Little' crier. You are worried about something that is really a minimal problem. You should not be so worried about it. All of these scientists are wrong, and all of these academies and all of these groups we have set up to make a lifetime out of understanding this are somehow wrong. Let them do that."

But they will not, because the scientific underlying data is very clear as to what this process is doing, and it ought to be factored into a Federal program.

So, Madam President, my hope is that we are going to be able to get an agreement here. But I wanted to explain to colleagues what it is that is holding this up and why we are dealing with this now.

We have been at this for 3 years. We have known this fund is in jeopardy. We know there are serious problems with it; fifteen States have already mapped; fifteen States have already undertaken to put in place erosion policies. We have very strict ones in certain States; less so in others.

But the Federal disaster fund that is making it up to those States that do not participate or do not want to should not continue as some great gravy train from a Federal Government that has endless amounts of money to throw around for these kinds of things.

Director Witt has made it very clear: Mitigation makes a difference. If we can get people to participate in this program more, we will have more money in the flood insurance plan for mitigation grants, we will be able to do a better job of resisting, and ultimately we will not only be paying out less in the flood program itself, we will be paying out less in terms of the related disaster assistance and all the other losses that are caught up in it.

Madam President, I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

Mr. BOND. Madam President, I would say to my colleagues and my good friend from Massachusetts, I apologize for not having been here for the discussion. I was advised we were meeting in his office at noon to talk about the compromise, so we did not have a chance to hear all of the discussions that went on about the flood insurance program.

Let me say, and I believe I heard my friend from Massachusetts say, that we have been engaged in fruitful discussions about how we reform the flood insurance program, because the flood insurance program is vitally important in terms of those people who live and work in the flood-prone areas or the coastal areas which are subject to flooding and other devastation from water and wind.

I believe that there are three main problems:

No. 1, the fund does not have enough participants in it.

No. 2, because, when the fund was established in 1975, there was a grandfather clause to protect those structures which existed prior to the passage of the law in 1975. The premiums paid into the flood fund for those homes was not adequate to carry the risk that those homes incurred. Thus, the fund has been put into a difficult condition because of the structures in place prior to 1975.

The third problem is that there has not been enough focus on mitigation to assist communities and to assist home owners and owners of other structures to bring their structures up to standards which would resist the flood.

I have only in the last few months begun to work on this matter. I know our colleague from Massachusetts has taken a leadership role, for which I commend him.

We asked about a month ago for answers to some very difficult questions from the Federal Emergency Management Agency that is responsible for administering the fund. There is a great deal of confusion among ourselves, our staffs, and others as to what really is the significance of the condition of the flood insurance fund.

I understand that FEMA had complemented the answers last week. By the time I left to go back to Missouri on Friday, those answers were not available to us. I returned to Washington, DC, at 11 p.m. on Monday night and got a long list of answers. We started off at 9 o'clock the next morning meeting with the Director, James Lee Witt, in the office of the Senator from Massachusetts, and we made progress.

I really believe we are making progress towards meeting the needs that FEMA has identified. But we found that there were still major questions which had arisen as a result of their answers in the discussion.

At this point, we have—and I say "we" speaking primarily for my colleague from Florida, Mr. MACK, and myself, and with a number of other Senators who have been very much interested in it—suggested that we are getting closer to agreement. We found some of the problems with the flood insurance were actually not what we thought they were.

So we thought we were moving forward toward agreement. We had asked the Senator from Massachusetts not to offer this amendment because we believe we are close to achieving a workable compromise that could generate very significant support from at least the vast majority if not all Members of this body.

There are a number of comments which I overheard earlier in the discussions that I do not believe are accurate. Just let me set the stage so I can give my colleagues the framework in which we are operating.

The only problems, according to FEMA, that we have with the Flood Insurance Program are not, as has been suggested, the Midwest floods. It is the problem of the structures grandfathered in, called the pre-FIRM, prior to the 1975 enactment of the law. They are the ones that are causing the losses that are putting the fund in jeopardy. So we have proposed, and we are working towards a system, to use some of the funds from the flood to bring those structures up to flood standard so they will be less likely to be damaged. Any homes or structures that are damaged have to be repaired and brought up to code. In addition, we have urged there be a special loan fund for communities that want to take measures to protect against flooding because we think this can further reduce the loss to the fund and put it on an actuarially sound basis.

According to what I understand FEMA has said, those structures built after 1975, and on coastal areas after 1981, when tougher standards were enacted for coastal areas, have not been part of the problem. They are paying actuarially sound insurance premiums.

There is a question of cross-subsidization, because a home or a business or a structure right on the ocean front is much more apt to be damaged by waves and by erosion than, maybe, a store or home two or three or four blocks away. Thus, ocean-front structures are greater risks than those structures several blocks away. However, when you take the entire community, the rates paid by all of those structures in that community to the flood insurance fund are actuarially sufficient to cover the likely damage resulting to any or all of those structures in the floodplain.

So to the extent that there is cross-subsidization, it is cross-subsidization within the particular zone where different homes, maybe a block or two apart, or different structures, may have different levels of risk. There is not, as I understand the answers from FEMA, cross-subsidization from one section of the country to another.

What we need to do is come to agreement on a bill that will encourage more structure owners in the flood-prone areas to get insurance for their buildings, to provide assistance for mitigation in bringing up to flood-code standards those pre-FIRM structures now in place, and also to encourage communities to take flood protection or other protective measures to prevent against the dangers of erosion or flooding.

One of the proposals in the measure originally proposed by my friend from Massachusetts would set aside $25 million for mapping of erosion dangers. Some 13 or 15 States which are in danger of erosion have already undertaken erosion-mapping efforts. The flood insurance fund, because of the pre-FIRM structures, is now in significant difficulty, and they have had to take out a $100 million credit line to cover the damages because the pre-FIRM structures are not paying actuarially sound damages.

The problem comes with the fund in a deficit. I want to know and several of my colleagues want to know if there is going to be a benefit to the fund that would warrant the fund—and through the fund the people who are paying the

flood insurance premiums—spending $25 million out of that fund for erosion mapping. I happen to think there are enough flood-prone structures that if we were going to dip into the fund, we ought to be using that money for mitigation efforts directly.

As you can see, I believe we are close to agreement on this. There are others, however, who say we ought to add a separate environmental purpose to the floodplain law so people who are paying flood insurance would be providing for non-insurance-related benefits. I do not believe, with the insurance fund in the precarious position which it is, that you can put further burdens on the premium payers, particularly those premium payers who have met the State and local codes and guidelines and who have structures that conform to the guidelines.

There are a number of ways we can work on this problem and I believe we can do that work in compromise, in good faith, off the floor. But I urge my colleagues, if this amendment is not withdrawn, and I do not know whether it will be withdrawn, to support a tabling motion to enable us to complete the work on the compromise and carry on the discussions that were to have begun 26 minutes ago.

I assure the Chair and my colleagues I look forward to continuing the work with the Senator from Massachusetts as we seek to solve the very real problems of making the flood insurance fund sound, getting more structures involved in the Flood Insurance Program, and ensuring that appropriate mitigation efforts are taken to reduce the damage of floods.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER. Who seeks recognition? The Senator from Florida.

Mr. MACK. Madam President, I think, rather than to address myself to the specifics and the issues within the bill, and I am really addressing my comments to the Senator from Massachusetts, there is the potential for an impasse to develop here. It was my hope we were going to work our way towards a compromise. There is disagreement on both sides as to whether people are acting in good faith or whether they are not.

I was under the impression we were going to meet at noon, the three principals—the Senator from Massachusetts, Senator BOND, and myself—to see if we could find a way to come together. I was under the impression the amendment would not be offered until after the three principals got together, in essence to try to find out whether there really was room to compromise or whether there was not.

I must say, from our perspective, this seemed like a preemptive strike, that the message was: I am going to move forward. The amendment offered is not the amendment on which we have been talking about compromise. It goes back to the position of denial of insurance and increasing premiums. And I must say to the Senator from Massachusetts, if that is the amendment he wants to go forward with, we are prepared to debate it, and debate it to the full extent necessary. I feel confident it will be defeated.

In our discussions, I think both of us have agreed the two areas we know must be dealt with are the issues of mitigation and increasing participation. So, I guess my question is, to the Senator from Massachusetts: Where does he want to go?

The PRESIDING OFFICER. Does the Senator yield?

Mr. MACK. Yes; I do.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. First, I thank both Senators for their efforts on this. I said in my opening comments I was anticipating a meeting. I said to the manager of the bill overall, the Senator from New York, I would possibly lay the amendment down with an understanding that I was not going to try to close it out, I was not going to fill any trees, I was not going to do anything—not even ask for the yeas and nays. I was simply going to put it at the desk so we reserved our rights, depending on where we proceeded.

Then I discussed some of the parameters of this bill in order to try to hopefully stimulate a good dialog here. The problem is that we have been dialoging this bill for 3 years.

I have held back from putting it on to one or two other bills on three or four occasions in markups in the Banking Committee. This is the last train this year. This is it for this opportunity problem. So I want to make sure where we are.

We met yesterday. Sure, we did. I do not want to go into great details now. I really think we ought to have the benefit of sitting down and trying to proceed forward, which is what we anticipated.

What we were presented with yesterday, as a consequence of the discussions, in my mind, did not represent where I thought we were moving in terms of the proximity the Senator from Florida just described. In fact, it stripped out whole portions of the bill that we have never talked about stripping out. So to me it was a step backwards from where we had been. As a consequence, I began to question really whether or not we are on the same track. I hope we are. I take the good faith of my friend from Florida who has worked closely on this and has consistently been available and tried to do it. I would like to see if we can get an agreement now and let us sit and talk.

Mr. MACK addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. MACK. Madam President, just a couple of responses and then I think we should.

As far as this being, in essence, the last legislative vehicle to attach this legislation to, I disagree with that. I think there is, in fact, interest on our part to see that a flood insurance bill can be passed and clearly addressing the areas I have mentioned.

Second, again I want to say every opportunity you hinted at that you wanted to get together, I have made myself available.

Mr. KERRY. Madam President, I think the——

The PRESIDING OFFICER. The Senator from Florida has the floor.

Mr. MACK. Let me make a last point, then I will yield.

The PRESIDING OFFICER. Is the Senator yielding for a question or yielding the floor?

Mr. MACK. I have one last comment to make and then I will yield the floor.

The last comment is with respect to stripping out. We mentioned yesterday some of our concerns about the purposes clause in the legislation. So I do not think that should be a surprise that we came back with a suggestion that that was what we were intending to do. That was mentioned yesterday afternoon in the meeting in my office.

But, again, we could end up talking all day about whether people really are serious about compromising. Let us meet and see if we can move forward.

I yield the floor.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Madam President, there is a difference, I think, with all due respect, from pointing out a concern about the way something is phrased versus stripping it out completely in a way that, in effect, takes out of the bill the very essence of the 1968 creation of this bill in the first place.

I would like to sit down with you. I think it would be good.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. DOLE. Madam President, is leader time reserved?

The PRESIDING OFFICER. Yes.

NATIONAL AGRICULTURE DAY

Mr. DOLE. Madam President, over 200 years ago, Thomas Jefferson wrote "Cultivators of the earth are the most valuable citizens."

Much has changed in America since Thomas Jefferson's day, but one thing

that has not changed is the fact his words are still true—the members of America's agriculture community are some of the most valuable and important citizens of this country.

Today is National Agriculture Day—a day for honoring farmers and ranchers across the United States who dedicate their lives to food production. It is their devotion to the land that serves as a reminder of the spirit our forefathers instilled in each of us—the spirit of hard work and the perseverance to deal with the hand Mother Nature deals them.

America's first farmers worried about feeding their families. Today, American agriculture feeds the world. Biotechnology has allowed farmers to yield food products more efficiently, more safely, and at a lower cost.

Now that NAFTA has been negotiated and passed, and with completion of the GATT imminent, we are about to embark upon a new era for agriculture trade. These trade agreements will allow more efficient use of resources within our 50 States, and will also open up new markets to our highly competitive farm products. American agriculture products are in great demand around the world, and with the elimination of trade barriers our farmers will be filling those demands every day.

Madam President, let us also remember that Government has done much to make the farmer's task more difficult. No matter what the farmer or rancher grows or raises, they can count on having to deal with an abundant crop of Government redtape, regulations, and paperwork.

And the best way we can pay tribute to our agriculture community is to remember every day—and not just on one—the invaluable contributions they have made to the history of our country, and the difference they make in feeding our families and our world.

(Ms. MOSELEY-BRAUN assumed the chair.)

UNITED STATES POLICY ON RUSSIA

Mr. DOLE. Madam President, U.S. policy toward Russia is in disarray. The time of strategic partnership is over—if it ever began. President Yeltsin acts in increasingly erratic terms, the new parliament has freed antidemocratic coup-makers, the Russian military asserts itself throughout the territory of the former Soviet empire. The Russian foreign ministry is challenging American interests from Bosnia to the Middle East.

The administration's reaction can only be characterized as denial. President Clinton equates Russian neo-imperialism with the liberation of Panama and Grenada, while the State Department defends, excuses, and even welcomes Russian actions from Georgia to Tajikistan to the Balkans. Meanwhile, our assistance program serves to enrich American consultants but is virtually invisible in the former Soviet Union.

What we need is a fundamental reassessment of United States policy toward Russia. I hosted a breakfast meeting last week with outside experts, including two appointees from the Bush administration, a retired military officer who endorsed President Clinton, and an academic expert on Russia. There was unanimity that U.S. policy is headed in the wrong direction.

Two of my colleagues have made important contributions over the last 2 weeks in beginning this reassessment: Senator LUGAR before the American Spectator Dinner Club, and Senator MCCAIN before the Center for Strategic and International Studies. These insightful speeches, one by a senior member of the Armed Services Committee and the other by a senior member of the Foreign Relations Committee deserve wide attention. They constructively criticize the flaws in the current United States approach to Russia, and suggest alternative courses that should form the basis of further debate.

Senator LUGAR rightly points out that the idea of a mature strategic partnership between Russia and the United States—as claimed in the communique at the January Moscow summit—is nonsense. The Russians are not partners but, as Senator LUGAR puts it, "tough rivals."

Senator MCCAIN points out that United States policy has "squandered real opportunities for the United States to serve our own interests and advance our values, and to serve the interests of humanity in the bargain." On the reassertion of Russian imperialism, Senator MCCAIN points out that the United States has "tolerated and at times excused" such actions, and that the "United States should also make clear to Russia that it will no longer dismiss Russian meddling in the affairs of its neighbors. We obviously cannot guarantee their sovereignty but we should not help finance its violation."

Both Senator LUGAR and Senator MCCAIN argue for clear guidelines for NATO expansion—a policy which has widespread support in the Senate, as expressed in the approval of Senator MCCONNELL'S amendment on the subject last month.

Mr. President, criticism of the administration's Russia policy is not partisan. President Carter's former National Security Adviser recently published an article which termed the administration's approach "flawed in its assumptions, focused on the wrong strategic goal, and dangerous in its likely geopolitical consequences." In fact, outside of Deputy Secretary Talbott, it is hard to find any expert that agrees with the administration's approach to Russia. The speeches of Senators LUGAR and MCCAIN are a good place to start the much-needed policy review.

I ask unanimous consent that their speeches be printed in the RECORD at this point.

There being no objection, the speeches were ordered to be printed in the RECORD, as follows:

[Remarks prepared for delivery to the American Spectator Washington Dinner Club, Four Seasons Hotel, Mar. 7, 1994]

THE RUSSIANS ARE TOUGH RIVALS, NOT PARTNERS

(By Senator Richard G. Lugar)

A STRATEGIC OR LIMITED PARTNERSHIP?

The communique at the Clinton-Yeltsin January summit meeting in Moscow claimed the achievement of a "mature strategic partnership based on equality, mutual advantage, and recognition of each other's national interests." The parties noted their eagerness to "move forward on the path of openness and mutual trust."

But this statement and the concept it represents is nonsense. A strategic partnership between Russia and the West does not exist because it is impossible to attach any realistic substance to it. This sort of rhetoric is bound to raise and then dash public expectations of Russian behavior, and it makes more likely an overreaction when Russia begins to act in ways that dismay us. By ignoring the plain truth about Russia, the Clinton Administration is not prepared for the policy consequences that flow from the truth.

A REDEFINITION OF RUSSIAN VITAL INTERESTS

The crisis last October in Moscow marked Russia's rejection of the principle of integration with the West as the underlying premise of Russia's security policies and the substitution of Russian vital interests as the underlying basis on which security decisions are made. The original strategy of integrating with the West was based on an assumption that the major threat to Russian security came from political and economic isolation and that salvation flowed from political and economic reforms and cooperation with the West.

A major tenet of that strategy, we assumed, was that Russia would develop normal, cooperative relations with the other Soviet successor states, based on mutual respect for territorial integrity. But all of this was undercut by unrealistic expectations regarding U.S. willingness to nurture Russia back to economic and political health and by the ethnic turmoil that engulfed her nearest neighbors, threatening perceived Russian security interests as well as Russian minorities.

By the fall of 1993, a Russian consensus developed around the notion that Russian security and her place in the international community could be entrusted only to herself. Consequently, Russian "vital interests" must become the guiding principle of security policies. This rejection of cooperation with the West in favor of "vital interests" has alarmed the Newly Independent States who fear that "vital interests" is a euphemism for renewed Russian imperialism. The shift has also raised fears in the United States that an expansionist-minded Russia may again threaten eastern Europe.

While none of the publicly-stated Russian goals with respect to the Newly Independent States and the "Near Abroad"—stability, protection of Russian minorities, defense of security interests—has seemed all that alarming to the State Department, they

have, at minimum, called into question some of the basic assumptions behind the Clinton Administration's policies toward Russia.

REDEFINING AMERICAN "VITAL INTERESTS"

In the spring of 1993, Under Secretary of State Peter Tarnoff described a world of "medium-sized bad guys" who in many ways are more irresponsible and dangerous than the bad guys of the Cold War era. But the main theme of his remarks before the Overseas Writers Club was that the end of the Cold War has wrought dramatic changes, and that with the decline of the nuclear threat, economic interests are ascendant in U.S. foreign policy. The U.S. can no longer be counted on to take the lead in regional disputes unless it can discern clear national interests at stake.

Secretary of State Warren Christopher subsequently suggested that the U.S. would adopt a unilateral approach if necessary when vital interests were involved, while a multilateral approach would suffice for lesser U.S. interests. But "multilateralism" became something of a cover for U.S. retrenchment and the abandonment of leadership to the vagaries of international vents—as well as an excuse for diluting our definitions of what constitute "clear and vital national interests."

The Clinton Administration—after suggesting that it planned to pursue lifting the arms embargo on the Bosnian Muslims with NATO air support—gave up that plan with little struggle in the face of European opposition. The Administration instead accepted a weak alternative of protection safe havens for the Bosnian Muslims. But what was worse, there appeared to be an inclination to turn that policy mistake into a policy doctrine, a doctrine of diminished U.S. leadership cloaked in "multilateralism" at a time when security threats were increasing.

The Administration seemed to classify Western Europe as a vital interest while East-Central Europe and the Balkans were not. They appeared to be using a definition of vital interests that was a function of geography and nuclear weapons. Their rhetoric was about democracy and shared values, but their policies did not necessarily reflect this.

I said at the time that this narrower definition had to be challenged if other national leaders were to be persuaded to confront instability borne of a new power vacuum in Europe and if they were to be convinced that the risks of doing nothing in the face of policy evolutions in Moscow were great.

It has been the budget-driven cuts in our defense establishment, along with some ill-considered statements by Administration officials on a narrower definition of vital American national interests in the context of the debate over what to do about Bosnia, that has produced an as-yet unfocused discussion over U.S. willingness to define commitment in Europe in a manner commensurate with out security and economic interests.

FROM TARNOFF TO TALBOTT

Prior to Bosnia, NATO was a budget issue; then its efficacy as a vehicle for promoting or protecting Western interests arose. Now, its revitalization may be the key to sustaining any long-term American involvement, not just in NATO, but in Europe.

Central Europe is adrift security-wise in the aftermath of the breakup of the USSR as well as the slowed pace of democratic and economic reforms. Eastern European states seek more solid moorings in the West through NATO. Western Europe has been loosened from some of its traditional mooring, as the Maastricht Treaty has proven to be a less than reliable stimulus and compass by which to achieve greater integration.

The North Atlantic alliance has experienced a "relevance" crisis every bit as psychologically intense as the fits and starts encountered in trying to fashion a European security identity. That NATO is experiencing a "relevance" crisis at the same time as Europe is undergoing a security "identity" crisis should surprise no one. What is surprising is United States' reluctance to deal with the security crisis by updating and revitalizing NATO. In addition, the U.S. is groping for new post-Cold War strategies and polices under a new administration, even as signs reappear that Russia may, out of a sense of desperation, be moving in foreign policy directions not-so-strangely reminiscent of its more imperial predecessors.

CONTENDING APPROACHES TO POLICY TOWARD RUSSIA

There have been two prominent schools of thought in the U.S. regarding the appropriate policy approach toward Moscow.

To oversimplify, the first view, the Clinton Administration's view, holds that Russia is a partner of the U.S. and that Russia could and should be helpful in combating global terrorism, nuclear proliferation, and a force for regional and global stability.

The U.S. should therefore undertake policies designed to help the Russians, to bolster President Yeltsin, and the Russian democratic forces.

Unfortunately, strong emphasis on partnership with President Yeltsin and constant recognition of his political needs in Russia is perceived by Ukraine, other NIS, and European allies as giving short-shrift to their aspirations.

The second school of U.S. thought holds that Russian interests internationally are basically incompatible with those of the United States. Such being the case, little cooperation is expected and therefore a policy focusing on U.S. engagement with Russia is misguided.

This school of thought believes that Russian suppression of human rights continues; modernization of strategic weapons systems proceeds apace; export of conventional weaponry and perhaps material components of potential weapons of mass destruction is evident, and the payment of over $2 million to a Russian spy in the CIA exemplifies the state of play. American public figures then announce that all aid should be cut off for a while, at least, pending further observation of a potentially neo-imperialist rival.

A "NATIONAL INTEREST" SCHOOL OF THOUGHT

Neither of these approaches is satisfying because neither meets our national interests, nor do they foster the kind of Russia we want to see develop.

We are not partners with Russia. We are tough-minded rivals. Many Russians are suspicious of our assistance efforts precisely because they cannot see how such assistance benefits American national interests.

The period of democratic breakthroughs in Russia has come to an end, with the December election results undermining the momentum of and the support for those reformers who favored a steady movement toward the market, control of the money supply and thus less subsidies for military industry, the creation of democratic institutions and values, and a benign and cooperative foreign policy toward its neighbors and the West. Put differently, strong opposition to all of these worthy objectives of Western policy has been exposed in the December elections.

President Yeltsin is less and less master of the Russian political situation. He is increasingly a captive of his own "apparat" that exercises political authority in the name of the President while serving as a lightning rod for constant criticism by an increasingly assertive Duma.

In this situation of continuing political paralysis in Moscow, two things are happening: (1) policy is being made and implemented by the bureaucracies—the Ministry of Defense, the Ministry of Foreign Affairs, the "KGB"—each of which has its own agenda; and (2) regional leaderships are consolidating their autonomy, reducing the power and authority of the center over the provinces.

The continuing decline in the standard of living for most Russians has eroded the political base in the country necessary for a return to economic reforms and free-market policies and makes more likely the reversion to economic statism and central control of the economy. What is economically necessary in the country seems politically impossible. Rampant crime and corruption and growing lawlessness feed the nationalist and chauvinistic forces already gaining ground in the country and encourage public support for policies emphasizing order and economic stability.

There is a rapidly growing climate of opinion, common to all walks of life, that Russia threw away its empire needlessly, and should recover it while it still can. But another climate is clearly characterized by war weariness, aversion to sending Russian troops anywhere, and despair over military budgetary demands.

There is a growing anti-Western sentiment which is turning against Western values, epitomized by the prevailing spirit of "jungle capitalism," and Western institutions, with NATO, the European Union and various international lending institutions portrayed as enemies of the Russian people once again.

While the growing anti-Western feelings on the part of ordinary Russians have deep cultural roots, these feelings have been fed by the perception that the West never had any intentions of making good on its widely publicized promises of aid, and that, more generally, the underlying premise behind Western efforts to impart democracy and reform to Russia was to undermine the Russian state.

The domestic economic and political trends in Russia—the increasing nationalism, sometimes chauvinism—strengthen those voices that argue for a more assertive and aggressive Russian role in managing the affairs of its neighbors. Russian definitions of its own national interests have been and will continue to manifest themselves in ways that are troubling and potentially even dangerous to the U.S. and the West.

For American policymakers, painful policy dilemmas will become evident, tradeoffs will be posed, but, above all, choices will be required. Moscow will interfere in the affairs of the states of the former Soviet Union because it firmly believes that these subjects belong under the Russian umbrella rather than as independent entities, because it believes that the rights of Russian minorities outside Russia will be threatened if ongoing and future disputes are not tackled decisively by Russia, and because it believes that such instabilities and conflicts could spread to Russia itself.

PARTNERSHIP WITH ALLIES, NOT RIVALS

The U.S. has misapplied the concept of partnership with Russia in another area, and one vital to Western Europe—namely, the Partnership for Peace proposal.

Partnership for Peace takes the idea of a "partnership" with Russia to further extremes, as it invites Russia to become a NATO "partner." But this is not a sustainable premise, unless the West is willing to accept both the Russian definition of "partner" and their definition of "Russian geographic space."

For the Russians, participation in Partnership for Peace is a means of derailing NATO enlargement and revitalization of solidifying their interpretation of Russia's rights and interests in the "Near Abroad."

In many respects, Partnership for Peace epitomizes the Administration's ad hoc approach to European security problems. The whole effort appears to be driven by a desire to avoid something—namely, "line-drawing" or the reimposition of "blocs" in Europe.

The basic flaw in Partnership for Peace is its underlying premise—the avoidance of line-drawing. It is really an attempt to avoid choices and thus to avoid the establishment of clear policy objectives.

Precisely because American and European interests with respect to Central Europe and Russia are not necessarily synonymous, the attempt to utilize the Partnership for Peace as the primary multilateral alliance vehicle to accommodate conflicting policies both within and among key Western allies toward the East can be nothing more than a stopgap measure and will likely spin off more parochial variations over time.

By avoiding lines, we cloud rather than clarify the answer to the question as to whether the independence of East European states and the consolidation of the fragile democracies in the region constitute a vital American interest. The resulting policy vacuum is filled by others who are more than willing to provide a clear answer to that question by setting the limits on and timeframe for the Partnership for Peace process.

On November 25, Evgeny Primakov, the head of Russia's Foreign Intelligence Service, declared that any decision by NATO during its January summit to expand NATO eastward would be viewed as aggressive and require a fundamental reappraisal of Russia's defense concepts. Mr. Primakov has been more than willing to jump into a perceived policy vacuum and attempt to exploit it by issuing ultimatums. This is one of the costs of our having no well-defined strategy toward Europe.

In short, we run the risk of permitting the Russians to circumscribe the entire process. By making Russia the fulcrum of U.S. policy, the Administration risks ceding to Moscow a virtual veto over vital U.S. interests on issues like Bosnia, the future of NATO and Eastern Europe. If the most appropriate means for promoting stability and democracy in Eastern Europe is NATO expansion, then this should be undertaken, preferably with Russia's understanding, but if necessary, without it. While Russia's leaders should not be automatically excluded from European security arrangements, they cannot be given free rein to call the security shots for their neighbors and the West.

I am not adverse to line-drawing. I believe that expanded NATO membership should be a function of the alliance's own priorities. My objective would be to provide a clear perspective on criteria for eventual membership and to provide promptly a stable security framework in the region to consolidate democracy. There is much to be said for the idea of utilizing the North Atlantic Cooperation Council as a half-way house for candidate members, with the Alliance drawing up its own list of priorities and criteria for future membership which would lead to full membership under Article 5.

The criteria for membership should include, inter alia, the strategic importance of the candidate to NATO; commitment to democratic rule; respect for minority rights and renunciation of territorial claims; civilian control of the military; a willingness to participate in the full range of NATO operations; and geographical propinquity to NATO member nations.

But precisely because a large gap would remain between what an expanded NACC offers and full NATO membership under Article 5, it will take time for even the Visegrad countries to close this gap. These countries need a stable framework now. Therefore, I would favor the creation of the additional intermediate step of "associate membership" to bridge that gap and to provide a stable security framework in the interest of consolidating democracy.

Partnership for Peace may satisfy some East European needs for a closer association with NATO. It does not satisfy their need for a concrete perspective on eventual full membership. The intermediate step of associate membership superimposed on the Administration's proposal may fulfill that latter need and add to the process of Partnership for Peace the needed end goal. Establishment of the associate-membership intermediate step would in fact constitute a limited form of line-drawing, but I see no way of adequately addressing the growing security policy vacuum in Central Europe without express consideration of the criteria, modalities, and form of membership.

THE "NATIONAL INTEREST" LITMUS TEST

President Clinton might protest that his January NATO proposal was less the result of his own aversion to line drawing than a recognition of a stiff U.S. domestic opposition to the idea that NATO would guarantee the security of Poland, Hungary, or the Czech Republic. The President might argue further that if Ukraine sought NATO membership, the U.S. and NATO might face a hostile Russia very soon. If Ukraine was denied NATO membership, Russia might receive an ambiguous signal that could encourage any empire-restoration tendencies.

But Presidential choices are difficult and essential leadership is never easy. The President had a remarkable opportunity in January to stake our a credible plan for our security interests in Europe. He must seek another occasion, soon, to return to that agenda.

Even if Russia is a tough minded rival, the President is correct in arguing that simply cutting off aid could do harm to certain U.S. security interests embodied in some current U.S.-Russian activities.

For example, the Nun-Lugar Cooperative Nuclear Threat Reduction Act supports a number of ongoing activities which are resulting in the destruction of warheads and delivery vehicles aimed at the United States and originally designed to destroy our country. Thousands of tactical nuclear weapons have been collected and transferred to sites in Russia for destruction. U.S. money has accelerated the destruction of strategic nuclear systems covered by START Treaties yet to be implemented or ratified. The recent trilateral agreement signed in Moscow on the disposition of nuclear systems currently on Ukrainian soil was possible only because of such assistance.

Senator Nunn and I have also been pushing relentlessly for consummation of a revenue-sharing purchase agreement in which the United States has committed itself to buy all of the highly enriched uranium extracted from tactical or strategical warheads covered by the START Treaties and returned to Russia. The material would be blended down and purchased by the U.S. to meet its contract commitments to the commercial nuclear power industry, thereby reducing a major proliferation hazard.

For the next 20 years, a stream of income would go to Russia, Belarus, Ukraine, and Kazakhstan in proportion to the amount of highly enriched uranium extracted from nuclear systems on their soil at the time of the dissolution of the USSR. Such revenues would dwarf all of the Freedom Support Act or other so-called conventional aid programs which have been passed with great clamor but with diminishing political support.

The Russians and other Newly Independent States should move swiftly to complete multi-year energy deals which provide a stream of hard currency for them and a substantial energy supply for world markets.

Most of the so-called aid to Russia has been in the payment of American consultants. Much of the political and economic advice which they offered gave the Russians a glimpse of the way the world works.

When President George Bush mentioned $24 billion of multi-lateral aid to Russia in the Rose Garden, he probably should have added that very little assistance would occur beyond grain credits or various European tied-sale unless the Russians established a banking system and a commercial code that secured property rights, provided recourse to creditors in the collection of loans, commenced a bank checking system and other basic requirements for business relationships with the West and Japan.

Even in spite of Western concerns that the present Russian government is likely to continue to feed credits from the central bank into redundant state owned industries and thus feed inflation of 20 per cent per month and 1000 percent plus per year, this is a Russian choice. Our friendly advice to a tough rival is to stop throwing good money after bad, and adopt the commercial and legal standards compatible with enhanced private investment and an increasingly competitive position internationally. We advocate sale or closure of the large, non-productive state-owned industries which include an awesome array of munitions makers, elimination of weapons of mass destruction, and respect for the independence and territorial integrity of neighbors near and far.

President Clinton is not the first President to talk about partnership with Russia. The world prays instinctively for such a development in which the two great land-mass countries with awesome military authority find harmony in the preservation of peace and the increase of human freedom.

For the moment, however, we must perfect NATO, the GATT agreement, and other arrangements with military and economic allies who share our views. We should seek and participate in hard-headed arrangements with Russians in which mutual advantage is evident and spelled out. We should not hesitate to offer advice on building democratic institutions, human rights enlargement, and market economic arrangements which we believe may be helpful. We should not be surprised if our advice is rebuffed frequently, nor should we be shocked to find that we are heard on occasion.

Our relationship with the Russians is inevitably very important, so important that we can not afford to make mistakes because we are unrealistically hopeful, and so important that we must never lapse into inatten-

tion because we are too frequently disillusioned.

The plain truth is that the Russians are tough rivals. If we conduct a foreign policy based upon that truth and our national security interests, they may choose to seek a different relationship with us. And if they do, we should be prepared to explore with them the cooperative or mutual aspects of that relationship as well as to promote and defend U.S. interests when our positions diverge. Ultimately, this may come to constitute a far sounder basis for international stability and security than the more romantic but less realistic notion of partnership.

STATEMENT BY SENATOR JOHN MCCAIN ON THE CSIS ROUNDTABLE, MARCH 3, 1994

No decade in this century began more auspiciously than the 1990s. That gross impediment to human liberty, the Berlin Wall, was breached by the stronger forces of human yearning. The central security problem of our time—the possible clash of East and West on the plains of Germany—was resolved by the dissolution of the Warsaw Pact and the reunification of Germany. The Soviet Union imploded and ceased its militant advocacy of an enslaving ideology.

The euphoria that accompanied those events anticipated the imminent arrival of a new world order of independent democracies engaged only in peaceful commercial competition with one another.

But the resurgence of ancient conflicts and hideous barbarism in the Balkans, the haunting familiarity of Vladimir Zhirinovsky's odious appeals to a perverted patriotism, the continued proliferation of weapons of mass destruction, and the waging of some forty wars across the globe have dimmed humanity's hopes for a more just and tranquil world.

The most significant restraint on Western optimism, of course, is the mounting evidence of Russian revanchism coupled with Moscow's apparent intention to limit economic reform to the exchange of one command economy for another. These distressing developments occur despite and, in part, because of the Clinton Administration's pursuit of a relationship with Russia which is characterized by an acute concern for Russian sensitivities. Their concern is employed in service to an ambitious and laudable end—strategic cooperation with a democratic Russia in building a more stable and less threatening world.

While our disappointments should not obscure the advances we have made, the time has come to reassess Administration policies which have abjured immediate opportunities to improve the security of the U.S. and our allies; tolerated and, at times, excused Russian attempts at imperial restoration; and inconsistently supported urgent, systemic economic reform in Russia.

We need not abandon our most cherished aspirations for the post Cold War World. But we should be more realistic in assessing the prospects for their realization in the near term. We should formulate a foreign policy with fewer illusions, and more attentiveness to the problems and opportunities that are before us today.

You are all familiar with and understand, probably better than I do, the events in Russia that have cast such a pall over the prospects for real political and economic reform there. The resolution of the October crisis achieved the defeat of Yeltsin's adversaries in Parliament at the cost of much greater presidential deference to Russian military interests.

The success of radical nationalists and communist reactionaries in the December parliamentary elections chilled most of the Government's remaining ardor for genuine privatization and other free market reforms. The departure from the Government of former Deputy Prime Minister Gaidar and former Finance Minister Fyodorov—with a parting shot to a Clinton Administration official for his perceived exacerbation of Russian disillusionment with "market romanticism"—signaled the formal return to a command economy.

The Duma's recent amnesty of Rutskoi, Kashbulatov and the other defeated December rebels along with the architects of the August 1991 coup indicates what seems to be almost a routine state of political crisis in Moscow that won't be diminished by Yeltsin's accommodation of fascists and reactionary forces in Parliament.

Of course, the recent arrest of Mr. and Mrs. Ames has reemphasized that American and Russian interests are not as rapidly and neatly converging as some had hoped. Although I am a little surprised by the Claude Raines reaction of feigned indignation at the discovery that Moscow would have the bad manners to steal secrets from its foremost Western benefactor.

None of these events, however, reveal anything that wasn't apparent before they occurred. Even when reformers were still welcome to the Kremlin, economic reform was considerably less than systemic. Gaidar and Fyodorov were committed monetarists who appreciated the dangers of hyperinflation. But the reforms they managed to implement were at best half measures which privatized state run industries by creating huge monopolies fed by government contracts and subsidies.

The Russian military's nostalgia for empire and its indulgence by the political leadership was quite evident well in advance of recent Kremlin references to spheres of influence and protecting Russian populations in the "near abroad." After initially supporting Georgian separatists, Russia then rescued the Georgian government earning the praise of President Clinton for their trouble. The price for Georgia, of course, was relinquishing a measure of sovereignty by joining the C.I.S.

Moscow has consistently assailed Ukrainian sovereignty with economic and military pressure most notably by denying Kiev energy resources and by refusing to relinquish the Black Sea fleet. Moscow's refusal to accept Ukraine's permanent separation from Russia, has been abetted by the Clinton Administration which has demonstrated a legitimate concern for Ukraine's nuclear status that is perceived as greatly exceeding our concern for Ukraine's independence.

Similar pressures and intrusions into the internal affairs of its neighbors have been felt from Belarus to Tajikistan. And the Russian military's traditional disregard for the territorial integrity of its neighbors is expressed to its current reluctance to vacate imperial outposts from Moldova to Estonia.

I am confident that Russia cannot sustain a reconstituted empire in the form of a Confederation any more than it could sustain the old Soviet empire. The costs are simply too ruinous to such a weak economy. But it seems clear that Moscow intends to try. And while the form which this imperial restoration takes may be less severe or cruel than the Stalin model, it should not be confused, as President Clinton has confused it, with U.S. interventions in Panama and Grenada. Aside from demonstrating a woeful misunderstanding of the Monroe Doctrine, this invidious comparison encourages the further subjugation of free peoples to misrule by a foreign power, not the liberation of nations from tyranny.

The President's nonsensical analogy is a good example of the excruciating deference the Administration routinely pays to Russian concerns, be those concerns delusional or real. It is a policy that has, in my opinion, squandered real opportunities for the U.S. to serve our own interests and advanced our values, and to serve the interests of humanity in the bargain. The fact that democratic values are no longer strictly anathema to Russia, and that U.S. and Russian interests converge more often than dreamed possible during the Cold War does not mean that our values and interests have become identical. They are not. Regrettably, our real relationship with Russia is still marked more by rivalry than cooperation. And it should be seen as thus by the U.S. Government.

What is urgently required of the Clinton Administration is an unmistakably clear statement of policy: the developing U.S.-Russia relationship depends foremost upon Russia's respect for internationally recognized borders; urgent and systemic economic reform; and the proliferation of the practices and institutions of a democratic society. The Administration must make equally clear our current estimation that Russia's performance in all three areas in varying degrees is not satisfactory. U.S. assistance should no longer be awarded to help calm Russian concerns, but should be conditioned on Russian progress in addressing ours.

Important U.S. interests are at stake in the political and economic transformation of Russia, and the U.S. should be prepared to help finance that transformation. We should also appreciate the human suffering caused by the unavoidable dislocations that accompany the transformation of a command economy to a free market economy. We can offer assistance to help alleviate that suffering but only if we are assured that the transformation is genuinely underway, and that the bulk of U.S. assistance is facilitating it.

Most hardships associated with economic reform in Russia are not the result of real free market reform, but of reforms that range from half hearted to fraudulent. Serious reform will cause some dislocation, but half hearted or false reform will cause greater discomfort without progress, and make real reform and prosperity more elusive.

We should no longer squander our resources on huge state supported industrial monopolies that are only enriching the same Russian elite that prospered under communism. Nor should we allow our money to be invested by Moscow in Western bank accounts instead of in the work and imagination of Russian entrepreneurs.

The U.S. should also make clear to Russia that it will no longer dismiss Russian meddling in the affairs of its neighbors. We obviously cannot guarantee their sovereignty, but we should not help finance its violation. Moreover, U.S. aid programs should show the former republics and captive nations of the Soviet empire as much generosity as we have shown Russia conditioned on the progress of economic and political reform in their countries.

Finally, we should no longer defer improvements in our own security arrangements on misbegotten or false fears of Russian encirclement. Why should the U.S. forgo opportunities to expand the frontiers of NATO ever farther from the plains of Germany even while Russia is busy coercing

other nations into a confederacy under Moscow's control?

Giving the Czechs, Slovaks, Poles, Hungarians and others a date certain for NATO membership should they meet a specific set of political and economic conditions is sound security policy and morally right. NATO is and always was a defensive alliance. Russian fears of encirclement by a security guarantee to the Czech Republic are absurd. Prague's fears of finlandization or worse by a revanchist Russia are prudent.

I have yet to see that the Administration recognizes the contributions its policies have made to setbacks in Russia, and am alarmed by that. The Administration still celebrates that quality of its policies which has most damaged U.S. interests—its intentional vagueness.

Now, is a time for precise clarity. U.S. policy serves U.S. interests. Russia's transformation to an economically viable politically liberal and internationally responsible society is a U.S. interest. We will assist that transformation as long as it is a real prospect. Any deviation from the road to reform we will oppose.

We may reach a day when our loftiest aspirations for strategic cooperation with Moscow will be realized. But we are far from that day at present. And irrespective of whether we are to be partners or rivals with Moscow, our policy toward that nation should be premised only on that principle upon which all democracies prosper—enlightened self-interest. We have drifted away from that premise in recent months. I hope you will all join me in urging our swift return to it.

INSPECTIONS IN NORTH KOREA

Mr. DOLE. Madam President, the North Koreans had it their way once again. Inspectors from the International Atomic Energy Agency, known as IAEA, returned from a long-awaited inspection not having been allowed to conduct a full inspection of the seven declared sites. We are not even talking about the suspected sites which are also covered under the Nuclear Nonproliferation Treaty, and are the subject of great concern—but the seven declared sites.

Reportedly IAEA inspectors were not allowed to take samples at a North Korean facility suspected of being used to extract plutonium. In addition, the North Koreans broke a seal installed last year on the entrance to an area where plutonium could be produced. Yesterday, the IAEA announced that it was, and I quote, "Not in a position to verify that there had been no diversion of nuclear material at the facility," and would call an IAEA Board of Governors meeting for Monday, March 21.

In response, the administration has called off the bilateral meeting that was set for March 21. This is the right thing to do, but the administration should not stop there. It is high time for the administration to reassess its policy. For about a year now, the North Koreans have engaged us in a game of cat and mouse, and what have we gained?—a partial inspection of some sites. The whole point of the IAEA inspection regime is to try to determine compliance with the obligations of the Nonproliferation Treaty. Why bother with inspections if we cannot determine whether nuclear materials are being diverted?

Madam President, the North Koreans have demonstrated that they are only willing to comply with some of the terms of the Non-Proliferation Treaty. And, they want the international community not only to sanction their custom compliance, but to reward them for it. Let us not fool ourselves, over the past year the North Koreans may very well have been busy building nuclear weapons as their representatives were meeting with U.S. officials to discuss economic and political concessions.

Today's news reports indicate that the administration is reconsidering a decision to cancel Team Spirit exercises with South Korea. I hope so. The United States and South Korea should plan to conduct these exercises as soon as possible. Moreover, the United States should move forward with the deployment of Patriot missiles to South Korea—as requested by the United States military commander on the scene weeks ago. We should take other measures to strengthen deterrence in the Korean Peninsula. And we should think about the wisdom of creating confrontation with China at the very time we need their assistance on North Korea.

Madam President, the North Korean response to concessions is not compliance, but contempt. A new administration approach is long overdue.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Ms. MOSELEY-BRAUN. 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

The Senate continued with the consideration of the bill.

Ms. MOSELEY-BRAUN. Mr. President, I would like to speak to the pending legislation in general and give just a few comments.

As you may know, I serve on the Banking Committee and have worked with the Senator from Michigan on the development of this legislation. So I wanted to just talk a little bit about what S. 1275, the Community Development, Credit Enhancement and Regulatory Improvement Act is about.

The bill before the Senate today is, at its heart, about a fundamental people issue, access to capital—about taking some important steps to ensure that our capital markets are better able to meet all of our capital needs.

When we talk about access to capital, we are really talking about one of the most fundamental issues facing any society: How money gets distributed and, therefore, about the quality of life for people in that society. Whether framed in terms of macro- or microeconomics, access to capital is inevitably an issue that gets people's attention.

The phrase "access to capital," however, is a technical and arcane one. What is this issue all about; how can we talk about it in a way that communicates—make sense—to all of the people who are affected?

I am reminded of the challenge that the men and women of the cloth face—and meet—as a regular part of their mission to communicate the lessons of the gospel across this land. A really good preacher can, on the one hand, spend a lifetime studying the intricacies and complications of a religious concept, and then reduce that concept to a simple message that even the most untutored can understand and employ in their daily lives. If you think about it, there are bumper stickers that effectively relay the essential message of some of the most esoteric concepts of theology. It seems to me that part of our mission—those of us participating in the public policy process and in Government—is to translate the complications of our issues in the way that gives the greatest number of people a single choir book out of which to sing—and puts them all on the same page.

And so, thinking about access to capital issues can start with a universal aphorism that everyone understands: It takes money to make money.

If we start with a notion that basic, it becomes easy to see the link, the causal connection, between these issues, and questions relating to job creation, housing development, environmental improvement, crime prevention, and even societal stability.

As you all know, the United States is blessed with the largest, most diverse, most innovative, and most dynamic capital markets in the world. However, it is unfortunately equally true that there are still many capital needs that are not being met.

The result of the lack of access to capital—the evidence of our failure to adequately address the capital needs of some communities, is all too apparent. In my home State of Illinois, as elsewhere, there are ample examples of what happens to people and neighborhoods when they cannot get credit. All you need to do is to walk through the neighborhoods. What you see are abandoned factories, closed stores, and boarded up housing. If you go early in the morning, you will see people waiting for buses and trains to commute to jobs outside of their neighborhoods. If you go later in the day, you will see as

many people, and sometimes even more, standing on street corners with no jobs to go to. The crime and fear that grow out of this milieu are palpable. The despair and hopelessness that sets in is less so, but nonetheless real.

These people are all no different than you and I. Those that are working want what we all want—to be able to own their own home, to be able to buy a car, or clothes, or furniture, to be able to help their children pay for a college education. Those that are not working want a job—they did not choose to be unemployed. They want to work, they want to help themselves, to help their families, and to help their communities.

But the problem in large part is that their neighborhoods can't attract capital. When people from those communities try to get a loan, they are still all told that they do not qualify, that they do not have a good credit history, or any credit history at all—even though they have always worked hard to pay their bills. They are still all too often discouraged from applying for a loan at all.

Potential small business people find the situation even worse, particularly if they are members of minorities. I have a friend who owns a beauty salon on North Michigan Avenue in Chicago—one of the best areas in the city—and even though his credit record was impeccable, he could not get his bank to refinance his balloon loan. If a business person with his kind of proven success has trouble, think how much more trouble someone with less of a credit history has in trying to start a business in Lawndale or Austin in Chicago, or in any number of similar situations not just in urban communities, but in small towns and rural areas around this Nation.

The simple truth is that access to capital can make or break people, and can make or break neighborhoods and communities. The simple truth is that access to capital can help make the difference between a thriving, growing community with jobs for its residents, and a decaying, boarded up neighborhood that offers nothing but hopelessness and despair.

Of course, the problem is not just anecdotal. As a member of the Senate Banking Committee, I have seen plenty of statistical evidence, evidence that demonstrates conclusively that many communities, and particularly minority communities, are not able to obtain the loans and equity investments they so greatly need. According to the Federal Reserve Board's study of Home Mortgage Disclosure Act data, African-Americans are more than twice as likely as whites of the same income to be rejected for a mortgage loan, and Hispanic applicants are 1.4 times as likely to be rejected. The Federal Reserve Board of Boston found that, after controlling for all legitimate credit concerns, minority applicants were 60 percent more likely than white applicants to be rejected for a mortgage loan. And the General Accounting Office study found that the number of mortgage loans purchased by Fannie Mae and Freddie Mac per homeowner declines as the percentage of minorities in the neighborhood increases.

On the other hand, successful efforts to make capital available for community development do exist; they do work; and they can and have shown results. I am from Chicago, and I have seen what can happen when people and neighborhoods are able to obtain the credit they need. One of the banks from my own neighborhood, South Shore Bank, stands as a national example of what can be achieved. You can actually see the difference that this community-oriented bank has made in its neighborhood. All you have to do is to walk up and down the streets, and look at the homes and apartments, to know that this neighborhood—this inner city, largely minority neighborhood—is getting at least some part of its capital needs met.

We are therefore no longer at the stage of trying to decide whether there is a problem, or what that problem is. We know the answers to those questions. The question now is: what can be done to expand access to capital, and more specifically, what changes in federal policies are needed. S. 1275 begins the process of answering that question.

Fundamentally, what S. 1275 makes possible is an expanded public-private partnership. Only when government, foundations, people from the communities involved, and private financial institutions come together, talk together, and work together in a successful partnership, will it be possible to make capital available to every person who needs it.

Importantly, S. 1275 is not about giving people money. Rather, its goal is a simple one, but one that makes a great deal of sense—to make affordable loans and other investments available to people who all too often aren't being reached now, loans and investments that are profitable, loans and investments to people who can and repay those loans and who will provide a return on investments.

In short, Mr. President, this legislation suggests that the financial institutions can do well and do good simultaneously.

Some financial institutions, including many non-profit institutions, and a growing number of banks, savings and loans, and community-oriented credit unions, are finding ways to reach out to people. They believe, and are proving, that it is possible to make what are seemingly unconventional loans profitable. They know that it is possible to do good and to do well simultaneously. They know that financial institutions can make money by expanding credit opportunities to underserved communities. And that is what S. 1275 helps them to do.

Mr. President, S. 1275 includes a number of initiatives designed to further open our capital markets. One major subtitle of the bill, known as the Community Development Banking and Financial Institutions Act, authorizes $382 million to improve access to capital for neighborhoods across this country. The subtitle creates a public corporation—the Fund—to provide assistance to community development banks, minority-owned banks, community development credit unions, community development loan funds, microenterprise funds, and community development corporations operating in poor communities—institutions whose primary mission is community development. The board of the corporation would consist of the Secretaries of the Treasury, HUD, Commerce, and Agriculture, the SBA Administrator, and four Presidential appointees.

This subtitle of S. 1275 would permit community development financial institutions with federal deposit insurance to receive up to $5 million annually, subject to a dollar for dollar nonfederal matching requirement; an amendment I was able to add during the Banking Committee's consideration of the bill increases this limit to $7 million for community development banks that open in more than one city.

Institutions without Federal deposit insurance could receive up to $2 million.

The subtitle would allow funds it provides to be used by the financial institutions for loans to small businesses, to support construction of commercial and community facilities, and to help provide basic financial services in the communities.

Another major thrust of S. 1275 involves a phenomenon that has come to be known as reverse redlining. About a year ago, the Banking Committee held a hearing designed to focus attention on the primarily low-income borrowers who oftentimes lack access to mainstream financial institutions, but who own their own homes, and who are being victimized by scams in the home mortgage market. Specifically, the scams involve loans made at very high rates—we had testimony about mortgages being made with interest rates of 28 percent—and with very high fees, oftentimes tied to bogus home repair contractors. The real purpose of these loans seems to be to put people in the positions of borrowing more than they can afford to repay, and to foreclose on the home when they inevitably go into default on the loan.

S. 1275 will put an end to these scams. The bill includes provisions that increase disclosures to borrowers, enhance their rights to rescind an abusive contract, establish a cooling off

period to ensure that borrowers aren't pushed into signing a contract, prohibit some particularly abusive loan terms, and that modify the holder in due course rules to shut off the flow of funds to lenders that would otherwise ignore the provisions of the bill.

The bill would not affect most mortgages, only high-cost mortgages, those with: interests rate that exceed the comparable maturity T-bill rate by more than 10 percentage points; points and fees that exceed 8 percent of the amount borrowed; or monthly payments that exceed 60 percent of the borrower's monthly income.

The bill's provisions are designed to ensure that communities that need access to capital get affordable access, and not just access at very high rates with numerous anti-consumer terms. That kind of access is no access at all; it is anti-consumer and anti-community development, and the bill recognizes that fact.

In addition to the community development banking and reverse redlining provisions, S. 1275 also acts to improve access to capital by removing regulatory barriers to the formation of a secondary market in small business loans. A secondary market may help increase the amount of lending banks can do to small businesses.

Finally, S. 1275 also attempts to further open our capital markets by making adjustments in our bank regulatory system, so that we regulate efficiently and intelligently, in a cost-effective way. Reducing unnecessary regulation can lower bank costs, and lower costs can mean more loans. Importantly, the committee was very careful to act in a way that fully protects the safety and soundness of the banking system and the Federal deposit insurance system, while giving banks some regulatory relief in this legislation.

Mr. President, S. 1275 is not a complete answer to the access to capital problem. No one bill could be, and there is clearly more that needs to be done. S. 1275 is, however, a good start. It is a pro-people, pro-community, pro-economic development bill. It will work and it will help. It deserves the support of the Senate, and I strongly urge its quick enactment.

Mr. MURKOWSKI. Mr. President, I rise today to offer a critique on the Community Reinvestment Act and to share with my fellow Senators some of the problems that are inherent with the existing Community Reinvestment Act; problems associated not with the intentions of those who participated in the debate on what was to be accomplished by the Community Reinvestment Act.

I would like to present to my colleagues an analysis from the point of view of a minority bank and the difficulties a minority bank has in compliance with the existing Community Redevelopment Act, or the CRA, as it is known. I think it puts a rather interesting perspective on a situation where indeed the intention of the legislation is to get out and ensure that minorities are represented in services from financial institutions—mortgage services, all commercial lending services, automobile financing, and all other needs, and not just minority groups, but low-income groups within those minorities.

But, first of all, it is interesting to reflect that, as we talk about banks and the financial institutions, savings and loans, and so forth, we think that is where all of the money is. But it is important to recognize that nonbank institutions are not regulated by the Community Reinvestment Act. And nonbank institutions now hold more than half of the financial assets held by all financial institutions in the United States.

(Ms. MOSELEY-BRAUN assumed the Chair.)

Mr. MURKOWSKI. Madam President, why do we allow the holder of the largest segment of the financial assets of this country to be exempt from the Community Reinvestment Act?

Obviously, the stock market, investment funds, and various other investment groups receive funds from these communities. However, unlike banks and saving and loan associations, they are free, with no restrictions, to invest their funds anywhere at home or abroad, because they are not regulated by the CRA.

I ask my colleagues on the Banking Committee, and my fellow Senators, is that equitable? Is that what we are trying to achieve here—to exempt over one-half of the concentration of capital, from Community Reinvestment Act legislation?

Let me get into the second point that is not equitable. I am presenting this from the point of view of a minority bank. I happen to have some knowledge of the banking business, as I was in commercial banking in Alaska for about 24 years.

Large banks are regulated by the same set of Community Reinvestment Act requirements as are the small community banks. Large banks have branch offices in many different communities, however. They receive deposits from these communities, sometimes nationwide, but they may not necessarily invest back into these communities proportionately. Rather, because of their size and their access to global markets, they are able to invest selectively in any part of the country or abroad that commands the highest return and the least risk. That is what investment is all about; you invest in the highest return with least risk.

But community banks, the small banks that serve in these minority communities, receive their funds from their respective local communities, from people doing business there, the people that work there.

But because their market is very limited—it is limited to that community—they inevitably invest back to these communities with which they are most familiar. They know their borrowers. They know their customers. Thus the community banks by their very nature really conform to the spirit of the CRA as opposed to the larger banks that are on the margins of some minority areas.

Unlike large banks, community banks cannot afford the enormous costs associated with compliance under the Community Reinvestment Act.

In a recent study of community banks, small banks in these minority areas have had to spend collectively over $1 billion annually to comply with the Community Reinvestment Act.

I again remind the Chair that the holder of over half the funds in the investment community is not required under the Community Reinvestment Act to meet any kind of criteria or oversight.

The cost of establishing the sophisticated CRA compliance program is really a burden on many of the smaller community banks. Let me tell you why. If community banks, first of all, have to pass on to their customers these costs, you know what is going to happen? The costs of their services are going to go up. Do you know where the customers are going to go? The customers are going to go to the larger banks that have branches in the surrounding areas, because those larger banks can better absorb the cost of CRA compliance. That simply makes sense.

Regardless of whether they absorb the costs themselves or pass on the costs to their customers, the existing Community Reinvestment Act puts the community banks, the little banks that are striving to serve minorities, at a tremendous competitive disadvantage to the large banks, and the large banks recognize that. That is just a reality.

Minority banks really are a very special type of community bank. There are not enough of them. But to have more of them, they have to have an inducement. They are largely owned and operated by minorities, but they face even more difficulties in complying with the Community Reinvestment Act than do the nonminority community banks.

Many minority banks have been criticized for not lending enough to other minorities. To some extent, however, that criticism is undeserving because of the fact that minorities prefer to bank with institutions that are owned and operated by the same ethnic group. This is factual. It may not be the way we would like to have it, but it is a reality.

This is particularly true with new immigrants who come to the United States because the minority banks provide bilingual services.

The Community Reinvestment Act compliance cost is more burdensome to minority banks than to large or nonminority community banks; namely, the existing CRA requires a minority bank to allocate resources, and I would venture to say inefficiently, as it is required to divert its resources to groups other than the group of the ethnic minority it is most proficient at serving.

There is an example of a bank in Los Angeles which has devoted a tremendous amount of resources to penetrate the Hispanic and African-American communities. This effort has been underway since approximately 1992. These efforts have included continuous advertising with local newspapers in different languages that reach out to all parts of the community, including the low- and the moderate-income neighborhoods, participating in community development and redevelopment programs, and frequently contacting representatives from community groups, local governments, and nonprofit developers to ascertain the credit needs of these communities and these minority groups. However, for this particular institution, they have described the effort as very, very discouraging.

By confining a minority bank's delineated communities to arbitrary geographical boundaries, its ability to serve its own ethnic minority is greatly diminished, as some of the ethnic minorities previously served by a minority bank may now fall outside its delineated community.

As we look at how we are required to live with the Community Reinvestment Act, we might consider some suggestions.

First of all, it might be equitable for the nonbank institution to be subject to the same set of Community Reinvestment Act requirements as the larger bank, as I have said. The nonbanking institutions control over half the available liquid assets out there, and they are not required to perform or report under the CRA.

The Community Reinvestment Act requirements should be different, perhaps, for large community banks. Large banks could be classified as based on total assets.

The Community Development Act rules and regulations for community banks should be tangible and easy to follow. In other words, let us give them regulations that are easy to understand. For instance, in the Community Reinvestment Act, community banks must allocate a specific percentage of their resources to promote banking relationships with residents and businesses in the low- and moderate-income neighborhoods.

The Community Reinvestment Act requirements for minority banks should recognize that minorities prefer to bank with institutions that are run by people of the same ethnic background as I have indicated, those that offer language proficiency and cultural comfort.

The Community Reinvestment Act should define delineated communities for the minority bank ethnically rather than geographically.

Why not? You say that is not what we are trying to achieve here?

But on the flip side of it, when you look at it from the standpoint of the minority bank that is trying to meet these obligations, they are providing a special service. Why not require minority banks to ascertain the credit needs of that minority, including the low- to moderate-income groups of that minority?

The Community Reinvestment Act should require a minority bank to allocate a specific percentage of its resources to promote banking relationships with the low- and moderate-income groups of that particular minority.

Finally, I think thought should be given to the idea of providing economic incentives to encourage more minorities to establish financial institutions to serve their own ethnic minorities.

Madam President, this brings me to the point of an amendment which I may offer. This amendment will be offered in the belief that the Community Reinvestment Act and accompanying regulations that minority banks must meet should satisfy the same conceptual Community Reinvestment Act standards as nonminority-owned banks.

But, Madam President, the amendment will recognize the difficulties that minority-owned banks have in attracting community business from other ethnic minorities while providing much-needed services to the minority group they share a common heritage with.

Under the amendment that I may offer, a minority-owned financial institution would be considered to satisfy the investment standards of the Community Reinvestment Act if at least a high percentage of its loans went to minority and low-income groups, whether or not the groups are located in the geographical community proximate to the financial institution.

I think this would facilitate the free flow of capital to minority groups that might otherwise have little opportunity to gain access to capital. It frees those minority-owned banks from having to spend resources in futile efforts to attract business from ethnic groups that appear to have little interest in doing business with the minority institution because there are other minority institutions for them to go to.

I look forward to the response of the members of the Banking Committee and their professional staff relative to the position that the Community Reinvestment Act has put minority bankers into. We must recognize that these dedicated institutions are trying to provide special service to minorities. Yet, for them the requirements of the Community Reinvestment Act appear inequitable, unfair, and impractical. They clearly need to be reexamined.

Furthermore, I want to reiterate that the nonbanking institutions, where the majority of our Nation's funds are—over half of the available capital, liquid capital, stock market, and others—are not subject to any of the criteria of the Community Reinvestment Act.

Indeed, that is unfortunate. It may be difficult to address, but nevertheless it should be pointed out.

I yield the floor.

Mr. D'AMATO. Madam President, I ask unanimous consent that the pending amendment be set aside.

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

Mr. D'AMATO. Madam President, let me first say that I know that Senator MURKOWSKI has raised this issue. We were very hopeful of being able to get some relief from some of the onerous and nonproductive aspects of CRA. I think that the principles of CRA are absolutely important. I think the Senator from Alaska and the President would agree with me that CRA has, as its very basic foundation, to see to it that there is adequate capital made available to those in the minority community in particular, providing credit to those who find themselves disenfranchised, or small business people. We were promised that the administration in their rules and regulations would address this. They have not.

Madam President, I know that the minority leader has an amendment that he wishes to put forth. Also, there are deep negotiations going on with respect to the flood insurance legislation. It has been 1½ or maybe 2 hours, that the parties, Senator BOND, Senator KERRY, and Senator MACK have been conducting negotiations on the flood insurance legislation.

It is for that purpose that I move to set aside that amendment so that we could at least begin to move forward on this bill, and give them an opportunity to, hopefully, work out an agreement. In the meantime, maybe we can get some of the business moving forward.

I believe that the Senator from Kansas would like to make a statement to let the majority leader know what he intends to offer.

At this time, I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

WHITEWATER-MADISON

Mr. DOLE. Madam President, I am not going to send the amendment to the desk, because I have already discussed it with the majority leader, and we do not surprise each other. That is how the leaders are able to work together.

But this amendment that I will offer at an appropriate time, unless there is some resolution of it, will address congressional hearings in the so-called Whitewater-Madison controversy.

I think it is important that we understand that we do have a responsibility in Congress for oversight on a whole host of things. If we do not want that responsibility, we could offer an amendment to repeal all the oversight obligations Congress has, because certainly we have one here. In fact, there are about five different Senate committees, and I do not know how many House committees, which have jurisdiction over matters that have been alleged in the so-called Whitewater-Madison controversy. It is my hope that we can, at the appropriate time, address this concern.

The American people, I believe, want the facts. I can speak not with any great authority, but I was the chairman of the Republican Party when Watergate started. I know how the White House viewed it as a little, third-rate burglary. You were not supposed to talk about it inside the White House. You were not supposed to say anything. You were not supposed to disagree with anybody. It was going to be a little story that was going to go away.

Well, the story did not go away and Watergate caused great harm, not only to a lot of people who were directly involved, but a lot of people who had no involvement suffered from it, and I think many across the country suffered from it.

I am not trying to make comparisons. I am just saying that I know what sort of a bunker mentality any White House will adopt if anybody says anything is going wrong or anybody suggests there ought to be hearings. But Congress is an institution itself and we do have some responsibility.

It seems to me that what I am suggesting in my resolution is not that radical. I am suggesting that I get together with Senator MITCHELL and that we structure, the two leaders structure, a forum and a way to have these hearings so we do not have four or five committees out here competing with one another.

I am not suggesting a select committee. I think there are ways we can do it without that. But I do think it is important, and I know that we have to do this—we do not have to do it, but I know there is a desire to do it so as to not interfere with the investigation of Robert Fiske, the special counsel.

But, having said that, he has his responsibility and we have our responsibility. I think our responsibility is probably greater than his, because we are the Congress of the United States.

I wanted to display some charts here, if I could, to indicate that Congress has not been reluctant over the past 12 years to have hearings.

The first chart I think would make that point. This happened between 1981 and 1992, when we had Republican Presidents. Republicans occupied the White House and the Democrats controlled the Congress. Maybe that is the reason that we had so many hearings during those times. There were really more than this. I think we have listed about 23.

We went into a lot of different things. As you can see from this list, a lot of people were involved and probably in nearly every case there should have been hearings. I am not suggesting there should not have been. But, in some cases there should not have been.

But there were a lot of congressional investigations from 1981, 1982, all the way through 1992. Some of those were even done when the Republicans controlled the Senate. When we were in the majority, we had our own investigations of a Republican administration.

Anybody who says, "Well, this is just a partisan issue," that was not the case. We started an investigation in Iran-Contra. And, from 1981 to 1986, we had three other investigations that were led by the GOP Senate, where we had a majority.

So I want to put to rest any thought that, "Well, it is just the Republicans out there calling for hearings; politics as usual."

At least we thought we were being responsible when we investigated some of these charges. And they were charges leveled by Democrats and by the media. We followed up on those charges. I think we carried out our responsibilities.

And I would say to those who say, "We can't do this now because we have a special counsel," we have had hearings and concurrent investigations. We had the EPA-Superfund and the Burford matter, Michael Deaver and Iran-Contra. We had independent counsels and the Congress working at the same time.

We can hide behind Mr. Fiske. Anybody who wants to hide behind Mr. Fiske and say it is politics and say Republicans are trying to hold up the country here, we did not do anything. Maybe we did in the past. We did not do anything in this. We did not create anything. We did not borrow any money. We did not build anything. We did not do anything.

I might say, if we had not had a congressional hearing in the Banking Committee and if the Senator from New York had not asked Mr. Altman the question about meetings, we would not know today how many secret meetings were held between Treasury officials and people in the White House.

I also want to make the point when we passed the RTC law, the Democratic Congress insisted that we make it independent. They did not want the Treasury dominating the RTC. They did not want any Treasury influence in the Resolution Trust Corporation. So they made it very clear.

I want to give you the facts on what happened in the legislation.

And that is why I think it is strange that Roger Altman, who I know is a close friend of Al Hunt, who writes these crazy pieces in the Wall Street Journal from time to time—they both are sort of elitists, so they understand each other; both liberals, so they understand each other.

But, he, in effect, has been the head of the RTC for the past 11 months. He is finally going to recuse himself and the general counsel, who has also been working at the RTC. Even though Congress put up this firewall, the Democratic Congress insisted there be a firewall between any Treasury activity and the RTC.

So, it just seems to me that there are a lot of reasons that Congress ought to get ready. We know we are not going to have a hearing this week or next week. Then there is the Easter recess for a couple weeks. But we ought to start putting it together now so when we come back from the Easter recess we would be in a position to start our hearings without interfering with Mr. Fiske.

In fact, our legislation clearly states there will be no grants of immunity, so you cannot make the argument, "Oh, we cannot do this, somebody might be granted immunity." We are not going to grant immunity. If they want to take the fifth amendment, they have that right. We are not going to grant it. At least that is what we suggest. If somebody has a different view, that is something else.

So I just say I think this is an important issue. Sooner or later, as Congressman LEE HAMILTON, a respected House Member, Democrat, chairman of the Foreign Relations Committee, said, there are going to be hearings. Sooner or later—I think the term is "inevitable," I think used by the chairman of the Ways and Means Committee, DAN ROSTENKOWSKI, who just won a big primary out in the Chicago area, a Democrat—sooner or later it is going to happen. The American people, in a Newsweek poll this week, by a margin of 52 to 40, said we ought to have public hearings. That is going to grow. It is not going to be 52–40; it is going to be 60–30 and then continue to go up just as Watergate did. It started off as a third-rate burglary and ended up as—everybody knows how it ended up.

But I want to go back to the independence between the RTC and Treasury. When it first submitted the thrift bailout legislation in 1989, the Bush administration specifically proposed that the oversight board, chaired by the Secretary of the Treasury, would maintain the power to intervene in any action or determination by the RTC. That is what the Bush administration

proposed, which would include any legal action taken by the RTC in specific cases. The oversight board was intended to be the White House administration mechanism for controlling the RTC. There is no doubt about it. That is the way it was drafted.

The Democratic-controlled Congress changed the legislation by the time it was enacted in August 1989, to ensure that the RTC was free from interference from the administration oversight board with respect to case-specific matters involving individual failed thrifts, which obviously included lawsuits. I will put the rest of this information in, giving the citations and precisely what happened.

I ask unanimous consent that a document be printed in the RECORD.

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

1. When it first submitted the thrift bailout legislation in 1989, the Bush Administration specifically proposed that the Oversight Board, chaired by the Secretary of the Treasury, would maintain the power to intervene in any action or determination by the RTC—which would include any legal action taken by the RTC in specific cases. See S. 413, 101st Cong., pp. 141–42:

"(5) DUTIES.—The Oversight Board shall review and have overall responsibility over the work, progress, management and activities of the Resolution Trust Corporation and may disapprove, in its discretion, any and all regulations, policies, procedures, guidelines, statements, contracts, and other actions of the Resolution Trust Corporation * * *."

See also H.R. 1278, 101st Cong., pp. 141–42 (the House version of the Bush Administration bill, which was also introduced by request); and testimony of Treasury Secretary Brady, explaining the Administration's bill, at S. Hrg. 101–127, Pt. 2, pg. 23 ("An Oversight Board, consisting of the Secretary of the Treasury, the Chairman of the Federal Reserve Board, and the Attorney General, will monitor *all* RTC activities to ensure the most effective use of both private and public financial resources." (Emphasis added.) The Oversight Board was intended to be the White House and Administration mechanism for controlling the RTC.

2. But the Democrat-controlled Congress changed the legislation by the time it was enacted in August of 1989 to ensure that the RTC was free from interference from the Administration's Oversight Board with respect to case-specific matters involving individual failed thrifts—which would obviously include individual lawsuits. See 101st Cong., 1st Sess., Rep. 101–222, Conf. Rep. to accompany H.R. 1278, at pp. 194–96, Sec. 501(a), adding new section 21A(a) to the Federal Home Loan Bank Act:

"(6) OVERSIGHT BOARD DUTIES AND AUTHORITIES.—The Oversight Board shall have the following duties and authorities with respect to the [RTC]: * * *

"(C) To review all rules, regulations, principles, procedures, and guidelines that may be adopted or announced by the [RTC] * * * [However, the] provisions of this subparagraph shall not apply to * * * determinations or actions described in paragraph (8) of this subsection. * * *

"(8) LIMITATION ON AUTHORITY.—

"(A) IN GENERAL.—The [RTC] shall have the authority, without any prior review, approval, or disapproval by the Oversight Board, to make such determinations and take such actions as it deems appropriate with respect to case specific matters

"(i) involving individual case resolutions * * *."

See also id., pp. 409–10, "Joint Explanatory Statement of the Committee of Conference," which explains provisions in the Conference Report: "The Oversight Board will review and have overall responsibility for the RTC's activities. The Oversight Board will not, however, be involved in or responsible for case specific matters involving individual institutions * * * of the RTC."

Mr. DOLE. It was because of that this happened.

The oversight board will not, however, be involved and responsible for the case-specific matters involving individual investigations of the RTC.

So here we have it. It is supposed to be separate, supposed to be independent.

It is not independent. It has not been separate. It has been operated by Roger Altman and Jean Hanson, I think the general counsel. Its members have been wielding great influence and also visiting with White House individuals. We do not know who else they have been visiting with in the past 12 months. And it seems to me some of those questions have to be answered. If Congress is too reluctant—I want to put that first chart back up here—to now have investigations, I can go back and quote various of my colleagues on the other side who were so eager to have investigations when Republicans were in the White House, who now think it would be a travesty to do anything like that. I assume they can find some quotes on the other side.

I just suggest, if we cannot reach some agreement, then on every bill we are going to offer an amendment to have hearings. If it is tabled, if it is voted down, that is fine. That is the way the system works. But we are going to give our colleagues on both sides of the aisle—this is where, in polls, you ask the American people to express themselves about whether or not there should be congressional hearings.

We cannot continue—no one can continue to hide behind the special counsel, Mr. Fiske. As far as I know, Mr. Fiske has his responsibilities. As far as I know, we have ours. I said, when Mr. Fiske was appointed, there will be no second-guessing, no second-guessing of Mr. Fiske. I note the Senator from Arkansas on the floor. I watched him on Larry King the other night indicating I had said, "Oh, that is all we need is a special counsel."

Keep in mind, my Democratic colleagues did not want a special counsel. They did not want anything. "It is not necessary, not necessary." It was only after about nine Democratic Senators said it was necessary that it became necessary.

So we have to be a little consistent around this place. I know it is hard. But when they got enough pressure from Democrats, they could not say it was Democratic politics—it was Republican politics, but nine Democratic Senators said, "Wait a minute. We need a special counsel. We need to investigate this." I said when Mr. Fiske was appointed there would be no second-guessing of Mr. Fiske, and I have not second-guessed Mr. Fiske, even though the Wall Street Journal has, and other publications have second-guessed Mr. Fiske. But I have not second-guessed Mr. Fiske. The point may come. Depending on what happens, that may happen.

So we are not second-guessing Mr. Fiske. We are saying either Congress has some responsibility for oversight, and there are about five different committees involved here, or we do not have any responsibility for oversight. I know the Democrats have 56 votes and I know we have 44, so it does not take any rocket scientist—if it is politics, they will table our, I think, very reasonable amendment. I will not send it to the desk before I visit with the distinguished majority leader because I understand they may have a counterproposal which may be satisfactory.

But it is time Congress either vote up or down, we are going to have hearings or we are not going to have hearings. The Senator from Arkansas said, "Oh, they have made 29 speeches already this year on Whitewater." Is that not great, 29 speeches? We had 25 investigations, spent millions and millions of dollars when Republicans had the White House. I did not see anybody from Arkansas or anybody else saying, oh, we have to stop all this, we have to stop spending all this money. We even had one where they went after somebody who I think had gotten a wristwatch as a gift. They went after that person; thought it was improper and they should not have done it.

We have had all kinds of hearings. I assume we will have some more. Or, in the alternative, as I suggest, we ought to repeal all the oversight laws so Congress does not have any oversight responsibility. Either do one or the other. And I have an amendment drafted to do that, too. If Congress does not have any responsibility, let us just repeal all the oversight laws we have and say, "OK, we do not have any oversight responsibility. We will appoint special counsels for everything and Congress will just wait until something happens."

So it is not very complicated. Again, let me make certain people understand what the resolution says. It is not a mandate. Let me just read the first paragraph.

Sense of the Senate resolution: That the Democratic and Republican leadership of the Senate should promptly determine the method, form, and timetable for hearings on allegations concerning * * *

Then I list the different things that have been raised publicly in the past

several months. I raise those. And I say:

The body or bodies conducting such hearings should so specify authority for issuance of subpoenas to obtain testimony and documents if it is * * * appropriate to the pleadings referred to in paragraph 1. No witness called to testify at such hearing shall be granted immunity.

That has been one excuse, "Oh, we may grant it immunity." So here we are saying, OK, do not grant immunity under section 6002 or 6005, title 18, United States Code, over the objection of independent counsel, Robert B. Fiske, Jr.

I remember Mr. Walsh came up here when the Democrats controlled Congress and said, "Do not grant immunity in Iran-Contra," but they granted immunity anyway. Now they are trying to use that as an excuse. We are saying we will not grant immunity over the objection. We are meeting that objection.

I think, to the extent practical, such hearings should be structured and sequenced in such a manner as not to interfere with the ongoing investigation of independent counsel Robert B. Fiske, Jr.

I think that is a fairly reasonable approach. It is not something that says by a certain date we have a hearing. It is something that says the Republican leader and the Democratic leader shall sit down and try to figure out a structure so we do not have four or five committees trying to do four or five different things. I must say, for others who are always out there looking under the rock, I think I was the first Senator who called for hearings in the Iran-Contra matter. In fact, I wanted hearings in 1986. I wanted a special session of the Senate so we could start hearings in 1986.

So it seems to me it is time to fish or cut bait. We can look back over history. We can look at what happened during the Watergate years and how, at every turn, the White House would stonewall and say, "We are giving you all the information. You have it all. You have it all. You have it all." I do not know what the information is. I do not have any idea what the information is. But I think Congress does have some responsibilities.

So I hope, if we cannot agree to this resolution, we can agree to one that is very close to this resolution so we can go on with this bill, go on with the work of the Senate, go on with the work of the Congress, whether it is health care, welfare reform, crime, whatever it is.

And I think, just to conclude at this point, for those who would like to play the partisan game, Republicans did not tell Roger Altman to go to the White House and give them a heads-up. I cannot find any Republican who suggested that. We cannot find any Republican who shredded documents. We did not tell the Rose law firm to examine the billing practices of its former partner Webster Hubbell. We did not force Robert Fiske to subpoena 10 White House and Treasury officials. We did not ask Bernie Nussbaum to interfere with the Park Police investigation.

We have not been accused of muscling the Office of Thrift Supervision's Western Division to lay off Madison Guaranty, and we did not do anything with the U.S. attorney down in Little Rock. Of course, the Republicans, the last time I checked, do not control the New York Times or the Washington Post or the Los Angeles Times, or countless other newspapers, large and small, that have editorialized in support of congressional hearings.

The other Democrat I was referring to was CHARLIE STENHOLM. So we have Congressman LEE HAMILTON, Congressman DAN ROSTENKOWSKI, and Congressman STENHOLM, all well-known Democrats on the House side, saying that hearings are inevitable and that public disclosure is the best way to get this matter behind us.

I just want to make a final point, and then I will yield the floor. I am not sending the amendment to the desk at this time because I have not discussed it with Senator MITCHELL and I want to do so before I send the amendment to the desk.

I want everybody to know, this is not some Republican plot. It seems to me what the White House did is look at what happened in Watergate and tried to replicate it: Stonewall; do not tell anybody anything. That is what happened in the Nixon White House. They certainly made a lot of mistakes, a lot of missteps, and a lot of omissions.

We did not have a negotiated subpoena. That was the President's lawyer who negotiated subpoenas so the public would not know what was going on, as far as the documents were concerned.

I want to close by saying, there was never any reticence around here to have hearings from 1981 to 1992. Even as I said, when Republicans controlled the Senate, we had four investigations of our own administration.

So I hope we are not being viewed as some partisan group just because we are Republicans and there happens to be a Democrat in the White House. I know Mr. Fiske is a Republican. We did not name Mr. Fiske either. That was not a Republican effort. That was done by somebody—I do not know who suggested it, but the appointment was made by Janet Reno. I do not think she knew Mr. Fiske, but I know Mr. Nussbaum knew Mr. Fiske quite well.

So we are prepared to either vote on, after not much more debate, because I know my colleagues on the Banking Committee want to finish this bill and I know the majority leader does, I will be prepared—if we cannot reach some agreement—for another 10, 15 minutes debate, and then I will offer the amendment on behalf of myself, Senator D'AMATO, Senator COHEN, and Senator MURKOWSKI.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Madam President, I know my colleague from Arkansas is here and wants to make his comments. At this time, I serve notice that I will respond because I do have a comprehensive statement as it relates to this resolution and Whitewater in general.

Let us be clear, as far as I can see—and I would like somebody to tell me different—is the only thing different as it relates to the calling for hearings, structured hearings—is we have a Democrat in the White House as opposed to a Republican.

In good conscience, I would ask my colleagues, would they be making the same argument if the President were George Bush? I do not believe so. I do not believe so. But they have to answer to that.

I also note that the special counsel is a weapon of justice. Special counsel is not a shield for congressional inaction. I do not believe we can sit on our hands until the special counsel has completed his work. That may take years.

Now in the real world of politics, that is what some may want. Is this political? Of course it is. It is part of the political governmental process. Let us make no mistake about that.

I have indicated that I would speak for a very short period of time because I have a more comprehensive statement and some more observations to make. At this time, I will yield the floor.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader, the Senator from Maine.

Mr. MITCHELL. Madam President, I was advised a short time ago that the distinguished Republican leader was, once again, addressing the issue of Whitewater on the floor and I, therefore, feel constrained to reply. I did not hear all of the remarks and, therefore, cannot at this moment reply to all of them, but I would like to make a few points on the subject, which I have previously made, and some additional points.

First, everyone should understand that the Congress has an important oversight responsibility and the Congress will meet that responsibility. That is not in dispute. The only question is whether the Congress proceeds to engage in a political circus for the political benefit of our Republican colleagues or whether it conducts its oversight responsibilities in a serious manner and one which will not undermine the independent investigation of a special counsel who is now conducting what all concede to be a thorough, impartial investigation. That is the only issue.

Any implication that Congress is not meeting its oversight responsibility just because it does not rush into a political circus right now is wrong. The way to meet our responsibilities and to permit the special counsel to meet his responsibilities is to have congressional oversight conducted in a serious and responsible way, not in a political circus.

Madam President, let me review, if I might, the events which have led to this point.

In January of this year, at the request of our Republican colleagues, and others, a special counsel was named and given full investigative and prosecutorial power and given complete independence to look into the entire Whitewater matter. That counsel is a Republican, a lifelong Republican with vast experience in prosecution. When he was appointed, our colleague, Senator D'AMATO said:

> Bob Fiske is uniquely qualified for this position. He is a man of uncompromising integrity. He will unearth the truth for the American people. He is one of the most honorable and most skilled lawyers anywhere.

The words of our Republican colleague about the Republican who was appointed to conduct the investigation.

On his own initiative, the special counsel wrote to the chairman and ranking member of the Banking Committee and asked that no hearings be held, his concern being that such hearings would undermine his investigation. And in his letter, he said—and I quote,

> * * * that such a process could jeopardize our investigation in several respects, including the dangers of congressional immunity, the premature disclosure of the contents of documents or of witnesses' testimony to other witnesses on the same subject creating the risk of tailored testimony and of premature public disclosure of matters at the core of the criminal investigation.

That is the special counsel's request in writing on his own initiative; that special counsel who himself is a Republican, who has been praised for his integrity and independence by our Republican colleagues. And what they are requesting is that we not honor the special counsel's request; that we ignore the special counsel's request and now create a political circus solely for partisan political purposes.

I have heard references on this floor to public opinion polls. Well, as one public opinion poll over the last few days shows, the American people are not fooled: 12 percent of those polled believe that our Republican colleagues are doing this because they are serious about the matter; 78 percent—78 percent—of those polled believe that our Republican colleagues are doing it for political gain.

Make no mistake about it, this is pure partisan politics. That is what is going on here. This is an effort to embarrass the President, to make it more difficult to get the President's program passed.

Why all of the attention on Whitewater? Well, I think to find that out you have to go back to last summer.

Last summer, President Clinton presented the cornerstone of his program for change in America, an economic plan to revive the economy. And we debated that economic plan here in the Senate for weeks. And Republican after Republican Senator got up and spoke against the President's economic plan and said, "If you pass that economic plan, the deficit will go up, interest rates will go up, unemployment will go up, economic growth will go down."

We passed the economic plan. Not a single Republican Senator voted for it. Every single one of them voted against it. And what happened after we passed the economic plan? In the months since then, the opposite of what they predicted has happened. The deficit has come way down, interest rates are down, unemployment is down, and economic growth is up.

So they have nothing to talk about. The President's economic plan was passed over unanimous Republican opposition, and it is working. The economy is recovering. Economic growth is up. Job creation is up. More private-sector jobs were created in America in the first year of President Clinton's term than all of the previous 4 years put together. That is what matters to the American people.

And so what we are seeing now is the politics of diversion. Not having an economic plan of their own, seeing the President's economic plan succeed, seeing the economy come back, seeing Americans once again having hope and optimism and promise for the future, our colleagues have nothing to fall back on, and so they are seeking, no pun intended, a political liferaft in the Whitewater affair—something, just something, to get at the President.

Am I the only one who thinks this? Well, we have heard quotes here from other Democrats. Here is a quote from another Republican, Barry Goldwater, who served with great distinction in this Senate for many years and was the Republican candidate for President 30 years ago. I am advised that Barry Goldwater held a press conference in Phoenix to suggest that Republicans get off the President's back.

> I wish to urge my Republican friends in Washington and those Democrats who are participating to get off his back and let him be President.

Well, of course, if they do that, we might pass health care reform. We might pass welfare reform. We might pass a crime bill. We might pass a record that will be good for America and good for this President, and that might lead the President to be reelected. And, my gosh, that is the one thing our colleagues are concerned about—how to prevent the President from being reelected.

So, we cannot concentrate on the business at hand. No, no. We have to talk about Whitewater. We cannot talk about bills to promote economic growth and job creation; we have to talk about Whitewater, even though a special counsel, who is a Republican, has requested that we not hold hearings at this time.

Now, Madam President, let me address the subject of Iran-Contra, with which I have some familiarity. In the first place, when we met to discuss the Iran-Contra investigation, our Republican colleagues suggested that the investigation have a time limit of 2 weeks—2 weeks. That was their request for the whole investigation. We wanted to have a longer period of time to get the job done, and after weeks of negotiations we ended up on a time limit of several months.

Up to the Iran-Contra investigation, the problems inherent in a congressional investigation and a simultaneous independent criminal investigation by an appropriate prosecutorial authority were governed by the law laid down by the U.S. Supreme Court in 1972 in a case called Kastigar versus the United States. And in that case, the Supreme Court set a standard which a prosecutor would have to meet in order to successfully prosecute a person who had testified previously in a congressional investigation.

It was a tough but a reasonable standard. It was one that could have been met in many cases.

In the Iran-Contra matter, Oliver North testified before the congressional committee under immunity and was then indicted, tried, and convicted on three felony counts. He appealed those three convictions, and the U.S. Court of Appeals reversed the convictions in a decision rendered in 1990 which significantly changed the law from what it previously had been.

The standard enunciated by the court of appeals in the North case is far more detailed, far more strict and, in my judgment as a former prosecutor and a Federal judge, it is a standard which cannot be met. That is to say, the state of the law now effectively precludes both immunized testimony in a congressional investigation and a successful later prosecution.

I am not alone in reaching that conclusion. Judge Walsh, who was the special counsel in the Iran-Contra case, said, and I quote:

> I think the views of some of those in the congressional committees that there was a possibility of concurrent activity that the Congress could investigate on television and that the criminal prosecution could also go on was just proved to be wrong, and I think the lesson is very clear, as we spelled out in the report. Congress has control. It's a political decision as to which is more important, but it can't have both. If it wants to proceed with a joint committee or a special committee or have—to compel testimony by granting immunity, it has to realize that the odds

are very strong that it's going to kill any resulting criminal prosecution.

So, Madam President, it is clear that the current state of the law, which has been the law only since 1990, since the decision by the court of appeals in the North case, which the Supreme Court did not review and therefore which now stands as the applicable law, since then a new, different, and far more formidable hurdle has been established into law to prosecutions for immunized testimony.

Now, our colleagues say, after they initially wanted an investigation and hearings, in response to this they say, well, we will not ask to immunize witnesses.

I have two responses to that. The first is that as Special Counsel Fiske made clear in his letter, the request for no hearings goes beyond the question of immunized testimony.

He stated in his letter three separate independent bases for not requesting hearings. One of them was congressional immunity. A second was the premature disclosure of the contents of documents or of witnesses' testimony to other witnesses on the same subject creating the risk of tailored testimony. And a third was the premature public disclosure of matters at the core of the criminal investigation.

So, as the special counsel himself has made clear, there are reasons not to conduct hearings that would impair or undermine his investigation that go beyond immunized testimony.

A second reason is: If a matter is under criminal investigation and a congressional committee announces in advance that under no circumstances will it immunize testimony, it virtually assures that it will not get the testimony essential to full public disclosure, which we are told is the reason for doing so in the first place.

Of course, we know what our colleagues want. They want a parade of administration witnesses who will refuse to testify for these very reasons. In effect, they want a political circus to score political points as opposed to getting at the heart of this matter.

The heart of the matter is this: I do not think there is a single Member of this Senate who knows all of the facts on Whitewater. I do not know them. And I doubt very much that any of our other colleagues do. In order to get at the facts, in order to determine whether there has been any wrongdoing which should be subjected to punishment, we have set in motion an independent legal process with full power of subpoena, with full power of investigation and prosecution. A Republican, a skilled and experienced prosecutor, has been given that mandate. He is now doing it in a manner that seems universally agreed to, is thorough and in detail.

What we should do is to let him do his job, let him do his job in a way that will produce the full truth, and a full accounting of what occurred. And then let the chips fall where they may. If anybody has done anything wrong, they should be prosecuted and punished. And I am confident that the special counsel will see to that. If they have not done anything wrong, he should say that, and I am confident that he will say that.

The real question is whether we now for purely partisan, political purposes are going to take an action that will undermine or hinder the special counsel's investigation and make the likelihood of his getting the full truth and holding those responsible fully accountable less likely than would otherwise be the case.

That is the real issue. The real issue is are we trying to get at the truth and trying to hold accountable those who are responsible for any possible wrongdoing, or are we trying to score political points for purely partisan purposes? That is the question that we will have. And of course, I welcome the opportunity for the Senate to debate it and to vote on it.

Our colleague has indicated he has a resolution. We also have a resolution as he knows. We have discussed this before privately. We are trying to work it out to see if we can reach agreement on the resolution. I do not know whether that is possible. If we can, I think that will be desirable. If not, then we will have the competing resolutions, and we will debate them, and we will vote on them.

What I want to say is that we welcome that debate, we welcome that vote, we welcome it as often as our colleagues choose to make it the issue. I think there is a risk that the 78 percent will reach 88 percent. It is rare that the American people agree so overwhelmingly on a subject as they agree on this one.

I hope that we can reach an agreement to conduct congressional oversight in a serious and responsible way, in a way that will meet our constitutional responsibility, and also in a way that will not undermine the special counsel's investigation, because I believe the worst possible result would be for the Congress to conduct a political circus that would not get the full truth, and to have what we do undermine the special counsel so that he then could not get the full truth.

I remind my colleagues of this: We have heard a lot of talk about the Iran-Contra investigation. There was immunity granted there. And witnesses were compelled to testify, and even with that, we never got the full truth. An investigation that begins by announcing in advance that there will be no immunity granted to any witness under any circumstances guarantees that there will not be a full finding of what occurred and may result in the worst possible result—the worst possible result—neither inquiry succeeding, no one ever finding out what the real facts are, and no one held accountable for any potential wrongdoing.

There is a special counsel in place. He is a responsible person. I think that is one of the few things on which there is no dispute here. He is conducting a thorough and detailed investigation. That is another thing on which I believe there is no disagreement here. We should let him do his job. We should be prepared at the appropriate time, under appropriate circumstances, in a way that will not undermine his investigation to fully and fairly and responsibly meet our constitutional oversight duties. We are prepared to do so. We look forward to that.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER (Mr. FEINGOLD). The Republican leader.

Mr. DOLE. Mr. President, I have listened to the majority leader very carefully. I understand the concern he has, and I think some of them are just concerns. But there are a lot of things you can find out without the need for testimony. You get documents. You get the cooperation of the regulators. You might not need any testimony. There might not be any reason to grant immunity to anybody. But a lot of things you can learn. We do not have any power to do anything.

Second, as far as I know, the Democrats still control this Congress. They would be in control of any hearings that took place. So I do not think there would have to be much concern. They are worried about somebody trying to embarrass the administration because they are in control in the Congress, and they control the committee.

Therein lies the problem. When you have one-party Government, you have the White House and the Congress controlled by one party.

If I should conclude that the majority leader is correct, then I could say that every one of these areas are politically inspired because we were trying to conspire a hearing—good politics. We have 20-some here that the Democrats had that were politically inspired because we had four when the Republicans controlled the Senate when we investigated one administration. So maybe those were politically inspired. We also have at least three hearings where we had independent counsel and Congress working at the same time.

Let us face it. There are a lot of polls out there. I do not know what the polls were during Watergate. I assume they were about the same. There are a lot of political charges: "Third-rate burglary."

I remember going to the White House one time mentioning Watergate, and I was not invited back for 30 days because the White House did not want to hear the word "Watergate," and said, "It is going to go away. It is not a big story; a third-rate burglary." Then in-

side the White House they started compounding the problem with stonewalling, not giving the information, no public disclosure, and that is precisely what is happening today.

But we can all—and I do not want to get in a contest with my friend, the majority leader. He can probably find quotes that I made. I have quotes that he made. I have quotes that Vice President GORE made. I have quotes Senator PRYOR made. I have got all kinds of quotes about, "We want to have hearings on this 'October surprise.'" In fact, the St. Louis Post Dispatch, I quote: "Gore Also Accused Bush of Breaking the Law." That was the night before the election.

So there are a lot of allegations out there. We do not know the facts. We may never know the facts. I am sorry to say we are going to have hearings. In fact, all my resolution says is that the two leaders ought to get together and figure out when to do that and what to cover so we will not have four or five different committees holding hearings.

Under rule XXVI, any three Republican members—in this case minority members—could ask for the committee chairman to call a meeting of that committee for that purpose, and then it would take a majority vote to have a hearing in that committee. But at least you could do that in each of the committees. I assume that may be done by some of the ranking Republicans. I do not know that to be the case.

But it seems to me that this is a serious matter. We do want to cooperate with Mr. Fiske who is a Republican. So was Lawrence Walsh, if that tells you anything. He has hung around here for 7 years and has spent between $50 million and $100 million of the taxpayers' money, and, as far as I know, did not do much of anything.

So that is not all Republicans—and I do not have any quarrel with Mr. Nussbaum. I said I will not second-guess Mr. Fiske—not Nussbaum—not second-guess Mr. Fiske. I do not know who appointed him, nor who knew him in the administration since Mr. Fiske and Mr. Nussbaum are very close friends. But in any event, he is the independent counsel. He has a big responsibility. And we should not try to interfere with it. But that does not mean we have to wait until he finishes everything before we can say anything. Because, if he says, well, as far as he knows, nothing serious happened—there were some things of this, and things of that, then the cry will be that there is no need for hearings, no need for congressional hearings, because the independent counsel has already taken everybody off of the hook. Maybe he will be correct. Maybe there will not be a need, if we have to sit around and wait and wait.

Look, we had hearings here before you could drop your hat on some of these other matters. On Iran-Contra itself, this Senator was asking for hearings in December of 1986. In fact, we were negotiating at the time with the then-minority leader, Senator BYRD, to see if we could not start something before the next Congress, and the Democrats took over the Senate, and the Democrats wanted their way for obvious reasons when they controlled the Senate. For obvious reasons, we did not get our way. We did not have the hearings until 1987.

So I think the record is fairly clear. I will put in the RECORD all the authority where Congress asks for oversight and has responsibilities. It is in the Constitution; it is in the power of the purse, in the power to organize the executive branch, the power to make all laws for carrying out executive execution. Article I enumerated the functions and the power of investigation, the power of impeachment and confirmation. Then we get to the principal statutory authority.

I ask unanimous consent that all that be printed in the RECORD.

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

AUTHORITY FOR THE CONDUCT OF OVERSIGHT

(Prepared by the Congressional Research Service)

A. U.S. CONSTITUTION

The Constitution grants Congress extensive authority to oversee and investigate executive branch activities. The constitutional authority for Congress to conduct oversight stems from such explicit and implicit provisions as:

1. The power of the purse. The Constitution provides that "no money shall be drawn from the Treasury, but in consequence of appropriations made by law." Each year the Committees on Appropriations of the House and Senate review the financial practices and needs of Federal agencies. The appropriations process allows the Congress to exercise extensive control over the activities of executive agencies. Congress can define the precise purposes for which money may be spent, adjust funding levels, and prohibit expenditures for certain purposes.

2. The power to organize the executive branch. Congress has the authority to create, abolish, reorganize, and fund Federal departments and agencies. It has the authority to assign or reassign functions to departments and agencies, and grant new forms of authority and staff to administrators. Congress, in short, exercises ultimate authority over executive branch organization and policy.

3. The power to make all laws for "carrying into Execution" Congress' Article I enumerated functions. Article I grants Congress a wide range of powers, such as the power to tax and coin money; regulate foreign and interstate commerce; declare war; provide for the creation and maintenance of armed forces; and establish a post office. Augmenting these specific powers is the so-called "elastic clause:" "To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Office thereof." Clearly, Congress has broad authority to regulate and oversee departmental activities.

4. The power of impeachment and confirmation. Impeachment offers Congress a powerful tool to investigate alleged executive and judicial misbehavior, and to eliminate such behavior through the conviction and removal from office of the offending individuals. The confirmation process involves not only the determination of a nominee's suitability for an executive or judicial position, but also provides information on the policies and programs the nominee intends to pursue.

5. The power of investigation. A traditional method of exercising the oversight function is through investigations into executive branch operations. Legislators need to know how effectively programs are working, how well agency officials are responding to committee directives, and the scope and intensity of public support for Government programs. The investigatory method helps to ensure a more responsible bureaucracy, while supplying Congress with information needed to formulate new legislation.

B. PRINCIPAL STATUTORY AUTHORITY

Five key laws assign oversight duties to committees. They are the Legislative Reorganization Act of 1946, the Intergovernmental Cooperation Act of 1968, the Legislative Reorganization Act of 1970, the Federal Advisory Committee Act of 1972, and the Congressional Budget and Impoundment Control Act of 1974.

1. The 1946 LRA

a. Required House and Senate committees to exercise "continuous watchfulness" of the administration of laws and programs under their jurisdiction.

b. Authorized for the first time, in history, permanent professional and clerical staff for committees.

c. Authorized and directed the Comptroller General to make administrative management analyses of each executive branch agency.

2. Intergovernmental Cooperation Act of 1968

1. Required that House and Senate committees having jurisdiction over grants-in-aid are to conduct studies of the programs under which grants-in-aid are made to determine whether (1) their purposes have been met; (2) their objectives could be carried on without further assistance; (3) they are adequate to meet needs; and (4) any changes in programs or procedures should be made.

3. The 1970 LRA

a. Revised and rephrased in more explicit language the oversight function of standing committees.

b. Required most House and Senate committees to issue biennial oversight reports.

c. Strengthened the program evaluation responsibilities of the General Accounting Office and the policy analysis role of the Congressional Research Service.

d. Recommended that House and Senate committees ascertain whether programs within their jurisdiction could be appropriated for annually.

e. Required most House and Senate committees to include in their committee reports on legislation five-year cost estimates for carrying out the proposed program.

f. Increased by two each the number of permanent professional and clerical staff available to House and Senate committees.

4. Federal Advisory Committee Act of 1972

a. Directed House and Senate committees to make a continuing review of the activities of each advisory committee under its jurisdiction to determine whether (1) such committee should be abolished or merged with

any other advisory committee; (2) its responsibility should be revised; and (3) it performs a necessary function not already being performed. Advisory committee charters and reports can generally be obtained from the agency or government official being advised.

5. The 1974 Budget Act

a. Expanded House and Senate committee authority for oversight. Permitted committees to evaluate programs themselves "or by contract, or (to) require a Government agency to do so and furnish a report thereon to Congress."

b. Authorized GAO to establish an Office of Program Analysis to develop and recommend to the Congress methods for the review and evaluation of programs, and to assist committees in program evaluation through such means as "developing a statement of legislative objectives and goals and methods for assessing and reporting actual program performance."

c. Strengthened GAO's role in acquiring fiscal, budgetary, and program-related information.

d. Required any House or Senate legislative committee report on a public bill or resolution to include an analysis (prepared by the Congressional Budget Office) providing an estimate and comparison of costs which would be incurred in carrying out the bill during the next and following four fiscal years in which it would be effective.

C. RESPONSIBILITIES IN HOUSE AND SENATE RULES

1. House Rules

a. House rules grant the Committee on Government Operations a unique role in coordinating oversight activities. First, within 60 days after a new Congress convenes, the Committee is to issue a report to the House on the oversight plans of every committee and assist in coordinating oversight activities of the House. Second, the pertinent review findings and recommendations of the Committee on Government Operations are to be considered by the authorizing committees, if presented to them in a timely fashion. Finally, the authorizing committees are to indicate on the cover of their reports on public measures that they contain a summary of the findings when that is the case.

b. The Committee on Government Operations has the following additional oversight duties:

(1) review and study on a continuing basis, the operation of government activities at all levels to determine their economy and efficiency;

(2) receive and examine reports of the Comptroller General and submit recommendations thereon to the House;

(3) evaluate the effects of laws enacted to reorganize the legislative and executive branches of the government; and

(4) study intergovernmental relationships between the United States and states, municipalities, and international organizations of which the United States is a member (House Rule X).

c. House rules require other oversight efforts by standing committees.

(1) Each standing committee (except Appropriations and Budget) shall review and study on a continuing basis, the application, administration, and execution of all laws within its legislative jurisdiction (House Rule X).

(2) Committees have the authority to review the impact of tax expenditures on matters that fall within their jurisdiction (House Rule X).

(3) Each committee (except Appropriations and Budget) has a responsibility for research on alternative futures and forecasting (House Rule X).

(4) Eight committees have a special oversight authority, i.e., the right to conduct comprehensive reviews on specific subject areas that are within the legislative jurisdiction of other committees (House Rule X). Special oversight is akin to the broad oversight authority granted the Committee on Government Operations by the 1946 LRA, except that special oversight is generally limited to named subjects, such as the "problem of all types of small business."

(5) Committees are authorized to create oversight subcommittees or to require their subcommittees, if any, to conduct oversight in their jurisdictional areas (House Rule X).

(6) Committee reports on measures are to include oversight findings separately set out and clearly identified (House Rule XI). See example in Appendix C.

(7) Costs of stenographic services and transcripts for oversight hearings are to be paid from the House contingent fund rather than from committee budgets (House Rule XI).

(8) Any House committee report on a public bill or resolution shall contain a detailed analytical statement with respect to the inflationary impact such a bill might have on prices and costs in the national economy (House Rule XI).

2. Senate Rules

a. Each standing committee (except for Appropriations and Budget) shall review and study on a continuing basis, the applications administration, and execution of all laws within its legislative jurisdiction (LRA, 1970).

b. Senate Rule XXV grants "comprehensive policy oversight" responsibilities to several standing committee. This duty is akin to special oversight in the House. The Committee on Agriculture, Nutrition, and Forestry, for example, is authorized by Rule 25 to "study and review, on a comprehensive basis, matters relating to food, nutrition, and hunger, both in the United States and in foreign countries, and rural affairs, and report thereon from time to time."

c. Senate Rule XXVI requires all standing committees, except Appropriations, to prepare regulatory impact evaluations in their committee reports accompanying each public bill or joint resolution. The evaluations are to include:

(1) an estimate of the numbers of individuals and businesses to be affected;

(2) a determination of the regulation's economic impact and effect on personal privacy; and

(3) a determination of the amount of additional paperwork that will result.

d. The Committee on Governmental Affairs has the following additional oversight duties:

(1) review and study on a continuing basis the operation of governmental activities at all levels to determine their economy and efficiency;

(2) receive and examine reports of the Comptroller General and submit recommendations thereon to the Senate;

(3) evaluate the effects of laws enacted to reorganize the legislative and executive branches of the government; and

(4) study intergovernmental relationships between the United States and states, municipalities, and international organizations of which the United States is a member (Senate Rule XXV).

Mr. DOLE. I read in today's paper that the Government Operations Committee is going to have oversight hearings next week. Maybe counsel ought to go down there and say: Wait a minute, we do not need to do this. We will appoint a Republican lawyer, and we do not have to go through these oversight hearings. Maybe if we are not going to have oversight, we ought to repeal all these oversight laws in the books, some of which have been on the books as far back as 1946. Either we are going to have oversight or not. I think that is a judgment we can make later.

I repeat that Mr. Fiske has his job to do. But he must understand that we have a job to do, too—one that I think we are legally and constitutionally obligated to perform.

Mr. Fiske's job is prosecution. Our job is public disclosure. I think that the White House Treasury meetings are clearly a legitimate subject for congressional oversight. We would not have known about those today if not for the Republicans on the Banking Committee asking Mr. Altman, as sort of an aside, if he had any meetings. Then we learned he had more than one. What public purpose was served by allowing the Deputy Treasury Secretary and general counsel to brief White House officials? Was it ethical, and was preferential treatment given to their White House benefactors, so that the meetings compromised the independence of the RTC? These are judgments Congress has to make.

Keep in mind that when the RTC law was written, the Democratic Congress overturned what President Bush requested and made certain there was going to be a wall separating RTC and Treasury, so Treasury would have no case-specific power when it came to RTC investigations and dispositions in RTC. That was in 1989, as part of the bailout law making the RTC more independent from both the White House and Treasury. It was a Congress controlled by Democrats that created the RTC Oversight Board, chaired by the Secretary of Treasury, that was intervening in case-specific matters such as civil or criminal investigations into specific institutions. We do not know how many conversations Mr. Altman has had, or the general counsel, or who he had conversations with, whether it was somebody outside Washington. And Representative LEACH, on the House side, suggested that Washington officials may have gagged officials in the RTC's Kansas City regional office, and there was a story on that in yesterday's New York Times.

I do not know that that is a fact. But again, it is a proper area for oversight hearings.

I bet we would have had it back then. Hearings would be going on right now. We would not have waited this long back then—January, February and March—and we would not have special counsel. It was not because Republicans asked for special counsel that we had special counsel. Janet Reno told

me in writing that we did not need a special counsel. After Democrats in the Senate and a number in the House said we better do something, they changed their minds. Now I think it is time that they change their minds again and do what we are legally and constitutionally obligated to do when it comes to congressional oversight. We may not be that far apart. We do not say anything. We do not say we have to start next week or next month. We say the leaders ought to get together.

We have at least four or five committees that probably could have some jurisdiction, if they chose to do it. It seems to me that that would not be what the majority or minority leaders, or Members on either side, would want.

I continue to make this point: If we are being partisan now, were the Democrats being partisan in all that is represented on this chart? Are we going to be judged by a double standard? We are partisan now, but they were statesmen then? We are nothing but petty politicians—Republicans trying to embarrass the President—when in every one of these cases, the Democratic Congress, which had control of both Houses, were acting in a statesmanlike manner because they wanted only the facts. No way did they want to embarrass the administration, whether it be the Reagan or Bush administrations.

That may be, but here are 20 examples. I have to believe that maybe in one of these cases, as pure as the Democrats are, there might have been a little politics involved. I do not know which one. Maybe it was regarding Ambassador Faith Whittlesey. Maybe it was Edwin Meese. Remember Ray Donovan? When he was cleared, he said, "Maybe I will get my reputation back." We had a great time with Ray Donovan and our colleagues on the other side.

The point is this: If we are all going to have a confession and say that it is all politics, we have made a lot of mistakes in the last 12 years. We could say, OK, if you confess to making all those, maybe we will say we are making a mistake. I think Congress has oversight now, as it did back then. I believe that, in most cases, we had the hearings because we should have had the hearings. I am not suggesting that in every case it was political, or that I think we ought to suggest automatically that this is politics. If that line does not work, then we have to hide behind Robert Fiske. If that does not work, then we say we will do it later.

There are a lot of polls out there, as the majority leader indicates. Some of the polls may say what he indicated, and I am sure they do if he said it. Other polls give different expressions. But I just think we ought to try to work this out, get it behind us, and have the hearings, and hope that nothing is wrong, and then move on to something else.

Mr. MITCHELL. Mr. President, I want to reiterate a couple of points, so there can be no misunderstanding. Congress does have an important oversight responsibility and is meeting that responsibility. There should be no implication, no misunderstanding about that.

I have asked each committee to provide me with a list of oversight hearings held in the 14 months since President Clinton took office. I have only gotten a report from one committee, but they have conducted 20 hearings. I am going to place all of those into the RECORD so that we do not get what I believe to be a misleading comparison, which suggests that there have been no oversight hearings since President Clinton took office, and there were all these other oversight hearings during the years when Presidents Bush and Reagan were in office.

That is the first point. The Congress is meeting its oversight responsibility. That is not the issue here.

Second, I submit to my colleagues, that list is not relevant to this debate, because the question is not whether there should be hearings in connection with congressional oversight. The question is whether there should be hearings when a special counsel has been named, and when that counsel has explicitly asked that there not be hearings.

Most of those cases did not involve cases where a special counsel had been named. So there was no request not to hold hearings and there was no competing consideration as exists in this case.

Third, my colleague made mention of Ray Donovan. I do not recall the details, but it is my recollection, not a certain one, that he was nominated for a Cabinet position and that he was nominated for a Cabinet position by a Republican President at a time when Republicans controlled the Senate and that, in the normal course of meeting its confirmation duty, the Senate committee, controlled by Republicans, held a hearing on a President's Cabinet nominee.

That is about as far removed from this, if my recollection is correct—I am speaking from memory and it has been a while, it has been a long time—but if my recollection is correct, that has nothing whatsoever to do with what is going on here. I never met Mr. Donovan, and I do not recall the circumstances of his case, whether he was fairly or unfairly treated.

But surely no one is suggesting that when a President sends a Cabinet nominee to Congress that no hearings should be held in the Senate. That is not the issue here. So let us be clear. There is no question that Congress has important oversight responsibility.

Second, there is no question that Congress must and will and is meeting its oversight responsibilities. Numerous hearings—I am certain it will be in the dozens if not the hundreds—have been held on oversight by the Democratic controlled Senate since President Clinton took office.

The real issue, the only issue, is where, as here, a special counsel had been named, that special counsel is conducting an independent legal investigation, and that special counsel requests that no congressional hearings be held because they might undermine his investigation, whether we should still then go forward and hold a hearing. That is the only issue. The rest of these matters are not relevant to answering that question.

I submit to my colleagues, in that circumstance, an independent legal investigation being conducted by a special counsel who is himself a Republican, named at the request of Republicans, praised by Republicans when he was appointed for his integrity and experience, and who is conducting what all agree to be a very thorough, aggressive and detailed investigation, then the question is, should we then hold hearings explicitly denying his request that hearings not be held. That is the question. All of the rest of this is really off the mark and not relevant to this discussion and debate.

Mr. President, as I said, I am getting a list of oversight hearings conducted by committees since President Clinton took office, and I suppose I could get a nice big chart made like this here and present it on the Senate floor. I reserve my right to do that. But at the very least I am going to submit that for the RECORD when I receive it.

I know my colleague from Arkansas has been waiting very patiently, and though he was present before I was in seeking recognition, he permitted me to go forward, so I will at this moment yield the floor to him.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I thank the Chair for recognizing me and I thank the distinguished majority leader for his very eloquent statements on the floor this afternoon.

Mr. President, this is a milestone day in the Senate, and I should say another milestone day because today we have heard the 33d speech by Republican colleagues on the other side of the aisle since January 1 relating to the Whitewater episode. On 33 occasions, our colleagues on the other side of the aisle have taken the floor of the U.S. Senate and either asked for congressional investigations or have in one way or another alluded to the Whitewater episode.

Mr. President, I am very glad that the majority leader a few moments ago stated for the RECORD that our former colleague in the U.S. Senate, the Honorable Barry Goldwater of Arizona, of course a Republican, a one-time standard bearer for the Republican Party in 1964, as a candidate for President, one

whose credentials, I think, as a Republican are impeccable, Senator Goldwater yesterday called the press in Arizona to his home, I believe that is in Paradise Valley, AZ. I see my colleague from Arizona, Senator DECONCINI, who I think will elaborate on this particular and very unique meeting in Senator Goldwater's home where he called the press together.

Basically, the headline of the Associated Press article, Mr. President, stated this. This was yesterday. "Get Off President's Back."

Mr. President, I was very saddened to see that this very lengthy interview with Senator Goldwater, which was carried by the Associated Press, to the best of my knowledge, was not picked up by the Washington Post, it was not picked up by the New York Times, and it was not picked up by the Washington Times, to the very best of my knowledge. I stand to be corrected if that is not correct.

Senator Goldwater said, Mr. President:

"I want to urge my Republican friends in Washington, and those Democrats who are participating, to get off his back and let him be President," the 1964 Republican Presidential nominee told a news conference at his mountainside home above Phoenix.

Mr. President, I am going to read further from this Associated Press article of yesterday because the major media here, the print media at least, did not carry this story. It said in the story:

Republicans led the call for the appointment of a special prosecutor and have been demanding congressional hearings into the Clintons' investment in the Whitewater Development Corp. in Arkansas and its ties to a failed savings and loan. A Federal grand jury is looking into the matter in Little Rock, and 10 administration officials have been subpoenaed to testify in Washington.

Goldwater, who retired from the Senate in 1987, said he called the news conference because "it's something that has been kind of bugging me for the last week."

"The President needs our help more than he needs our stonewalling him all the time," Goldwater said. "My whole concern is that if there's not more to it than what we've heard, I want those people in Washington that are giving the President a bad time to get off his back."

"It's making it awful hard to be President," Goldwater said. "I don't think the country's too much in favor of what's going on. I think they'd like to have it stopped."

Further in quotes:

"So far I haven't seen anything that convinces me that it's all that big," he added.

Asked whether he had discussed his opinion with Clinton, Goldwater replied, "I didn't call the White House. I don't even have the number."

"I just think it's time to let the President be President and stop nitpicking on a thing called Whitewater or White River. They tell me it's a good fishing place. That's about the only thing good I've heard about it."

And a final quote, Mr. President. Senator Goldwater concluded his press conference by stating:

"In Watergate there was the matter of a President telling lies. That hasn't happened to my knowledge yet," he said. "I haven't heard of anything done since he's been in office that might be worthy of an investigation."

Mr. President, I ask unanimous consent that the Associated Press article be printed in the RECORD.

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

[From the Associated Press, Mar. 16, 1994]

GOLDWATER: GET OFF PRESIDENT'S BACK

(By Neil Bibler)

PARADISE VALLEY.—Washington should knock off the clamor over Whitewater and let President Clinton do the job he was elected to do, former Sen. Barry Goldwater said Wednesday.

"I want to urge my Republican friends in Washington, and those Democrats who are participating, to get off his back and let him be president," the 1964 Republican presidential nominee told a news conference at his mountainside home above Phoenix.

Republicans led the call for appointment of a special prosecutor and have been demanding congressional hearings into the Clintons' investment in the Whitewater Development Corp. in Arkansas and its ties to a failed savings and loan. A federal grand jury is looking into the matter in Little Rock, and 10 administration officials have been subpoenaed to testify in Washington.

Goldwater, who retired from the Senate in 1987, said he called the news conference because "it's something that has been kind of bugging me for the last week."

"The president needs our help more than he needs our stonewalling him all the time," Goldwater said. "My whole concern is that if there's not more to it than what we've heard, I want those people in Washington that are giving the president a bad time to get off his back.

"It's making it awful hard to be president," Goldwater said. "I don't think the country's too much in favor of what's going on. I think they'd like to have it stopped.

"So far I haven't seen anything that convinces me that it's all that big," he added.

Asked whether he had discussed his opinion with Clinton, Goldwater replied, "I didn't call the White House. I don't even have the number."

"I just think it's time to let the president be president and stop nitpicking on a thing called Whitewater or White River. They tell me it's a good fishing place. That's about the only thing good I've heard about it," he added.

Goldwater resisted questions comparing Whitewater with Watergate, the scandal that began with an apparently minor breakin but ultimately brought down President Nixon.

"In Watergate there was the matter of a president telling lies. That hasn't happened to my knowledge yet," he said. "I haven't heard of any thing (Clinton's) done since he's been in office that might be worthy of an investigation."

Asked whether the Whitewater affair was hampering Clinton's health care reform program, Goldwater said that "I think he's going to have a tough time getting his health care bill through. There will be some parts that will pass but not the whole thing."

* * * * *

On another subject, Goldwater said he wouldn't endorse Democratic U.S. Rep. Karan English a second time.

Goldwater broke with his party's candidate and endorsed English in the 1992 election in which she became the first person to hold the new 6th Congressional District seat.

Asked whether he's had second thoughts about endorsing her, Goldwater replied, "I sure as hell wouldn't do it again."

"She hasn't voted right," he added, declining to elaborate.

Mr. PRYOR. Mr. President, I would also like to state where a lot of this information apparently is coming from. I would like to state at least what is happening on one small front that I think we need to look at.

I would like for us to look at a tax-exempt organization—I repeat that—a tax-exempt organization which is known as Citizens United, and we would like to look at this organization for a moment this afternoon, Mr. President, to see what Citizens United is, why it has a tax-exempt status, what they are doing and the individual who runs Citizens United.

Let me tell you, Mr. President, who that individual is who runs Citizens United. His name is Floyd Brown. Let me repeat it. Floyd Brown. We are going to be hearing a lot about Mr. Brown in the coming weeks ahead because Mr. Brown operates a factory in this area, Mr. President. It is a unique factory. It is a sleaze factory. And this particular sleaze factory which has been given tax-exempt status, is a factory which today is pouring out venom, hate, lies, and poison. Here we have an article in the Arkansas Democrat Gazette, dated yesterday.

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

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

[From the Democrat-Gazette, Mar. 16, 1994]

CONSERVATIVE HANDS OUT VOLUMES ON WHITEWATER

(By Jane Fullerton)

WASHINGTON.—Do you need a copy of Bill and Hillary Clinton's income tax returns for the past decade?

Or perhaps you are looking for some obscure documents from land transactions involved in the Whitewater Development Corp. controversy.

Or maybe you simply want to review some of the bond activities of the Arkansas Development Finance Authority.

To get any of these documents, just call Floyd Brown.

He'll be happy to provide them at no cost, especially if you're a journalist or a Republican member of Congress.

Brown is the conservative activist best known for producing the infamous "Willie Horton ad" that generated controversy during the 1988 presidential campaign.

Now, Brown has turned his attention to Whitewater.

For months, Brown and his organization, Citizens United, have been funneling information and documents to reporters and Republican congressional aides researching the Whitewater affair.

His operatives have made several trips to Arkansas to unearth the financial and legal documents surrounding the Marion County land venture of the Clintons and James and Susan McDougal.

So Tuesday, Brown made it easier for reporters covering Whitewater.

He held a "Whitewater press briefing" at the National Press Club in Washington and offered his opinions about what angles reporters might examine.

But the real attraction was the documents—huge stacks of them.

Brown and his associates gladly handed out reams of documents as thick as the Little Rock telephone book to eager reporters who grabbed them up like goodies.

For reporters, what Brown provided was a treasure trove of information—information they could not readily obtain without great effort and expense.

Here were the Clintons' tax summaries and tax returns from 1980-92.

Here were "Whitewater Related Documents" that included land deeds and canceled checks and loan agreements.

Here were hundreds of sought-after documents that would take weeks to accumulate, not to mention having to make a trip to Arkansas.

Brown even included a handy chronology of Whitewater-related events, a breakdown of all the potential criminal violations that could be involved and suggested questions for reporters to pursue.

Reporters were skeptical about Brown's motivation, given his partisan predisposition.

"This is not a personal campaign, at all," he insisted. "It's just a desire for the American people to have the truth."

Mr. PRYOR. Mr. President, the headline of this article yesterday states "Conservative Hands Out Volumes on Whitewater." It tells about Mr. Floyd Brown. It gives his past. And, I might say, Mr. President, it is a pretty interesting past.

In fact, in a New York Times article about this particular organization and this individual, the Times wrote most recently that Mr. Brown briefed Republican aides on the House Judiciary Committee on Whitewater sometime in the first week of March 1994. That was in the Times.

According to Time magazine, on May 10, 1993, Mr. President, "Mr. Brown has used his syndicated talk show and Citizens United as a means of bashing Hillary Clinton," and I quote,

The Republican consultant told a network newscaster that his job was to make sure that Hillary Clinton is discredited before the 1996 campaign. Each day anti-Hillary talking points go out to talk show hosts. Many of the stories are attributed to the Secret Service in an attempt to give the tales credibility.

Time magazine, Mr. President, May 10, 1993.

Let us look at October 11, 1993. And I will quote from CNN's Inside Politics. Brown's organization, Citizens United—once again, Mr. President, tax exempt—"has been involved in trying to stop the Clinton health care reform plan by joining Citizens Against Rationing Health, a far-right organization opposed to health care reform. What the Clinton plan will do is basically set up a group of gatekeepers, kind of like Government-mandated Dr. Kevorkians, that will keep people from getting the health care that they really need."

That is from CNN's Inside Politics, October 11, 1993.

Mr. President, Floyd Brown is currently president of a Virginia-based, nonprofit, tax-exempt organization called Citizens United. We are going to hear a lot about this particular group in the next several days because they are part of the poison factory, spewing out the poison and hatred, the discontent that we see coming on too many occasions on the floor of the U.S. Senate.

Mr. President, I hope that our colleagues, and I hope that our country, will realize exactly what is going on. I think that they will. I think that when the majority leader cites the CBS poll of some 10 nights ago where 78 percent of the American people who were polled on that particular evening about this Whitewater episode, when 78 percent of those polled maintain that they believe that this was an attempt for the Republican Party to gain favor politically, I think, Mr. President, that pretty well says it all.

But I would like our colleagues to know that for too long and for too many times we on this side of the aisle have allowed our colleagues on the Republican side of the aisle to make accusations, speeches, innuendos and halftruths about this matter. No longer will those statements go unattended or unchallenged or unmet.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Mr. President, I thank the Chair.

I thank my friend from Arkansas for pointing out a number of things.

First of all, Mr. President, there is no question what is behind this proposed resolution. It is politics. Politics is a part of our game and part of our whole process here. But this is not the time to play politics.

My former colleague, whom I had the pleasure of serving 10 years with, has been the subject of remarks by the Senator from Arkansas.

Mr. D'AMATO. Mr. President, will my colleague yield to me for a moment, and then I will yield right back to him.

Mr. DECONCINI. Well, just a minute.

Mr. D'AMATO. Well, OK. I will tell you and I will ask the Parliamentarian as it relates to recognition of a Senator on the floor, a ranking member managing of the bill should have been recognized after the Senator from Arkansas was recognized.

Am I correct in making a parliamentary inquiry?

Mr. DECONCINI. Mr. President, who has the floor?

Mr. D'AMATO. I am making a parliamentary inquiry.

Mr. DECONCINI. Who has the floor, Mr. President?

Mr. D'AMATO. I have a right to make a parliamentary inquiry.

Mr. DECONCINI. Mr. President, this Senator has the floor, does he not?

The PRESIDING OFFICER. Senators, withhold, please.

The Senator from Arizona has the floor.

If both Senators speak at the same time, the Senator who is managing the bill does have priority. I heard the Senator from Arizona first.

Mr. DECONCINI. I thank the Chair.

Mr. D'AMATO. I would have yielded the floor, if I might, to the Senator from Arizona.

But that is incorrect.

The PRESIDING OFFICER. The Senator from Arizona has the floor.

Mr. DECONCINI. I thank the Chair.

Mr. President, I say to my good friend from New York—and he is my good friend—that I think this just shows the emotions that are created on Whitewater. People such as the Senator from New York, who is an astute politician and a distinguished Senator, get so upset about this because of the politics. And that is what we are talking about here. We are talking about pure politics.

I thank the Chair for recognizing me. The occupant of the chair was looking in this direction. He saw I was up waiting for the Senator from Arkansas to finish and he called on me. And that is no violation of any rule or precedent, and the Senator from New York, I am sure, will agree.

Mr. President, what we are talking about here is the former senior Senator from Arizona, Senator Goldwater, and several statements that he made yesterday which were read into the RECORD. I am going to submit the full article that appeared in the Arizona Republic today—that is the morning newspaper—by John Sidener.

The Senator from Arkansas has already read quotes from the article about getting off the President's back and letting him do his job.

Goldwater said he summoned the media to his home because the brouhaha over Whitewater has been "bugging me for the last week."

"I haven't heard anything yet that says this is all that big of a deal," he said. "It's making it awful hard for him to be president. I just wish they'd get off his back."

Senator Goldwater goes on and says things I think are worthwhile to read to all of my colleagues because we all hold Senator Goldwater in the highest esteem.

The former senator said he made his comments of his own volition. Clinton had not asked him for support, nor had he spoken to the president, he said.

"I don't have their phone number, and they haven't called me," he said of the Clintons. "I haven't talked to them for months."

He said he does not believe that Hillary Rodham Clinton has done anything unforgivable.

The first lady once pointed out to Goldwater that, in the formative years of her po-

litical career, she had worked as a volunteer in his 1964 presidential campaign as a Goldwater Girl.

"She's a good woman," Goldwater said. "I think the president is smart enough to listen to her."

Arizona's elder statesman said that Whitewater critics are holding Clinton to an unrealistically high standard.

"Not many presidents could meet that standard," he said. "I know I couldn't."

Goldwater said that a time comes to set politics aside for the country's best interest.

"This country is a"—blank, and you can figure out what that word is.

"This country is a (blank) sight more important than the Republican Party or the Democratic Party," he said. "It's time to stop nitpicking this thing called Whitewater."

Mr. President, here is a spokesman of the Republican Party making it very, very clear what Whitewater is all about. Senator Goldwater was not afraid to stand up and tell his former Republican colleagues and former Democratic colleagues that they should resist the political expedience of what we see going on here day after day after day after day—attacks against the President and the First Lady and this administration. He does not call it anything but what it is.

And who could put it any better than the former Senator from Arizona? It is politics. And that is what it is and the American public needs to know that is what it is.

If that is what they like, they are going to get plenty of it. But I daresay the American public is sick and tired of it. They are sick and tired of this constant bickering. They are sick and tired of this constant stonewalling, and I think it is being done because the Republicans do not have any program for jobs, any program to reduce the deficit, any program to turn this country toward an investment; any program to keep interest rates down, any program to do something about transportation, any program to do something about housing, any program to do something about creating capital.

If that is where we are going, that is the way it will be. It will be at the hands of the Republicans, who decided: Let us make all the political hay we can.

I am sending to the desk the particular article and I ask unanimous consent it be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Arizona Republic, Mar. 17, 1994]

GOLDWATER TELLS GOP TO GET OFF CLINTON'S BACK

(By Jonathan Sidener)

Former Sen. Barry Goldwater has chastised his Republican colleagues for fanning a controversy over the Whitewater affair that has dogged the Clinton administration for weeks.

"The people elected Bill Clinton president, and I urge my Republican friends in Washington and the Democrats who joined them to get off his back and let him be president," Goldwater said Wednesday morning at a news conference on his Paradise Valley lawn.

Goldwater said he summoned the media to his home because the brouhaha over Whitewater has been "bugging me for the last week."

"I haven't heard anything yet that says this is all that big of a deal," he said. "It's making it awful hard for him to be president. I just wish they'd get off his back."

Goldwater has, in recent years, repeatedly strayed from the party line when voicing his opinions. He supported Clinton's policies on gays in the military, endorsed Rep. Karan English, a Democrat, in the 1992 6th District congressional race, and spoke out in favor of a Phoenix gay-rights ordinance.

The former senator said he made his comments of his own volition. Clinton had not asked him for support, nor had he spoken to the president, he said.

"I don't have their phone number, and they haven't called me," he said of the Clintons.

"I haven't talked to them for months."

He said he does not believe that Hillary Rodham Clinton has done anything unforgivable.

The first lady once pointed out to Goldwater that, in the formative years of her political career, she had worked as a volunteer in his 1964 presidential campaign as a Goldwater Girl.

"She's a good woman, Goldwater said. "I think the president is smart enough to listen to her."

Arizona's elder statesman said that Whitewater critics are holding Clinton to an unrealistically high standard.

"Not many presidents could meet that standard," he said. "I know I couldn't."

Goldwater said that a time comes to set politics aside for the country's best interest.

"This country is a damn sight more important than the Republican Party or the Democratic Party," he said. "It's time to stop nitpicking this thing called Whitewater."

Goldwater said his views might put him at odds with Sen. John McCain and other leaders of his own party.

"You know something? I don't give a damn," said the man who once advised President Nixon to resign.

"I've been in the leadership of my own party, too. I think it's time for some of the senior voices in the party to speak up."

He did say that he would not endorse English again because "she hasn't voted the right way."

Goldwater said he has no plans to leave the GOP, even if his views sometimes stray from the mainstream.

"Hell, no," he said. "I've been a Republican all my life, and I don't plan to change. I think this (the comment on Whitewater) is a very conservative position."

Goldwater, 85, said his comments were directed at politicians, not the media. The latter were beyond redemption, he implied.

"Now, don't get me started on the media," he told the lawnful of reporters.

Goldwater emphatically limited his comments to Whitewater. He was asked repeatedly about the recent appearance of his grandson, Ty Ross, in the premiere issue of POZ, a national magazine for people infected with the AIDS virus or who have full-blown acquired immune deficiency syndrome.

"That's none of my damn business," Goldwater responded each time he was asked.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. I thank the Chair.

(The remarks of Mr. DECONCINI and Mr. WARNER pertaining to the introduction of S. 1948 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. D'AMATO. I think the Senator from Arizona should have had the floor.

Mr. DECONCINI. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, let me attempt in some way to answer some of this broad salvo, because it was a salvo we got. There was an ocean of attempts to obfuscate what we are concerned about and what we are doing.

My colleagues would have you believe that if there was a Republican—if it were George Bush in the White House, in the same circumstances, with a special prosecutor—they would not be calling for, or having, congressional hearings.

Let me tell you something. You would have a half a dozen of them going. Does anyone here believe Chairman GONZALEZ in the House of Representatives would not want to hold a hearing? You do not believe you would have hearings going on here, and you would vote unanimously on that side to have hearings? I say it is politics. You better believe it.

It is politics. If you have a Republican in the White House, you call hearings at the drop of a hat—look at Silverado and Neil Bush. They had law enforcement investigations there: Bring him in; bring him in; load it up. But, "Oh, no; oh, no; this is political if the Republicans say we want a hearing."

Let me tell you, this is a canard—that you cannot gain anything unless you immunize, unless you exercise the power to immunize. We say we will not grant immunity. Why will we not grant immunity? Because we have learned from Iran-Contra. We have agreed not to do that.

When you say you will not learn anything, I say to you, without even swearing in a witness, without granting immunity, our Senate Banking Committee learned for the first time of the secret meetings that were going on—meetings that are improper on their face; improper. And the general counsel of the Treasury, she should be out. She did not have one meeting, or two meetings, but three meetings. I would like to know, and I say right here on the floor, how many regulators did she influence? Did she meet with the RTC people and tell them not to go forward? Or the OTS? Did she meet with the OTS people? I would like to know who, if anyone, steered them away from doing what they are sup-

posed to be doing. That is what we have a right and a responsibility to find out.

Not unlike Watergate. Not unlike when John Dean said that administration plan was to claim that we are cooperating. Now you are cooperating. What were they going to do? Turn down the special counsel's subpoena? That great cooperation. The White House circulated a memo, "Do not burn anything." Oh, that is terrific. It is great PR. But the fact remains—they held secret meetings; the chief of staff's office arranged some of them. The White House counsel participated in all of them. Mrs. Clinton's chief of staff—what was she doing there? What was she doing there? The questions remain.

About the President, my friend, Barry Goldwater, said: "I do not know of wrongdoing." Well, maybe Barry Goldwater does not know the President said, regarding the fact that his name and Mrs. Clinton's name were mentioned in a criminal referral, that he does not remember who told him.

I have to tell you something. Maybe the President would not remember that. I do not know how many people come up to the President casually and say, "By the way, Mr. President, your name and Mrs. Clinton's are mentioned in a criminal referral." And he would not remember that? Someone just told him? Let us get serious about this. Who would approach the President with something like that? Do you mean to tell me if somebody came up to you and told you your name was mentioned in a criminal referral, you would not remember when they told you and who told you? You would not forget it.

You want to talk about the truth? Come on, let us get real. Politics, the politics of saying "no." Just say "no, no, no." That is what the President said: "No, no, no."

Now, look; who controls the committees here? You want to talk about getting the crime bill finished? Let us get it going.

The Democrats control the House of Representatives and the Senate. Why do you not have a crime bill? Do not blame the fact that you do not have a crime bill on our asking some questions. We have not taken up that much time of this Congress. We have not. We are not stopping the crime bill.

Welfare reform? I want welfare reform and I will be happy to work with any administration—as well as a good crime bill—any administration, Democrat or Republican, liberal or conservative. We want workfare, not welfare. We want to see to it we put the hoods in jail—not just "three strikes and you're out," which on the Federal level would have affected 360 crimes in 1992.

You have good sloganeering, but do not blame us because you do not have a crime bill. The Democrats control the White House; the Democrats control, the last I saw, the Congress, the House of Representatives; and the Democrats control the Senate. So do not blame us because you have not had any legislative action. It is your own inability, and do not blame us for gridlock.

What about your health plan? Your health plan begins to fall because, why? People are asking about mandates, about costs: Reasonable people, reasonable questions. I have not seen Republicans obstructing the health care plan. Put it forward, put it on the floor. You control all the committees. You run them with an iron fist.

The Democrats say, "No, no, no." The Democrats say, "No, we won't have any hearings." So do not complain about legislative inaction. You control both Houses. You have the White House. You do not have a health care plan because you cannot agree on one yourselves. And then we are supposed to, it is suggested, roll over.

Let me tell you something, we hear reports of the President's private counsel, saying to some insiders, "Oh, well, maybe there's a tax liability. They owe some taxes. That's all I can see."

Well, is that not interesting? The President has no problem raising taxes on middle-class families and others, but it seems he has some problems maybe paying his fair share. So we begin the process—call it political immunization. They get people ready for the fact they may owe taxes, just like that is a willy-nilly thing. Oh, yeah.

Let us talk about immunity. John Dean was not granted immunity during Watergate and he testified. He was convicted and he brought about some other convictions. John Mitchell, John Erlichman, Bob Haldeman—all of these people who eventually went to jail precisely because they were not granted immunity. When the majority leader comes and says, "Oh, no, unless you grant immunity, you are going to wreck this; you must have that ability," that is not the case.

If somebody wants to invoke the fifth amendment, let them take the fifth. We want properly structured hearings. Let me tell you, Senator COHEN and I met with Bob Fiske. I said, "Senator DOLE, I would like my friend and colleague, BILL COHEN, to be there because he has had experience in these hearings, and Sheila Burke," and they were both there.

He will speak to that meeting as he has observed it but I want you to know, Mr. Fiske said to us we minimized his concerns greatly. He thanked us for our cooperation because we said we would not grant immunity. That would be our recommendation to prospective witnesses. Second, we would structure them. He said he wanted the ability to call witnesses first before we did. We said absolutely. We saw no problems as it related to that. And he concluded by saying: "As a prosecutor, I have to say that I'm not in favor of you going forward, but I understand that you have your responsibility and that we have ours."

That is absolutely the case.

I could say a lot more, and I will at another time. But I will say this: While Mr. Fiske's primary responsibility is to see if there are any laws broken, criminal or civil—and he has the ability to pursue civil charges—we have an absolute oversight obligation. We have to see if there has been an abuse of power, and that is not necessarily covered in his charter.

An abuse of power, although wrong and although something the people might decry, is not necessarily criminal. But people have a right to know. People have a right to know, and the special counsel may not get an answer for 2 or 3 years, if at all. That is something that they have a right to know as soon as possible, and that is why we have to have oversight.

Yes, secret meetings, yes, people being told or steered away from pursuing an investigation. It may not come down to obstruction of justice—it may be mighty close—but it is something that just smells bad. Because when you may have a tilt of the justice system one way or the other because of political power of the executive, it is within Congress' responsibility to investigate, and the Supreme Court has said that on innumerable occasions.

Let me recite an informative quote. And I quote:

> A central function of democracy is to allow a free people to drag realities out into the sunlight and demand a full accounting from those who are permitted to hold and exercise power. Congress provides a forum for disclosing

Congress provides a forum for disclosing.

> the hidden aspects of governmental conduct.

That is a quote from "Men of Zeal," a book written by my colleague, Senator COHEN, and the majority leader. It does not say that Congress has an obligation to do this only when there is a Republican in the White House. It does not say it has an obligation to do it only when there is a Democrat in the White House or whether it is a Republican Congress or a Democratic Congress. It says that Congress has that obligation to provide a forum for disclosing the "hidden aspects of governmental conduct."

It was the conduct of the administration that has brought to the attention of the Members of the Congress the need, No. 1, for a special counsel. It was the conduct of the administration in learning of the secret meetings and other disturbing facts too numerous to enunciate, and that when the people begin to understand and see, you will see public opinion polls—and by the way, I did not know we were going to run Government by public opinion

polls. I did not know that that was the way we decided whether we should conduct an investigation or whether one was valid. Because if you were to look at the opinion polls in the days of Iran-Contra and Watergate in the beginning, people said, "Listen, we have important things on the agenda," and I agree we have important things.

Let us hold our oversight hearings and if we have a crime bill finished up, let us act on that. And if we have welfare reform ready to go, let us act on that. This need not conflict.

Let us do the business of the people. Let us not throw out this nonsense that, oh, this is a political witch hunt, a political circus. It is a circus and it is being made and turned into a circus deliberately by opponents of hearings. As John Dean said back in the Watergate days, the White House had a formula. And that formula was to say "cooperate" and yet cry "politics" when the Congress begins to look into the situation.

I suggest to you that that parallel today is rather startling. That is exactly what is taking place. We say we are cooperating, and yet they cry "politics" when people come forth and are ready to structure reasonable hearings and undertake the constitutional responsibilities that the Congress has.

I yield the floor.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER (Mr. DORGAN). The Chair recognizes the Senator from Maine, Senator COHEN.

Mr. COHEN. Thank you, Mr. President.

Mr. President, I take the floor this afternoon not only to offer my support for the resolution that has been offered by Senators DOLE and D'AMATO, but to respond as briefly as I can to the charge that was made last week and reiterated here again today that this is nothing but blatant partisan politics, an attempt on the part of Republicans to simply embarrass the President and the First Lady.

I took that rather personally because I have tried over the last 21-plus years never to engage in conduct that would be dismissed as partisan, or trying to undermine or embarrass a President.

It was interesting what occurred last week. I was doing an interview in my office on another matter, and I was asked by a reporter for CNN what my advice would be to President Clinton. This was immediately following Mr. Nussbaum's resignation. I suggested to the reporter that the first thing I would do is call upon Lloyd Cutler, someone who would be the equivalent of a Howard Baker, whom President Reagan called upon when his administration came under attack. The situation in the Reagan White House was that things were in quite a bit of disarray. There was danger of his administration becoming paralyzed at that time, and he called upon an old friend, Howard Baker. I think Howard Baker lent an air of stability and responsibility to the White House at that time.

I felt that was precisely what President Clinton needed at that moment in time. And I said that not as a partisan but as someone who wishes him well. I have worked, I think, fairly closely with President Clinton and Mrs. Clinton during the past year. I traveled with Mrs. Clinton once to Boston to a health care forum and I traveled again to Maine for another health care forum set up by my colleague, Senator MITCHELL. I have been to the White House at least twice during the past year to try to work with the administration on a health care reform package, and I think we have made some real progress.

Frankly, what I do not want is 3 years of my own work on health care reform to be derailed or go down the drain simply because of partisan bickering or backbiting, and I hope to be able to continue to work with President Clinton and Mrs. Clinton as they continue to push their health care reform package. We disagree on a couple of key and fundamental issues, but I certainly do not see my own efforts in this regard as in any way trying to embarrass them. I do not want to see that take place.

I also heard our former colleague, Senator Goldwater, quoted today. What was not quoted was the fact that Congressman LEE HAMILTON, someone who achieved considerable notoriety during the Iran-Contra investigation for his calm deliberation in searching for the facts and resisting the temptation to try to embarrass President Reagan which earned him quite a bit of respect not only from his colleagues but people around the country most recently acknowledged the need for hearings in this matter.

I was asked recently on television, "Isn't this just Republicans trying to pay back the Democrats?" My answer is I am not trying to pay back the Democrats. I have a long list of things I could point to over the years that I found objectionable, but I have always resisted the temptation to try to engage in payback.

I took time to point out that the New York Times, which the last time I checked was not in the hip pocket of the Republican Party, has called for inquiries into this matter. Indeed, the New York Times called editorially for hearings. The L.A. Times and a number of other mainstream publications, not conservative publications per se, are also calling for inquiries into this particular matter.

I have not taken a role in this issue prior to the last week. I must say I was surprised about the events that surrounded Travelgate. I looked at that. I was not pleased with what I saw taking place with the firing of individuals in the White House for what appeared to be no apparent reason. I was not pleased with the State Department investigations. And I recall very vividly how, during the course of the campaign, someone was trying to investigate President Clinton's travel plans during his prior years, in an effort to embarrass him, and I objected strongly to that. There were hearings held on that issue.

I must say I was also surprised about the handling of the Foster death, and yet I felt that was a matter that was beyond my area of expertise certainly and something that should be handled by the appropriate officials, even though I had doubts about the way in which that particular investigation was being conducted.

I really did not become actively concerned about what was taking place until I saw the hearings that occurred in the Banking Committee recently where Senator D'AMATO raised the issue about contacts between the Deputy Secretary of the Treasury and the White House. And that suddenly got my attention. I felt at a minimum Congress had a role to play in this matter; that there were questions being raised which needed to be addressed, and that they were not being adequately addressed at this time.

I would like to go back and review my own role in Congress and also in the Senate because, once again, the charge is being made about partisan politics. I have been asked the question by several very prominent reporters, just this past day, why am I involved? Why did I attend a press conference with Senator D'AMATO?

First of all, let me say that Senator D'AMATO spoke to Senator DOLE and inquired whether it would be useful for me to attend a meeting with Mr. Fiske, and then Senator DOLE contacted me. Senator D'AMATO specifically asked me to attend, along with Sheila Burke, Senator DOLE's chief of staff. I agreed, willingly, quite eagerly, as a matter of fact, to see whether or not there was a way that we could structure hearings without undermining Special Counsel Fiske's investigation.

Let me just diverge here for a moment. In 1992, I stood on this floor, I suggest much to the chagrin of some of my colleagues on the Republican side, and I was very critical about the refusal to allow the reauthorization of the Independent Counsel Act. I remember standing in the well suggesting that Republicans would come to rue the day that we allowed the Independent Counsel Act to lapse because one day there might be a Democrat in the White House, one day there might be allegations raised against a Democrat administration and we would be just as interested in ferreting out any wrongdoing as if it were a Republican President sitting there.

I mention that because, going back to the days of Watergate, I was serving

on the House Impeachment Committee along with several of my colleagues who are not in the Chamber right now. There was tremendous pressure being directed my way saying, please, do not do anything to embarrass the President. Do not join with the Democrats or support their investigation. Do not vote with them on any issue that might in any way hamper the President or embarrass the President.

I must tell you that as a freshman Congressman at that time those calls were, indeed, interesting, I guess is the best way I could characterize it. They were intensive. They were appealing, at least superficially. But ultimately I said that is not why I came here. I did not come here simply to abide by a party rule, to simply vote along party lines if I really did not believe it was the right thing to do. So I resisted the temptation then to simply line up with the party on an issue affecting the integrity of our Federal institutions.

I was one of the first, if not the first, to join with the Democratic majority at that time to tell President Nixon that the edited transcripts were not sufficient. We asked for the tapes that had been disclosed. He handed us several large volumes of edited transcripts and said, "This is all you are going to get." The Republicans at that time and the President's representatives asked me to support the President's actions, and I said no. We asked for the tapes. The tapes are more important than the transcripts because there is so much more you can hear and learn and understand when you hear the spoken word. Who is to say what "expletive deleted" really referred to? Who can understand what the inflection might be on a flat page? And when something is said in jest, it might come out as something quite different on paper as opposed to listening to it. So I felt there were a number of reasons why one could not accept the edited transcripts instead of the tapes themselves, and so I voted for the tapes.

It was a serious issue at that time because it only prevailed by one vote. It was my vote.

I mention this also in connection with Iran-Contra. When Iran-Contra occurred, the Select Committee on Intelligence, on which I was about to become the vice chairman, was called upon to conduct a preliminary inquiry into what occurred during Iran-Contra. President Reagan said, "I don't know what was going on"—on the part of some of my subordinates: Please conduct an inquiry and report back to me and to the public as quickly as possible.

There was pressure to get something out quickly because the Presidency was being paralyzed. There were a lot of allegations: What did he know? When did he know it? Did he authorize the sale of weapons to Iran? Did he know about the diversion? Did he authorize it?

All of these questions were surrounding the White House at that time and very little attention was being directed toward the policies that President Reagan wanted to carry out. So an appeal was made to get this report out quickly. And, frankly, I resisted that at the time. I resisted getting the report out quickly for the very reason that we had only transcribed, I think, 12 witnesses whose testimony was taken in secret when in fact there were at least 35 or 40, as I recall, witnesses whose testimony had yet to be transcribed. I said, "We can't file a report when we haven't even read the testimony that was given to us in closed sessions. We better be much more careful and deliberate." And so I resisted the temptation to file a report. I worked with Senator BOREN, who became chairman of the Intelligence Committee, and we produced about a 65-page report.

It was about a month late as far as the White House was concerned. But, nonetheless, I think we spelled out the areas that would provide a basis for the Iran-Contra Committee to conduct its investigation.

I mention all of this in addition to the fact that I helped write the Iran-Contra report that was very, very critical of the Reagan administration. I joined, as my colleague from New York has pointed out, with Senator MITCHELL, who is a good friend of mine, in writing a book called "Men of Zeal."

We pointed out the benefits of the hearings, the liabilities of the hearings, what we learned, and what we failed to learn. I did not hesitate to be critical in that particular book on issues I felt needed to be criticized.

So I say this all by way of preface that I have not joined with Senator DOLE and Senator D'AMATO to come here and engage in any kind of a partisan attack on the President of the United States.

I will say this to those who are listening and watching, I want President Clinton to succeed. I do not want to see his administration torn down. I disagree on a number of key issues with him. I hope to take the floor to debate those as they come about. But, I think the people of this country want him to succeed, as I do in his efforts to at least stimulate the debate, offer proposals, and let them be debated on the Senate and the House floors to see if we cannot pass legislation which is of interest to the people of this country.

Senator D'AMATO mentioned that Republicans are not holding up the crime bill. We are not holding up the health care bill. I have worked with Senator CHAFEE for 3½ years dealing with the issue of health care reform. Every single Thursday we meet to discuss legislation, to draft it, to consider it so we can have a viable alternative and work with the President of the United States who finds the Chafee proposal I think quite responsible and maybe a basis for arriving at an achievable health care plan. I do not want to see any of it derailed.

But I do come back to the point, why these hearings? The issue of politics has been raised, and indeed there is something political about this. This goes to the heart of our political system; namely, the rule of law. We always say that a rule of law applies to all of man; that there should not be one rule for Presidents, another rule for paupers; there should not be one for those who govern, another rule for those who are governed; and there should not be a separate rule for Republicans and another one for Democrats. It is the rule of law that we all cherish.

In this particular case I think the political process has been turned upside down, inverted. Last fall when there were calls for a congressional inquiry into allegations of impropriety or wrongdoing—and I want to say here for the record that I do not believe I have heard any allegations directed toward the President or the First Lady that involve criminal wrongdoing—those calls for hearings were blunted. They were resisted. They were "stonewalled."

The Republicans then said we have to have a hearing. How about a special prosecutor? Some of them were the very same Republicans, I might add, who were not in favor of an independent counsel law and the act was allowed to expire. But, nonetheless, they suggested a special counsel because there was no alternative opened to the minority at that time.

Do I think this should be a matter of criminal investigation? I do not. I think this was initially—I still think it today—properly a matter for a congressional inquiry as to how our public institutions were being handled. Were they being used properly or abused? Was there any impropriety?

This is something that I think could have been clarified rather quickly had the administration only come forward initially, and said, "Here is everything." I have always been of the opinion that, if you have nothing to hide, you have nothing to fear. All you have to do is say, "Ladies and gentleman, here are the papers. Here is what we know, and please conduct your inquiry." Yes, there may be some momentary embarrassment, and no one wants to see members of their administration be called before a committee to be interrogated by Members. And, yes, there is always the potential for some Members to become explosive or volatile. We all have different temperaments. Mine is not the same as my colleague and friend from New York or Michigan.

But, nonetheless, the cameras are there to witness, to televise. People can judge whether or not you are tak-

ing unfair advantage of a process, whether you are trying to score political points, whether you are merely engaged in nasty partisan politics to embarrass somebody. The camera tells you that.

So I think that what should have taken place was a congressional hearing into those allegations. Allow the minority to have its chance to question the administration officials, and be done with it. But that did not happen. As a result, what did happen is that we have documents being withheld, we have documents being shifted to Arkansas, and we have allegations now about shredding after the appointment of a special prosecutor.

I say to what end? To what end has this been going on? Let me just submit to you, I do not know if anything is there. I rather doubt it. I think we may find conflicts of interest on inquiring into the events that took place here in Washington. I think there may have been some breaches of ethical rules. I think there may be an issue of back taxes.

Nothing in my judgment that I have heard today would warrant a political beheading—nothing. But I do think the allegations are serious enough and have raised themselves to a level of concern that Congress ought to exercise its congressional oversight responsibilities.

So now we come to the question that if it is not that big a deal, why are we conducting a criminal investigation? Why was there not a congressional inquiry into allegations of inappropriate conduct? Instead now we have a criminal investigation, and indeed this particular special counsel has both criminal and civil responsibility.

I do not want to get too technical about it this afternoon, but that gets very complicated because we are about to reauthorize the independent counsel act. If we pass an independent counsel act, unless it is modified, Mr. Fiske will not be allowed to be appointed as independent counsel. If we do allow him to hold that position, he would have only criminal jurisdiction, not civil.

So we have taken a process, and we have turned it upside down on its head. I am told that one of the strategies now is, once the criminal investigation has been completed, and they find no criminal liability attached to the President or the First Lady or top officials, that will be the end of it; no more need to deal with Congress; the issue has been settled.

I do not think it is going to be a successful strategy to simply say let the process go forward until he completes his full investigation.

I do not think that will be successful for a variety of reasons based upon my experience in dealing with Watergate and Iran-Contra.

I have found that over the years when you have a situation when there appears to be stonewalling or a lack of cooperation, or a holding back of documents, you will have a trickle of allegations. The trickle will eventually build into a stream. The stream will then turn into a river. And you will see a river of allegations, many of which are completely irresponsible, many of which are completely unsubstantiated, and they will grab headlines that will cause the stock markets to rise and fall. That is going to continue in this case until you get the facts out.

Those on the majority side say you cannot have a congressional inquiry now or in the near future because we want to make sure Mr. Fiske is allowed to continue his investigation unimpeded by Congress. That is precisely why I agreed to join with Senator D'AMATO, and Ms. Burke on behalf of Senator DOLE, to meet with Mr. Fiske, to explore whether there is a way in which Congress can meet its congressional responsibilities without interfering with yours?

I must tell you that I came away with an entirely different interpretation than my colleague from Michigan [Mr. RIEGLE], has. I have the transcript here. He has a copy as well.

Let me tell you what I came away with from that particular meeting. Mr. Fiske took the position that he would prefer no hearings whatsoever. That is to be expected. No prosecutor wants to have to deal with a Congress calling witnesses and, conceivably, compromising the integrity of his investigation. But what he said to Senator D'AMATO, Miss Burke, and myself, was that he felt he could complete his investigation into this aspect of the allegations, namely, the misuse or abuse of Federal institutions within a few weeks. He said if he could deal with those issues initially, he thought he could complete his interrogation of witnesses and his investigation within a few weeks. If we waited a few weeks, and if we did not grant immunity and if we did not reveal the contents of the RTC criminal referral, he would not object to us holding a hearing for those limited purposes at that time.

That, to me, was a very reasonable request. It was a very responsible request on his part, and I thought we responded in kind. I said, "A few weeks? Why do you not take a month, or how about 2 months. We do not want to pressure you unduly." At the end of that 2 months, we should be prepared to hold an inquiry. We would not undermine his case. He said that he would have no objection under those circumstances. I will read it to you:

> I have told Senator RIEGLE, and I have told Senators D'AMATO and COHEN that when we are finished with the investigation of the meetings between the Treasury officials and the White House, which I am confident we can be finished with faster than the underlying investigation, we would have no objection to congressional investigations at that point so long as something can be done to protect the contents of the RTC.

He repeated that later. Senator RIEGLE will quote from the document, and he comes to a different conclusion. What Mr. Fiske represented to me and Senator D'AMATO and Miss Burke was that if we abided by those rules, he would have no objection—understanding that his preference would be no hearings at all. If you do not allow congressional hearings at all, we have to wait until he completes the entire investigation. When will that be? He cannot tell you. Will it be 6 months, a year, or 2 years? He has no way of judging that, nor should we try to force him to say how long that will take. In any event, it will take a considerable period of time.

In the meantime, these allegations will continue to surface and cause headlines, and there will be continuous demands on our side for hearings. That, I think, in the long run, will impede the ability of the President to focus on his agenda. So I have a different perspective on this. I think hearings will be helpful. A journalist asked me on television over the weekend, "Then you are trying to help the President?" I think it was asked in jest, but the answer to that is, yes, I am trying to help him, much as I publicly recommended the appointment of Lloyd Cutler. I felt that would be helpful to his administration.

I think it would be helpful in this case to get the allegations out of the way in a very short timeframe. Then let Mr. Fiske come back with a decision as to whether or not the taxpayers have been defrauded out $50 million worth of tax dollars, or whether there has been any liability to be accounted for at a later time.

I see this resolution in two parts: First, a preliminary inquiry, or at least an inquiry directed toward the allegations surrounding the use or misuse of Federal institutions now, not back in 1982 with what took place in Arkansas. Do it now and not wait until the end of Mr. Fiske's investigation. Second, let Mr. Fiske go ahead on his own on the allegations of what took place in Arkansas.

It has also been suggested to me that there is a strategy at work here. If Mr. Fiske completes his investigation in a few weeks, or within a month or two, he would then file an interim report, completely absolving the White House of any ethical wrongdoing whatsoever and then that would take the entire issue away. One of the dangers in that is that life does not work that way. Any prosecutor who were to file an interim report based upon a few weeks of investigation and say: I find no wrongdoing whatsoever, or minimal wrongdoing, or whatever conclusion he might reach, will find that there will be other allegations that will surface. They are bound to surface. It will take weeks or months, but they will eventually surface, and it will call into question the

professionalism of his investigation. I think the notion that an interim report is going to satisfy everybody is not going to work, and it would do damage to Mr. Fiske's own reputation. And I know he is the last person who would want that.

I come back to the point, Mr. President, that I think the White House really has not handled this well. Some of it may be due to the fact that they have inexperienced individuals. In today's Washington Times, I notice a quote attributed to Chuck Manatt, former chairman of the Democratic National Committee, saying they need people down there who are a bit wiser, a bit older, who have been around, and who can perhaps introduce more stability to the White House. I think that is pretty good advice to follow, but that is a decision for the President to make.

I reiterate today that my purpose in joining with Senator DOLE, Senator D'AMATO, and others, is not to embarrass President Clinton. That is the last thing I want to do. I want to see him continue on his program. When he takes the podium in Boston and accuses Republicans and says "no, no, no," eight or nine times, to the great glee of those in the audience, that has a spillover effect in this Chamber, because then some of our colleagues—and we are all friends here, and we try to maintain a level of civility—start to personalize the attacks. They started to direct attacks against Senator D'AMATO.

If it were not for Senator D'AMATO, I believe we would not have known about the improper contact between the Deputy Secretary of Treasury and White House officials. Whether or not they broke any laws remain to be seen. Were it not for his perseverance, that never would have been known. People point fingers and say, "It is D'AMATO, and therefore the whole thing is tainted." Then other colleagues say, "Well, it is D'AMATO and somebody else." The best way, they think, to discredit a responsible inquiry is to go after the person on an ad hominem basis, discredit them and forget about the issue.

When you engage in this type of rhetoric, it has a catching effect; it spreads and becomes epidemic, and people on our side point to other individuals over there and say, "Wait a minute, who is being sanctimonious here? What about the piety being expressed by "Mr. X" or "Senator Y?" Suddenly, what happens when you have that kind of exchange is you have a breakdown of civility. As I told one reporter, we are then into Bosnia. We are then emulating on a verbal level what is taking place on a physical basis elsewhere. We see each other as enemies, we ridicule and demean each other, and we have a breakdown of civility in this institution. That is entirely wrong.

I think we can have a civil debate. I think it has been brought about because there is a recognition on the part of Members over here that there has been a double standard. I have tried to resist labeling it as such, but you cannot look at the record and see anything but that. I think the easiest way to resolve this, and the best advice I can give the Clintons—and I say this in the most sincere fashion that I can—is to get whatever information you have pertaining to events here in Washington—not in 1982 in Arkansas, but right here in Washington—during the course of his administration, present them to the committee, call the witnesses, operate under the rules constructed by the special counsel, and then be done with it.

My own view is that we will find something there to criticize, but probably nothing there to call for the resignation of high level officials, or call into question the ability of the President to continue to operate in office. I hope that is the case, and I believe that will be the result. But the best way to arrive at that particular conclusion is to have the hearing, let the evidence come out.

As I quoted on the various programs we have been appearing on, "If you have nothing to hide, you have nothing to fear. If there is something to hide, it is far better to get it out now and go to the American people and say 'We made mistakes; this was inappropriate and should not have been done. We are asking you to allow us to continue without being dragged down any further.'" That is all that has to happen. That is what I believe is the basis of this resolution we have offered.

I wish to again call my colleagues' attention to the charge that everybody over here is simply a hard-edged partisan trying to tear down President Clinton and his wife. That is not my view. That is not my aim. But rather it is to join with Senator D'AMATO and Senator DOLE to ask for the opportunity to call witnesses at an appropriate time. And according to the special counsel, that is only a matter of a few weeks. I hope that my colleagues will accept it.

I yield the floor.

Mr. RIEGLE. Mr. President, I have listened to all of the things said today on the subject just addressed by the Senator from Maine, my friend, Senator COHEN, and I agree with him that it is important that we keep this discussion within the bounds of civility, and there is every reason to do that. I strongly hold the view that only with a sort of reasoned discussion, and in absence of name calling in any direction, do we really serve the public interest and get to the truth here and move through this question in an orderly way.

So I would like to review, in that spirit, some of the things, in the sequence in which events have happened here, that bring us to this point and to this discussion this afternoon.

I want to establish one point of difference with the Senator from Maine, though, at the outset. And that is, if you go back before this special counsel, Mr. Fiske, and you go back to the efforts within the Justice Department to authorize a special investigative unit under the jurisdiction of the Justice Department, all of that refers and goes back initially to a criminal referral. There was a criminal referral which was the precipitating event made by the RTC, the Resolution Trust Corporation. They saw something in this situation that caused them to believe that criminal activity had occurred, and it was serious enough that it needed to be pursued. I am going to take the time to run through this, and I would just as soon not engage on that point right now because of the pressure of time. I will be happy to do that in the end.

In any event, the RTC, we now know, sent a criminal referral over to the Justice Department, and in the period of time since then, the Justice Department has been trying to establish exactly what took place and whether there were criminal violations and, presumably, in the end, was there a basis not only to prosecute people but to affect financial recoveries?

I think to understand this case one has to understand that back in the mid-1980's when this Madison Guaranty financial institution became insolvent there was a net loss of about $50 million and because the institution had lost all of its money and depositors had to be paid back, Federal taxpayers had to come in and fill in that $50 million.

So, that money went somewhere. Wherever it ended up, if any of it can be retrieved and brought back, that first of all needs to be done; if anybody got any of that money through illegal activity, they need to be brought to justice. But the RTC obviously had reached the conclusion that there was the basis for them to send this case over to the Justice Department. That is what got this whole thing started in the first place.

Then there was a sequence of events leading up finally to the decision by Janet Reno, and I think a proper decision. It is one that I encouraged her to take with a letter I sent to her as Banking Committee chairman. She was having this suggested to her by others, Republicans and Democrats, that she name an independent special counsel, someone whose reputation was above challenge, presumably someone who was a Republican, in the other party from the White House, who could come in and take over this investigation and take it all the way through to the end.

In fact, there were some names suggested by some Republican colleagues of people who they thought would meet that standard of objectivity and impartiality that would give them confidence as a party that this investigation was thorough and complete.

My recollection is that of this small list of names that various Republicans suggested to Janet Reno Mr. Fiske's name, in fact, was on that list. In a sense he was sort of prescreened and got the stamp of approval by certain numbers of Republicans as being someone that they felt would be impartial and competent to get to the bottom of this issue.

So then when Mr. Fiske was named to be the independent counsel, he laid down some conditions. He said, yes, he was prepared to do it but only if he had absolutely complete authority to investigate in every area where there was public concern or where he saw the potential for a problem.

He wanted no limitations on his ability to investigate, and he wanted an assurance that he would have all of the investigative resources that he would need to conduct that investigative effort.

So, in conjunction with the Attorney General, they wrote out together a formal written legal charter which was published and printed in the Federal Register—I do not have it in front of me now; I will insert it in the RECORD at the end of my remarks—that laid out his actual legal authority, and it is a very sweeping grant of authority.

So he is now functioning as the legal agent for the Government of the United States, and he is answerable to no one except the American people. He is free to investigate anything that he feels falls within the scope of what he has been asked to do here. When he sees a new line of inquiry he is free to pursue that and he has already demonstrated his intention to do that.

In fact, there were witnesses today, former White House employees, current White House employees, who were taken before a Federal grand jury in Washington, DC, this very day by Mr. Fiske and were subjected to questioning in that setting.

According to the news account I just saw on CNN Mr. Nussbaum, the former legal counsel of the White House, was apparently in this, undergoing questioning before the grand jury today for 4 hours, and it also said that he did not refuse to answer any questions and went in and answered fully and openly in that setting.

But the point is the process is working, and Mr. Fiske has the power to do that, and he was, in effect, given the power to act in behalf, not just of the Justice Department and the executive branch of Government, but in behalf of our entire Government structure to be able to have the resources to go in and to track down these questions.

Now, he has already brought into his investigative team, as I understand it, at least seven other seasoned prosecutors. Of course, he was a Republican prosecutor himself in the eastern district of New York, which is one of the very important jurisdictions for criminal justice in our country. So he has had front-line experience himself. But he brought in at least seven other seasoned prosecutors to help him go down every avenue of inquiry within the scope of this investigation.

He then asked for and got designated to his work some 25 FBI agents, and these FBI agents now are working under his authority and at his direction to go out and go through facts, circumstances, evidence, documents, whatever may be needed. He has the ability to issue subpoenas to anybody he feels needs to be brought in for questioning before the grand jury.

He has impaneled now two grand juries, a Federal grand jury down in Little Rock, AR, and also one here in Washington, DC, which, as I say, was busy today on this very case.

So what do we have just in that area at this point? You have a seasoned, independent, fully empowered Republican prosecutor hard at work with an expert team of investigators, and he is proceeding on the basis of a criminal referral that was earlier made by the Resolution Trust Corporation up through the Justice Department which laid out and gave him a road map of violations of the criminal law that they felt had taken place in this situation.

It is his job now to go out to find out exactly what the situation is, if prosecutions are warranted, to undertake those prosecutions, and importantly, not only to undertake criminal prosecutions, but if he finds that there is a basis to undertake what is called a civil suit—that is different from a criminal suit—to take on a civil suit to accomplish a financial recovery to find someone who got money that they should not have and to take them by the ankles and shake them upside down and shake the money out and get it back and give it back to the Government. He has that authority as well.

So he has criminal and civil authority. So it seems to me that what we now have in place is exactly what any of us would want who are interested in the truth, in people who are guilty, of being tracked down and held to account and people who are innocent being able to have their names cleared in the normal course of investigative activity and to have two citizen grand juries impaneled, one in Arkansas and one here in Washington, DC, sorting through this evidence and making these decisions.

That is how our system works. And it is very well crafted to accomplish that end; namely, that guilty people will be identified and prosecuted and recoveries, perhaps, achieved and innocent people will also have an opportunity to have their names cleared. That is the way our system works.

And, of course, we start with the presumption that people are innocent until there is proof of some wrongdoing. And that is also sort of a cornerstone of our system. So that is where we are today.

As I say, Mr. Fiske is so active in this investigation that literally this very day, and probably, I might say to my friend from Wyoming, this very minute, he probably has somebody down before that grand jury right now, because I think there were 4 people under subpoena that were coming in today. And I suspect that is still going on. So he is doing his work. He is doing the work that he was asked to do. He is using the full authority of the Government and, in due course, we will have the answers that we ought to have.

Now, as I have said before, I met with Mr. Fiske the other day. I only met him one time and it was a short meeting, but I was very impressed with him and with the seriousness of purpose and his professional background and demeanor.

I am confident, when he finishes, that every card—if I can use the analogy of a deck of cards—that every card in this deck is going to be turned face up. There are not going to be any secrets. We are going to know exactly what happened, what the facts are, what the truth is, what took place. That is his job. I am confident he will get that done.

Now, the only thing that might cause him not to get that done is if we are careless enough to interfere with his work. And that I am concerned about, because I have seen it happen before.

I know there are some Members who feel very strongly that right now we ought to have full-blown congressional investigations. Mr. Fiske, for his part, feels so strongly that that is a bad idea and will injure his efforts and possibly destroy his efforts that he now has done two things, this Republican prosecutor who is on this case.

The first thing he did was he wrote a letter to me and to my Republican colleague, Senator D'AMATO, on March 7. Not a letter we asked for; he initiated this letter. In his letter he says:

> I am asking you, please, don't conduct congressional hearings at this time, because I am on this case. It is an important case. I do not want it disrupted or anything to happen that will interfere with our ability to get it done and get it done properly.

And he makes it a very persuasive argument.

Now people that may be watching this Senate session on television and others who are in the gallery and on the floor have heard references to excerpts of this letter from Mr. Fiske. I do not believe anybody has actually read the full text of Mr. Fiske's letter to me and to Senator D'AMATO aloud, so you could really understand what he said.

And it is important you know that, because if you are going to evaluate what my friend from Maine recently said, he has an interpretation of later comments of Mr. Fiske. I happen to disagree with his interpretation.

But I think we have to start with what Mr. Fiske has said in terms of putting words on paper as a formal request to the Senate, a request, by the way, that he has not retracted. His request was made and stands as of this hour of this day.

Here is what he said.

Mr. COHEN. Will the Senator yield for a question?

Mr. RIEGLE. Very briefly.

Mr. COHEN. Was the letter sent prior to the meeting with Senator D'AMATO and me and holding the press conference?

Mr. RIEGLE. Yes; absolutely.

And I might say, in addition, there has been no letter since. I have said publicly many times, if his view has changed it will not take him long to put his new view, if there is a new view, in a letter and send it to us.

Mr. COHEN. You know that he is a very careful lawyer and he would not say something publicly which he did not subscribe to.

Mr. RIEGLE. With all due respect to my friend, I have the text to that exchange and I think it lends itself to two different interpretations. You have drawn one and I have drawn the other. So who is to say?

I think if he wants to make it clearer, it is a very simple matter to do so. His preference is not to have hearings, as you, yourself, have said here today. That is his preference. That is what he states here.

Let me go ahead and read this letter into the RECORD now. This is not very long ago. This is dated March 7. This is what Mr. Fiske said. He felt so strongly about this that he wrote this letter and sent it to us.

I am going to read it verbatim. He said the following:

I am writing this letter to express my strong concern about the impact of any hearings that your Committee might hold into the underlying events concerning Madison Guaranty Savings and Loan ("MGS&L"), Whitewater and Capital Management Services ("CMS") on the investigation that this Office is conducting into these matters.

As you know, I was appointed to the position of Independent Counsel pursuant to CFR 603.1 on January 31, 1994. Since that date we have obtained an Order from Chief Judge Stephen M. Reasoner in the Eastern District of Arkansas authorizing the empaneling of a grand jury which will be devoted exclusively to the Whitewater/MGS&L/CMS investigation. In the meantime, we have been using the regular grand jury for this District. We have a team of eight experienced attorneys, six of whom were current or former prosecutors when they joined the staff. We are working in Little Rock with a team of more than twenty FBI agents and financial analysts who are working full time on this matter. We are doing everything possible to conduct and conclude as expeditiously as possible a complete, thorough and impartial investigation.

Now listen to this. He continues.

Inquiry into the underlying events surrounding MGS&L, Whitewater and CMS by a Congressional Committee would pose a severe risk to the integrity of our investigation. Inevitably, any such inquiry would overlap substantially with the grand jury's activities. Among other concerns, the Committee certainly would seek to interview the same witnesses or subjects who are central to the criminal investigation. Such interviews could jeopardize our investigation in several respects, including the dangers of Congressional immunity, the premature disclosures of the contents of documents or of witnesses' testimony to other witnesses on the same subject (creating the risk of tailored testimony) and of premature public disclosure of matters at the core of the criminal investigation. This inherent conflict would be greatly magnified by the fact that the Committee would be covering essentially the same ground as the grand jury.

While we recognize the Committee's oversight responsibilities pursuant to Section 501 of PL 101-73 (FIREAA), we have similar concerns with a Congressional investigation into the recently-disclosed meetings between White House and Treasury Department officials—particularly because we believe these hearings will inevitably lead to the disclosure of the contents of RTC referrals and other information relating to the underlying grand jury investigation.

Now here is his summary. In his last full paragraph, he says this:

For these reasons, we request that your Committee not conduct any hearings in the areas covered by the grand jury's ongoing investigation, both in order to avoid compromising that investigation and in order to further the public interest in preserving the fairness, thoroughness, and confidentiality of the grand jury process.

I will be glad to meet with you personally to explain our position further if you feel that would be helpful.

Respectfully yours,

ROBERT B. FISKE, Jr.,
Independent Counsel.

I wrote him back a letter that very same day and I will read that into the RECORD. It is rather brief.

It is addressed to Independent Counsel Fiske. It says as follows:

Your letter to me of this date has arrived requesting that the Banking Committee not conduct further hearings into the matters within the scope of your investigation. The concerns you outline in your letter—that a parallel Congressional investigation would interfere with your inquiry—are compelling and accurate.

Recent experience has shown that Justice Department prosecutions and convictions have been thwarted by untimely Congressional inquiries into the same matters.

It is my view that the Banking Committee should defer to your investigation.

When you have completed your investigative work—I will direct the Committee's efforts to any items you might bring to our attention—or which are otherwise brought into focus by your inquiry.

Now, what I said in that last paragraph is very important, because I said, look, Mr. Fiske, when you finish your work, if there is anything that you find that we need to pursue, we are going to pursue it in the Senate Banking Committee. We invite you to point anything out that you see of that sort.

But I also said, if there is anything that we see that comes out of here that needs further examination, hearings, investigation, laws, whatever, we will pursue that as well.

You should understand something else at this point. Let me leave aside Mr. Fiske's letter with this comment. He has only sent one letter, and here it is. You have just heard it read. He did come up and talk with me. He did come up and talk with Senator COHEN and Senator D'AMATO. There are varying interpretations of what he said that day. There is even a transcript of a news conference, which I submit lends itself at least to two diametrically opposed conclusions in terms of his views.

The way to make it crystal clear, if Mr. Fiske thinks it is all right for us to do an investigation—which in this letter he says we should not do and he specifically asks us not to do—then he can send us another letter and say, "I have changed my thinking. I have modified my view. Here is what I think you can do without interfering with my investigation."

Interestingly, he has not sent that letter, because, frankly, I do not believe that is his position. If it is, then he probably ought to write a letter and say so. No such letter has arrived.

So I think people who put that construction on it and want to almost invent a second letter from Mr. Fiske—there is no second letter from Mr. Fiske. There is none. There is only this one and this one, in my view, stands until we are told otherwise. We have not been told otherwise.

Let me back up in time. I do not know what the events are that went on with respect to this financial institution, Madison Guaranty, back in the mid-1980's. It obviously got into trouble. It obviously folded. There were substantial losses which I have noted here. That happened in the 1985-86, roughly, time period.

In 1989, several years later, we wrote a massive reform bill dealing with those kinds of financial institutions. It is called FIRREA. And in that bill, recommended by the new Bush administration—I worked very closely with them as chairman of the Banking Committee to get that legislation written and enacted; we got it done in record time—we went in and we put an end to every single practice that caused the failure of the Madison Guaranty institution and hundreds more like it. We completely rewrote those laws. So those laws have been corrected.

After writing that new law, those reform laws, and putting them into place and stopping all those practices, we have been monitoring the effect of that law since. It has worked very effectively and that industry is now on an entirely different and strong footing, stronger than it was back at that much earlier time.

So to some who say, look, if you do not go sort of pushing Fiske out of the way and grab his investigation away from him, you are not going to be able

to know what really happened and what we ought to do in terms of changing the laws governing these kinds of institutions, that is a false issue. We have already taken care of that problem. We did that in 1989. So that is not really an issue that is on the table today.

Whether there was wrongdoing in that institution, where efforts need to be made to reach back and do something about it, we have not only set in motion the special prosecutor, special counsel, to get that done, we have done something else. Just a matter of weeks ago we extended the statute of limitations on any violations that might have occurred in that time period so they are still within the reach of the law. We pushed the statute of limitations out into the future so that nobody is going to slip out a side door on this case. It is just not going to happen, especially with Fiske and his team of FBI agents and prosecutors moving down through every single part of this.

Let me add one other element that has come into the picture since, and that is this. In that law that we passed in 1989 to fix all these abuses in the savings and loan system, we built into that law certain specific measurement standards so we could make sure the law was working properly. So we have had, now, over the years since 1989, a very long series of regular oversight hearings where we call in the officials responsible for implementing that law to find out exactly how it is working and if there is a need to change any particular part of it. Is it working the way it was designed to work? Have we corrected all the abuses?

We were so concerned about that issue that, in fact, we built into that 1989 law a requirement that there has to be a hearing here in Congress every 6 months on how that cleanup effort is doing and how that law is being implemented.

Within the text of that part of the law we went so far as to say that any institutions that failed in that time period, in the mid-1980's, that if any Senator on the committee wanted to come in and ask questions about that particular institution, that they had a right in law to do so. We did not foresee the Madison case at that time, but it applies precisely to the Madison case and every other case out of that time period. So the other day when the officials from the RTC came in to present their semiannual report, every member of the Senate Banking Committee had the legal right and authority to ask specific questions about any institution that had failed in that time period, and that included Madison Guaranty. And a number of members of the committee took the occasion to ask very probing questions on that issue to the people at the witness table, who included Mr. Altman, among others, and a variety of other witnesses who were there that day.

Out of that questioning came some troubling disclosures, that there had been contacts between the Treasury Department and the White House relating to this case. After that was disclosed, a whole series of steps happened. First of all Mr. Altman, for one, recused himself in that case, indicated it had been an error in judgment. But, importantly, Mr. Fiske, the independent counsel, moved like greased lightning, and he sent one of his investigators to the White House within a matter of hours and collected, I believe, eight individuals who had been party to these contacts, served them all with subpoenas, told them to retain all of their documents and be prepared to appear before a grand jury. Some appeared last week before the grand jury. The rest, as I understand it, are appearing today. So that is what Fiske is doing because Fiske has the power to do that and he has the power to move immediately to compel testimony under oath and to get the facts and get the truth and get the whole truth, no ifs, ands, or buts. And he is doing that, as he should, because we need those answers, and he is getting them because he is empowered on behalf of all of us to do exactly that job.

So that is happening. From that point on, I might say in that hearing that day in the Banking Committee, the members, particularly of the minority side of the aisle who wanted to pursue those questions, had every right to do so. And their rights were fully respected and protected by this chairman. And we did not adjourn that hearing that day until probably 3 in the afternoon and until there was not a single member left seeking recognition to ask questions because I wanted to make sure that everybody on the committee who had questions to ask had the opportunity to ask them and that there would be no arbitrary exercise of time, and there was none. So we did not adjourn that day until every single member had asked every question they wanted to ask regarding that subject on that particular day.

But I then did something else, because sometimes you will have questions that you do not think about at the time; something will be said you did not anticipate; you will request a followup question and then you will leave and an hour later, you think, I should have asked thus and so. Or, based on that answer that the witness gave, I now need to know these five other things.

So I then took another step. I said that we would not close the committee record—and we have not closed the committee record—to preserve the right of every member of the committee to ask additional questions in writing of any of the witnesses who appeared that day and to send those questions down, get the answers to those questions, bring them back, and we will put them in the record. And that, by the way, is a public record, and it will be printed and available not just for the Members but for anybody else who has an interest in both the questions and the answers.

So we have had a means to raise these questions directly. It is part of the law; the law has been carried out and, in fact, that happened.

Now, with the disclosures that were made that day, what happened with the disclosures that were made that day is that that created a line of inquiry where Mr. Fiske then moved to address a number of people in today's White House about the handling of this matter. That is where the subpoenas were served and where the documents were requested and where the grand jury hearings are now taking place. Some people say, "Well, if a hearing in the Banking Committee already accomplished that, why can't it accomplish something else?" Perhaps it can.

I think the significant thing here, looking back on that situation, is that in doing that, with those disclosures coming forward now, that opened up this issue which no one anticipated at the time before that hearing happened, that opened up the issue to bring the special counsel directly in to question various members of the White House operation at the present time.

So he now has that authority and has taken that step. That is, in a sense, an accomplished fact.

He has access to every single part of this problem. He does not just have access to the events going back into the 1980's; he has all of that, too. He has access to everything, everything that has gone on in the White House, and he has the ability to question anybody and do so under oath. He is in the process of doing exactly that.

That is where we are.

The question is, should he be allowed to do that work and get that job done? I think clearly the answer is yes. I do not know what he is going to find. But it is his job to find it and, as GEORGE MITCHELL has said many times, let the chips fall where they may. That is the way our system works.

When Mr. Fiske is done, I will make it plain, just as the words coming out of my mouth right now, when he has completed his work, as I said to him in my letter, if there is something that needs to be done that falls within the scope of our committee, we will do it. Let there be no doubt about that, we will do it. If there are any laws that need to be changed, we will change them. I will come right here to the floor with the changes. If there are hearings that need to be held to explore the other parts of the way the machinery, the RTC works, we will have those hearings as well, because I want these answers as much as anybody.

So when he finishes his work, if there is work that we must do as a commit-

tee in terms of our normal oversight responsibilities, we will carry those out.

I will just conclude now, because I am told I am needed over in the Budget Committee for a vote. I serve on that committee and have to be there because apparently my vote might be a deciding vote on a critical matter.

I want to read one thing more from Mr. Walsh. Mr. Walsh was the special counsel that ran the Iran-Contra investigation. His investigation was interfered with by the Congress, it was damaged by the Congress, it was undercut by the Congress, and there was no excuse for it.

There is an attempt by some now to paper over that, but that is what happened, and people guilty of crimes went free as a result of the interference of the Congress in that work. I am not just referring, by the way, to Oliver North and Mr. Poindexter. At the end of the Bush administration, Caspar Weinberger, the former Secretary of Defense, was under indictment and on his way to trial. But he got a pardon from President Bush, as President Bush was leaving the Oval Office after having been defeated in the election.

How did that happen? It turned out, among other things, that Mr. Weinberger had sent a whole lot of confidential notes over to the Library of Congress, safely out of the line of the vision of the congressional inquiry. And, fortunately, very late in the game, the special counsel found out about those and got those notes out, and they put the whole situation in a different light, in such a different light that there was going to be a criminal prosecution until there was an intervention with a Presidential pardon.

Some of the folks around here who were involved in that do not much want to talk about that part of it because the congressional inquiry in that case did interfere with Mr. Walsh. I think it ruined a substantial part of his work, and that also is his view.

I might just say that Mr. Walsh, at the end of his work, said this, and I want to quote him because if we are not smart enough to learn from our past mistakes with respect to this kind of congressional interference when you have a special counsel at work, then we are just not thinking clearly. This is what he said in the final Iran-Contra report:

> I think the view of some of those in the congressional committee that there was a possibility of concurrent activity, that the Congress could investigate on television and that the criminal prosecution could also go on, was just proved to be wrong, and I think the lesson is very clear as we spelled out in the report, Congress has control. It's a political decision as to which is more important, but you can't have both. If it wants to proceed with a joint committee or a special committee or have to compel testimony by granting immunity, that it has to realize the odds are very strong that it's going to kill any resulting criminal prosecution.

That is exactly what happened in that case and, in my view, we never got the true story as a result of it, try as Mr. Walsh might, because there was that interference by the Congress as he was trying to get that job done.

Now I hear some people saying, "Well, let's have the Congress barge back in here and shoulder Fiske out of the way," even though Fiske is a Republican. Fiske has said, "Leave me alone, let me get my job done." We ought to leave him alone.

One of the reasons we ought to leave him alone is we ought to be smart enough to see what our interference in Iran-Contra cost in that instance. So these things are related in that sense.

I know some of my colleagues on the other side have another view of it. But that is exactly where I think the situation is.

So let us let him get his work done. I do not know what he is going to find. There has been, to my knowledge, no assertion of a violation of law by the President and the First Lady. I know of none. Senator COHEN just said a minute ago he knows of none. That is not all clear in some of the hysteria that surrounds this story. But none has been asserted. I am not aware of any. I am not aware of anybody else who has asserted there is any.

But I think Mr. Fiske has to take the resources of this Government and track this question through and find out exactly what happened down every line of inquiry. He is doing it. I support his efforts. And when he writes to me and says, "Look, let me get my job done"—he is working for the American people; he is absolutely impartial. He has no political ax to grind whatsoever. He is not doing his work in front of the television cameras. He is trying to get a thorough, complete, fair, impartial investigation done to find and convict the guilty and clear the names of the innocent.

That is the way America is supposed to work. That is the way it ought to be allowed to work in this case.

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

The PRESIDING OFFICER (Mr. WELLSTONE). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. 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. DORGAN. Mr. President, I have listened today to a generous amount of discussion, sitting in the chair and sitting in the Chamber, about Whitewater. And I must say again I do not know the facts about Whitewater, but I do know the facts about politics.

Is the discussion about Whitewater without merit? No, I do not think so. It is an issue. It is a political issue in our political system. Questions are raised and questions become debated. All of us understand that.

But I think in this case the rhetoric has become overheated. The language has sometimes become careless. And the coverage becomes excessive.

I was interested this weekend in something Walter Cronkite said about the coverage of this Whitewater issue.

Walter Cronkite, the former CBS News anchor called the recent news coverage "definitely overheated." "The clear attempt in both the Watergate break-in and the coverup was to subvert the democratic workings of our Government. There is nothing nearly comparable to that in the Whitewater Affair," he said.

So says Walter Cronkite.

Marvin Kalb, distinguished former journalist, criticizes the coverage of this issue also.

He says, "Without any significant legal evidence linking the President to any criminal activity, everyone and his uncle in the press is on board this train and they are riding to a destination that is utterly unknown to them."

Marvin Kalb says: "There is a rushing to judgment that is unprofessional and distasteful."

I do not say that those who raise this issue on the floor of the Senate or those who write about it do so improperly or without merit. I would just say that there are times when in our system we ratchet these things up way out of proportion to what the facts are and we ratchet them up to such a hysterical noise level that it is out of proportion to the issue before us.

I know some say, "Well, this isn't politics." Some who come to this Senate floor time after time after time say, "This has nothing to do with politics."

Look, we all know better than that. Of course, it has to do with politics. This issue is a literal Thanksgiving political feast for some in this Chamber. We understand all of that. That is nothing new.

The Academy Awards are coming up soon. I am almost tempted to suggest an Oscar for a special category or maybe even lifetime achievement award for some of the performances I have seen on the Senate floor when Senators rail on about Whitewater and then say, "This isn't about politics." Of course, it is about politics.

I heard my colleague in the Chamber not too long ago this afternoon say—I forget what the fact was, what the assertion was—that this certain fact was asserted in the press.

"Now, I do not know if it is a fact, but we ought to find out if it is a fact," the Senator said. But, of course, the assertion becomes the set of facts when Whitewater is discussed. Mark Twain I think said "A lie travels halfway around the world before the truth gets its shoes on." That certainly rings true on this issue.

I would just say to all of my colleagues I have said publicly I think the White House has handled this matter very poorly. They have stumbled. They have I think made real mistakes in the way they have handled Whitewater. But at least from my observation the White House has now done something different; something that certainly the administration that was involved in Iran-Contra did not do; something certainly the previous administrations that were involved in Watergate did not do. This President has said now to all of those investigating, "Here is the information; take a look at it." He is not, in my judgment—at least I have not heard any examples of his claiming executive privilege—or trying to withhold information. At this point the President has said, "Whatever there is, you have. Whatever information exists, you get."

Maybe it is a late start. Yes, they stumbled early on. But I think that is the way you finally get to the facts, and that is after all what all of us should want. Let us find out exactly what happened here and then move on.

There are so many issues on our agenda that we should address and must address. We have talked about crime; we have talked about health care today, and others. All of those are the things that represent the public business, that people expect us to address. And I hope, no matter how all of this turns out, that in as expeditious a fashion as we can, we can have Mr. Fiske do his work, have anyone else who wants access to information to evaluate that information and make judgments about what the facts are and then move on to take care of this country's business.

COMMUNITY DEVELOPMENT BANKING AND FINANCIAL INSTITUTIONS ACT OF 1993

The Senate continued with the consideration of the bill.

Mr. DORGAN. Now, having said all of that, Mr. President, I really came to the floor not to speak about Whitewater but I felt, after several hours, it would be unusual to speak about the issue that was under consideration because everybody who jumps up today speaks about Whitewater, and that has pretty much been true for recent weeks.

The bill that is under consideration is a piece of legislation that I intend to offer an amendment to, the Community Development, Credit Enhancement and Regulatory Improvement Act. We have had ample discussion on this legislation now for a couple of days, and I have talked to the folks involved in this bill and I am going to offer an amendment that adds to the criteria, the list of those areas eligible for investment, those areas in the country that have suffered the loss of people, out-migration.

There are a couple of indices of economic stress. A particular one would be unemployment. Another would be poverty. All of us understand that. But there is another that often people do not recognize. Another important index of distress would be people leaving.

My home county in North Dakota, Hettinger County, ND, lost 20 percent of its entire population in a decade. Let me repeat that because I think it is important. My home county lost 20 percent of its people in a decade. Does it have high unemployment? No. Because people left to find work elsewhere. There was no work there. It is a rural economy that used to be a plum and is now shrinking like a prune. It is atrophying like a major part of rural America is atrophying—because there is no opportunity. There is loss of jobs and people get in a car and move to a bigger city somewhere else.

The result is rural counties across this country suffer severe economic distress and do not show up in the same statistical pattern as they might were they an integral part of a large inner city.

Shortly, I intend to offer an amendment to the legislation to include in the criteria those areas of the country that have suffered out-migration to the tune of 10 percent loss of their population or more in a decade. In my home county at least, when you lose 20 percent of your population, those who are in Main Street business trying to do business are trying to do business in a virtual depression. I want those areas to be eligible. I want those businesses to be eligible. I want those communities to be eligible as well under the conditions of this bill to try to provide some life and some economic hope and some opportunity to rural America once again.

So, Mr. President, I will shortly offer that amendment to this piece of legislation.

I yield the floor.

BAUCUS-WALLOP AMENDMENT

Mr. BAUCUS. Mr. President, I rise to thank Senators RIEGLE and D'AMATO for considering and proceeding to a unanimous voice vote on the Baucus-Wallop amendment to section 107 of S. 1275. I urge them to work to hold this amendment in the conference with the House on this legislation.

Section 107 sets forth the selection criteria to be used by the Community Development Financial Institutions Fund in choosing recipients of financial assistance to be provided by the fund. The purpose of the fund is to promote economic development in distressed communities.

Under section 107, the Administrator and five-member advisory board of the fund have the sole discretion to apportion $382 million of financial assistance to new and existing community development financial institutions. The selection process is based on 12 factors outlined in the statute.

The Baucus-Wallop amendment adds language to the statute insuring that the fund consider whether an applicant financial institution is, or will be, located,

> * * *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.

It is the intent of this amendment to make applicants in communities that are ineligible for designation as an empowerment zone or an enterprise community under the Internal Revenue Code eligible for equal consideration in the selection process.

I will continue to work with the Clinton administration and my colleagues on the Finance Committee to modify the criteria for eligibility for designation as an empowerment zone or enterprise community under the Internal Revenue Code. In particular, I am concerned about the strict reliance on 1990 census data for determination of whether a community satisfies threshold population and poverty requirements.

Plant closings and other calamities since the 1990 census have left many rural communities in Montana, Wyoming, and other States in severe economic distress. This includes record levels of unemployment and substantial reductions in family income in owns primarily dependent on a single industry such as timber or mining. It is important that we not overlook these areas merely because the snapshot taken by the 1990 census does not reveal the true nature of the problems that currently exist.

Mr. KENNEDY. Mr. President, I support S. 1275, the Community Development, Credit Enhancement and Regulatory Improvement Act.

I commend the leadership of Senator RIEGLE and the Banking Committee in bringing this important legislation before the Senate. I am pleased to note that it also has President Clinton's strong support.

Title I of the bill recognizes the need to foster community banking in our poorest communities. It recognizes and enhances the role of community development financial institutions throughout America in providing access to financial services in cities and rural areas.

CDFI's, including the 10 in Massachusetts, allow enterprises in distressed communities to obtain the financing that will give them a chance to prosper and revitalize their communities. People who wish to start new businesses, open stores, and build housing and shopping centers deserve this help. The CDFI's are on the frontline—providing loans and building a brighter future.

The Community Development Financial Institutions Fund created by S. 1275 will strengthen and energize

CDFI's. It will give them vital technical and financial assistance to serve their communities more effectively. Under the bill's matching requirements, every Federal dollar provided to a CDFI will be matched by a private dollar, thus creating incentives to leverage more private capital. In doing so, this bill will promote broader private participation in communities that need the most support.

The bill fosters the sort of public/private partnerships that have been the source of many of the community development successes we have had in Massachusetts.

In addition to the matching requirements, S. 1275 permits private banks and financial institutions to become partners with CDFIs. In this way, the bill recognizes that government cannot, by itself, bring about the changes needed for these communities to grow and thrive. It will take commitment from every sector, and S. 1275 is an important step in promoting that commitment.

Title II of the bill addresses the pernicious practices of brokers, lenders and others who have exploited the lack of credit and financial services in poor neighborhoods. People who were cash poor but with equity in their homes have often become targets of unscrupulous lenders and mortgage brokers who provide loans on unconscionable terms and are only too glad to foreclose on a home. When the victims seek recourse in the courts, they find the loan has been sold to another bank, who is a holder in due course and thus protected by a virtually impenetrable defense.

The elderly, the poor, minorities, and others who are vulnerable fall prey to these practices. Senators RIEGLE and D'AMATO have led a bipartisan effort to end the abuses. S. 1275 makes it more difficult to cheat unsuspecting consumers on home-equity loans. It creates substantial penalties for doing so, and the penalties will follow the loan, no matter how many times it is sold.

This bill also contains provisions to lower the cost of capital to small businesses. It will be easier for a business to obtain credit through capital access programs, like the one we have adopted in Massachusetts. Access to capital is an essential component of small business expansion. When we make that access easier, we promote more jobs, greater economic development, and higher wages.

S. 1275 is a sound and progressive approach to many of the problems that low-income citizens and communities face in dealing with the nation's financial system. I urge my colleagues to support this essential bill.

Mr. BURNS. Mr. President, I rise today in strong support of the Shelby-Mack amendment, which has been incorporated into S. 1275, the Community Development, Credit Enhancement, and Regulatory Improvement Act of 1994. As we are all aware, this country has gone down a very dangerous path of excessive regulation, the effects of which are choking the ability of our businesses to compete effectively.

Some of Congress' best efforts are turned into a regulatory nightmare by a bureaucracy run amock. The case in the banking industry is certainly a prime example and the effects have been devastating. The Shelby-Mack amendment will have the desired effect of reducing the burden that our financial institutions now face as a result of increased regulatory requirements. The paperwork, time, and money spent on complying with, in many cases, overzealous consumer oriented regulations has done nothing but tie the hands of, and drain valuable resources from, this country's financial industry.

While title III of S. 1275 will provide some regulatory relief by incorporating a minor portion of the provisions contained in S. 265, the Economic Growth and Regulatory Paperwork Reduction Act, which I have cosponsored, it fails to make a real difference in reducing unnecessary and duplicative regulations that impede consumer access to credit and waste bank resources. Mr. President, the bottom line is that S. 1275 did not go far enough but the Shelby-Mack amendment will.

Adoption of the amendment, along with the provisions already included in S. 1275, will provide the critical mass necessary to make a substantial reduction in the regulatory burden. All provisions have been carefully selected to maintain or enhance the safety and soundness of the banking industry.

Mr. President, I am pleased that the amendment has been incorporated in the S. 1275, and I look forward to final passage.

Mr. CAMPBELL. Mr. President, I would just like to say a few words about the bill S. 1275, and leave aside for a moment the amendments offered by my colleagues.

I was an original cosponsor of the original bill, which set forth the proposal for a fund to promote community development financial institutions. I supported it because I believe these CDFI's can improve poor communities and help the people that are stuck in them, particularly the children.

Mr. President, if there is one thing that I want to accomplish as a Member of Congress, it is to help poor kids in this country. I had a tough time as a youth, because there were no resources and no opportunities for a poor minority kid in California. I have a responsibility, to help provide those opportunities. This CDFI bill is just one small but important step on the long march to save disadvantaged kids.

I want to add a note of personal thanks to Senator RIEGLE and his staff for their help in dealing with issues of particular concern to Indian tribes. American Indians have a particularly hard time getting access to credit, and this bill would help establish financial institutions that specifically serve Indian reservations. The manager's amendment includes several provisions that answer specific concerns from Indian tribes. First, the bill provides for a long-needed study on lending and investment practices on Indian reservations, to identify why Indians cannot get credit and to recommend ways to better serve Indian populations. I am sure the study will show what all Indians already know, that most traditional banks just do not want to deal with tribal governments and tribal laws.

Also, the manager's amendment sets up procedures that require CDFI's serving reservations to consult with tribal governments about their lending practices. Too many times in the past, scam artists have taken advantage of special rules on Indian reservations to enrich themselves and their buddies, while Indians ended up with nothing. This bill gives Indians the chance for some oversight to avoid those kinds of abuse.

I think this bill can help kids, whether they are in inner cities, or in depressed rural areas, or on Indian reservations. I hope we can pass this bill and get on with the job.

Mr. MACK. Mr. President, I rise today to thank Senator RIEGLE and D'AMATO for working out an amendment by Senator SHELBY and myself which was cosponsored by Senators DURENBERGER, PACKWOOD, GREGG, COVERDELL, HUTCHISON, HELMS, BOND, BURNS, GRAMM, BENNETT, and FAIRCLOTH. I am confident that given enough time all 51 of the cosponsors of S. 265, the regulatory relief bill that this amendment was based upon, would have cosponsored the amendment, and I would like to thank everyone involved.

Year after year Congress has passed well meaning legislation that by itself does not impose significant regulatory burdens. While no single regulation is most burdensome, and most have meritorious goals, the aggregate burden of the litany of banking regulations ultimately affects bank's operations and their ability to serve customers effectively.

The regulatory relief provisions in this legislation take several steps toward rolling back some of the layers of regulatory burdens that we have placed upon our financial institutions over these years. This legislation is a good start toward unlocking the billions of dollars that are spent every year on regulatory compliance and getting our Nation's financial institutions back in the business of making loans.

I believe that it is important that we continue to streamline this crush of Federal regulations and reverse the tide of new unnecessary burdens imposed on these institutions. I look for-

ward to working with my colleagues toward this worthy goal.

Mr. CHAFEE. Mr. President, I want to congratulate the bill managers—Senators RIEGLE and D'AMATO—for their fine work in bringing the Community Development, Credit Enhancement, and Regulatory Improvement Act to the floor. It is a good bill, and one that I support and am pleased to cosponsor.

Briefly, Mr. President, the legislation has three major components. First, it contains important community development provisions to help spur lending in low-income, underserved urban areas. Second, it includes small business capital formation provisions—provisions that I cosponsored. Third, it includes important paperwork reduction items and regulatory improvements to help both banks and their customers, especially small businesses.

I have been pressing for action in each of these three areas, and I am pleased that the Senate is preparing to approve them as part of S. 1275.

I am disappointed, however, that legislation that I introduced, the Small Business Assistance and Credit Crunch Relief Act, S. 950, could not be incorporated into this measure.

Negotiations to do just that have been underway for 2 days, and this afternoon Chairman RIEGLE and I agreed that it is best to consider my bill at a later time. I do hope, however, that the Senate will take up S. 950 later this spring; it is a good bill that is supported by the National Federation of Independent Business, the U.S. Chamber of Commerce, and the Smaller Businesses Association of New England. It would have a major impact in reducing the credit crunch that is plaguing New England and much of the Nation.

Let me briefly describe three of the highlights of my bill.

First, it would freeze all new banking regulations until the appropriate agency conducts a regulatory impact analysis and concludes that the benefits of the new regulations outweigh the costs to small banks of implementing and complying with them.

Second, it would permit banking regulators to suspend regulations that it determines are unnecessary, or have the effect of discouraging small banks from lending to creditworthy small businesses.

Third, it would reward small banks that have received the highest rating under the standards established under the Community Reinvestment Act—a rating of "outstanding"—by creating a safe harbor for CRA protests. Further, regulators would be directed to significantly reduce the onerous paperwork requirements under CRA for banks with the highest CRA rating.

Unfortunately, I was unable to reach an accommodation to have my bill incorporated into S. 1275. I plan to continue my efforts to have the measure approved in the not too distant future.

Finally, Mr. President, I understand that the bill managers want to wrap up this bill. Accordingly, I will conclude my remarks by saying that I support the legislation, and am especially enthusiastic about those provisions that will help reinvigorate our inner cities and help small businesses.

Mr. WALLOP. Unnecessary regulations are killing American competitiveness and limiting the ability of the economy to grow. Today, the Federal Government is the biggest hurdle that a struggling businessman must face in order to be successful. Regulations cost all Americans between $880 billion and $1.6 trillion annually, or between $8,388 and $17,134 per household.

These high and unproductive costs are evidence of an increasingly arrogant bureaucracy that has managed to insert its influence into every facet of our lives. I can not tell you the number of times I have heard Americans express their fear of government—the fear that they will lose their freedom and their ability to control their own lives. And the fear that their government will get them.

We must cut regulations and free Americans to prosper, instead of creating new government programs. That is why I rise in support of the Mack-Shelby paperwork reduction provisions that have been included in the manager's amendment. The regulatory relief provisions originally in this bill do not go far enough. These additional provisions will make a real difference in reducing unnecessary and duplicative regulations and will go a long way towards eliminating invidious, anticompetitive regulations.

But we can not stop here. One of the worst regulatory burdens on small banks is the Community Reinvestment Act, or "CRA". Although CRA began with the laudable goal of ensuring that financial institutions meet the needs of their local communities, the act has had the practical effect of requiring banks to maintain excessive records to document CRA compliance. CRA was not intended to impose burdensome recordkeeping on banks, but it has created some of the most onerous paperwork requirements that any bank faces.

Small, community banks are especially hard-hit by these regulations. With fewer personnel and smaller monetary resources, these banks face the formidable task of documenting all community lending activities. These compliance costs absorb real resources that could obviously be better spent by making important and necessary loans in the community.

The Nation's 10,000 community banks spend over $1 billion annually to comply with the administrative costs of CRA. If we want to help distressed communities we should be using this $1 billion to make loans to the local communities instead of wasting it on unnecessary regulations.

It does not take a rocket scientist to know that small, rural banks must invest in their communities if they are going to stay in business. They are the economic backbone of their communities, providing the necessary money for a local business to expand or for a family to build its first home. By requiring small banks to meet the standards set for urban areas, we are suppressing the economic growth and investment that occurs naturally in the course of business. In rural communities the impact is devastating.

The administration has recognized the negative credit impact caused by CRA. Bank regulators are now trying to develop new standards that eliminate the burdens of the CRA. In fact, 39 senators recently sent a letter to Comptroller Ludwig, applauding the administration's recognition of a need for a two-tiered approach to address the differences between community banks and larger money center banks.

But the new regulations do not go nearly far enough to alleviate the paperwork burden. To meet a more streamlined examination process, a community bank must show that it has a loan-to-deposit ratio of at least 60 percent. This ratio unfortunately fails to take into account a number of relevant characteristics that make it difficult for small, rural banks to meet a 60 percent national standard. For example, rural banks in Wyoming have expressed concern that they may not have the loans available to meet the 60 percent ratio. If adopted "as is", it is clear that the CRA paperwork issue would not be resolved for half of the small community banks in Wyoming and other States—the very banks that are most in need of relief.

I understand that the regulators are addressing much needed reforms. However, I want to make it clear, Mr. President, that if they modify the regulations and do not recognize the differing needs of banks in small communities from those in large, we will have to act legislatively.

I had intended to offer an amendment to this effect today. My amendment would have incorporated the language contained in S. 1698, the Rural Community Bank Paperwork Relief Act of 1993 which I introduced with Senators MCCAIN and BOREN, and which is also supported by Senator MACK. This amendment would have allowed independently chartered banks in small towns to "self certify" that they are meeting local credit needs. A small bank will be presumed to meet CRA requirements if they qualify under a State loan to deposit ratio, and certifies that it is meeting the credit needs of the entire community.

I have been persuaded to wait until the regulatory process has progressed

further before acting. However, I urge the regulators to act expeditiously to address the paperwork burdens of CRA and to free up much needed resources, or we will act for them.

Mr. SARBANES. Mr. President, I rise in support of S. 1275, the Community Development, Credit Enhancement, and Regulatory Improvement Act.

I would like to begin by commending Senator RIEGLE, the chairman of the Banking Committee, and Senator D'AMATO, the ranking member, for the cooperative and bipartisan manner in which they have worked to bring this important piece of legislation to the floor. This bill was reported out of the Banking Committee last September 23 by an 18 to 1 vote, reflecting the broad support within the committee for the bill.

I was pleased to be an original cosponsor of this legislation. Title I of the bill would promote the growth of community development financial institutions, as well as address abuses that have taken place in the home equity lending market. Title II would facilitate the development of a secondary market for small business loans similar to that for residential mortgages, thereby making credit more easily available for small business. Title III contains a number of provisions designed to improve the efficiency of financial regulation in response to concerns raised by financial institutions about excessive paperwork and regulatory burdens, while not weakening safety and soundness.

I would like to focus my remarks on subtitle A of title I of the legislation, which is the Community Development Banking and Financial Institutions Act.

Subtitle A of title I would establish a Community Development Financial Institutions Fund to promote the economic development of underserved communities by providing financial and technical assistance to new and existing community development financial institutions.

The legislation provides that community development financial institutions would include community development banks and credit unions, minority-owned banks, community development loan funds, microenterprise funds, and community development corporations. Eligible institutions must have a primary mission of community development. Traditional commercial banks would be able to form a community partnership with community development financial institutions to work cooperatively to revitalize communities.

The Community Development Financial Institutions Fund would be a wholly owned Government corporation which would provide financial assistance to eligible institutions through equity investments, deposits, credit union shares, loans, and grants. It could provide technical assistance directly, through grants, or by contracting with organizations that possess expertise in community development.

The fund would be directed by an Administrator appointed by the President and confirmed by the Senate. A five-member advisory board would consist of representatives of community groups, local and regional governments, community development organizations, and the banking industry. The subtitle authorizes $382 million over 4 years.

The bill leverages private and public resources. Assistance from the fund, other than technical assistance, must be matched dollar for dollar by the private sector. Criteria for selection include community need, community representation, ability to leverage private funds, past performance, extent of targeting to low income people, and the strength of the institution's strategic revitalization plan.

Insured depository institutions that receive assistance as community development financial institutions would be subject to all existing safety and soundness laws and regulations.

I would like to take a moment to discuss the South Baltimore Community Development Credit Union, a small credit union which serves the neighborhoods of south Baltimore, as an example of the kind of institution that might benefit from this legislation.

The South Baltimore Community Development Credit Union was originally chartered in 1967 to serve low income people in its surrounding neighborhoods. It was one of seven community development credit unions established in Baltimore at that time. Over the course of its nearly 25-year history it has weathered some difficult times, and today is the only one of the original seven community development credit unions in Baltimore still operating. It currently has a membership of over 1,400 people and approximately $980,000 in assets.

The credit union serves as a means by which people of modest income can pool their savings and gain access to credit that otherwise would not be available to them. For example, I am aware of a couple which had been renting the same house in south Baltimore for over 20 years. The owner of the house wanted to sell the house to the couple. Both members of the couple work, however, and their income was too high for them to qualify for subsidized loan programs sponsored by the city. Yet they had difficulty obtaining credit from traditional commercial banking institutions.

Through the South Baltimore Community Development Credit Union to which they belong they were able to obtain a $10,000 purchase mortgage for their house and a $5,000 home improvement loan. This is an opportunity that only the credit union made available to them.

A major constraint on the credit union's ability to serve the south Baltimore community is that its only office is located in southwest Baltimore. As a result, people in southeast Baltimore have to go across town to get to the credit union, which is a significant obstacle to membership in the credit union.

The credit union would like to be able to establish a full time public office in southeast Baltimore, but lacks both the capital and technical management expertise that would be required. The establishment of a Community Development Financial Institutions Fund to provide financial and technical assistance to institutions such as the South Baltimore Community Development Credit Union, as well as to leverage support from the private sector, might make that possible.

The credit union estimates a potential additional membership of as many as 20,000 people in southeast Baltimore.

Mr. President, I believe this legislation holds great potential for communities in this country lacking adequate access to credit and financial services. I urge my colleagues to give it their support.

Mr. DECONCINI. Mr. President, I rise today to offer my support for S. 1275, The Community Development, Credit Enhancement and Regulatory Improvement Act. This multifaceted legislation touches many important areas which needed to be addressed. This bill will increase access to capital, which in turn will assist in the continued growth of this Nation's economy. The establishment of Community Development Financial Institutions will infuse many distressed areas of this Nation with much needed capital. The securitization of small business loans will allow small businesses, which are so vital to economic growth, greater ability to acquire loans and do so at lower interest rates. In short, I believe this legislation will put money back into our communities and will enhance this country's already promising economic outlook.

Other very important provisions are the consumer protection measures contained in title I, subtitle B, the Home Ownership and Equity Protection Act. I have been contacted by many constituents, including many members of the Arizona Association of Mortgage Brokers, who initially raised concerns over portions of this section of the bill. I shared many of those concerns, particularly the proposed prohibition on balloon payments. However, the 5-year limitation on the prohibition offered by Senator RIEGLE and Senator D'AMATO has resolved my concern. This modification allows the bill to address the egregious violations of the Truth in Lending Act, while at the same time, continuing to allow many people to obtain money for a myriad of reasons, including sending their chil-

dren to college, or remodeling their homes.

No one disputes that among the hundreds of individuals and organizations who are in the business of lending money, there is a small but detrimental minority who prey on those in need and seek nothing more than a quick financial windfall. The Banking Committee received testimony about people, typically low income and minority homeowners, being bilked into terrible financial deals by lenders who specialize in fraud and dishonesty. Of the many concerned Arizonans involved in the mortgage industry who contacted me, all were deeply troubled by the practice of reverse redlining and the irreparable damage it creates, not only to the homeowners but also to an otherwise reputable industry. People who conduct business in this fashion should be dealt with in the most serious manner possible. While I support the committee in its attempt to eliminate lending abuses, I was concerned that a legitimate and viable avenue of obtaining money was being eliminated with the flat prohibition on balloon payments. While it is clear that short-term balloon payment mortgages frequently place individuals at great risk of foreclosure, balloon payment mortgages of a longer, more appropriate term, should not, in my view, be prohibited.

A letter submitted to the Banking Committee by the Southern Arizona Legal Aid, Inc., stated that:

[v]irtually all of the thousands of loans in litigation required short-term balloon payments, due as little as 13 and never more than 37 months after the closing dates.

People who enter these short-term agreements are often forced into foreclosure when they are unable to acquire the funds needed to payoff the balloon. Those who can obtain funds often do so at an even higher interest rate, and the homeowner is caught in a treacherous financial treadmill. The problem is a very real one and I believe that this bill addresses that problem. However, in addition to strengthening consumer protection in this area, this bill also retains the balloon payment mortgage as a viable option, provided the loan is for at least 5 years in length. The 5-year provision allows legitimate lenders and consumers to utilize balloon payments. Those hoping to get rich quick are now forced to invest for at least a period of 5 years. Frankly, I do not believe this is an investment they will be willing to make. Furthermore, the enhanced disclosure provisions of this bill will help to insure that consumers who do select balloon payment mortgages are fully aware of the terms of their mortgages prior to entering into them.

In short, this bill strikes the proper balance between recognizing the value role that lenders play, while attempting to stop the predatory lending practices of a minority of lenders. I commend the Banking Committee for the fine job they have done on this bill and their willingness to listen to these concerns and others, all of which the committee has addressed in a very fair and equitable fashion. I believe this bill is a good one, and I strongly support its passage.

Mr. SPECTER. I would like to inquire of the chairman of the Senate Banking Committee and the ranking member of that committee of the status of the limitations on so-called nonbank banks placed on those institutions by congressional action in 1987.

Mr. D'AMATO. Let me respond to my colleague from Pennsylvania and a former member of the Banking Committee. You raise a good point. In 1987, a 7-percent growth cap was placed on these institutions. This limitation curtails the flow of credit to consumers and small businesses. I can see no safety or soundness ground for this limit, especially when applied to adequately capitalized and well-run institutions. It is time for us to reexamine the need for this restriction.

Mr. RIEGLE. I would also be delighted to respond to the inquiry from the Senator from Pennsylvania and a former valued member of the Banking Committee. I have received a March 16, 1994, letter from the Treasury Undersecretary Newman advising me of their views regarding the operation of nonbank banks. As you know, the Competitive Equality Banking Act of 1987 [CEBA] prohibited the creation of new nonbank banks. The CEBA legislation also required existing nonbank banks to comply with certain grandfather restrictions, including limiting a nonbank bank's annual asset growth to 7 percent. The Treasury letter, which I shall place in the RECORD to appear at the conclusion of my remarks, expresses concerns about modifying the 7-percent asset growth restrictions that apply to nonbank banks.

I would like to take the Treasury's concerns on this matter under advisement before we consider this matter.

Mr. BENNETT. I would like to add my voice of support to those of my colleagues. This growthcap was put in place, originally, with the intent that overall banking reform would take place shortly. However, this has not come to pass and the outlook for positive developments on this issue appears dim. Artificially restricting the growth of American industry is unwise and I firmly oppose it. I hope that we will do the right thing in this instance and take the opportunity to address the concerns raised by Frank Newman's letter in the Banking Committee this year.

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

DEPARTMENT OF THE TREASURY,
Washington, DC, March 16, 1994.

Hon. DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to oppose any amendment weakening the 7 percent limit on annual asset growth by grandfathered "nonbank banks."

Most companies that control FDIC-insured commercial banks must comply with the Bank Holding Company Act, which generally does not permit them to engage in activities unrelated to banking (e.g., manufacturing locomotives or operating department stores).

Nonbank banks, although FDIC-insured, escaped the Bank Holding Company Act's limits through a loophole that Congress closed in 1987 by enacting the Competitive Equality Banking Act ("CEBA"). CEBA passed the Senate by a 79–11 vote on March 27, 1987, by a 96–2 vote and on August 4, 1987.

CEBA prohibited the creation of new nonbank banks. It also required existing nonbank banks to comply with certain grandfather restrictions in order for their parent companies to remain exempt from the Bank Holding Company Act. One of the most important of these grandfather restrictions limits a nonbank bank's annual asset growth to 7 percent.

Congress recognized that exemption from the Bank Holding Company Act could give nonbank banks and their parent companies significant (and in the view of CEBA's proponents, unfair) advantages in competing with other FDIC-insured commercial banks.

In opting for grandfathering rather than strict conformity with the Bank Holding Company Act, Congress "placed considerable weight on the fact that . . . nonbank banks . . . are generally quite small." It sought to prevent what the legislative history described as "the abuse of grandfather privileges that would occur if grandfathered companies changed the character of the institutions involved through aggressive asset growth." S. Rep. No. 19, 100th Cong., 1st Sess. 12 (1987). The asset-growth restriction was designed to "help prevent existing nonbank banks from changing their basic character . . .; from drastically eroding the separating of banking and commerce; and from increasing the potential for unfair competition . . . and other adverse effects." It also sought to "give the owners of nonbank banks an incentive to support, rather than obstruct, additional legislation."

Allowing unlimited asset growth by nonbank banks would disrupt the balance struck in CEBA. It would erode the Bank Holding Company Act's separation of banking and commerce, allow nonbank banks to significantly increase their share of total bank assets, and increase the competitive advantages nonbank banks and their parent companies have over other FDIC-insured banks and regulated bank holding companies.

And this fundamental change in CEBA would occur through an isolated, nongermane Floor amendment—rather than, as CEBA contemplated, through comprehensive legislation, enacted after appropriate hearings, allowing "all banks or bank holding companies to compete on a more and equal basis" with companies controlling nonbank banks. 12 U.S.C. §1843(f)(3)(A).

This change would, moreover, provide a windfall to a limited group of companies that already have special privileges—the two dozen firms with grandfather rights under CEBA.

Limiting any amendment to well-capitalized nonbank banks would not alter the basic issues. Any undercapitalized institution would face even stricter asset-growth restrictions under section 38(e)(3) of the Federal Deposit Insurance Act. And being well-capitalized would not address the competitive-equity concerns that prompted the CEBA restriction.

We do not believe a convincing case has been made for weakening the 7 percent limit under the circumstances, and we would accordingly oppose such an amendment.

Sincerely,

FRANK N. NEWMAN,
Under Secretary.

Mr. METZENBAUM. Mr. President, I sponsored an amendment to the Community Development, Credit Enhancement, and Regulatory Improvement Act of 1993—S. 1275—which will give consumers the information they need to correct mistakes on their credit history that may prevent them from opening bank accounts.

I have worked for years to reduce the hurdles consumers face in trying to gain access to the banking system. In addition to the financial hurdles, many consumers are denied checking accounts based on false and inaccurate information used to characterize them as bad check writers. More and more banks are relying on companies that for a fee, will provide information about a consumer's checking account history. Oftentimes the information provided simply indicates whether the consumer has a positive or negative history. The underlying facts used to make such a characterization are not given and are often difficult to obtain. All too often the information is false or inaccurate. Nonetheless banks refuse to open accounts for consumers blacklisted by these companies. Merchants refuse to accept their checks.

Under current law, consumers have a right to look at the files consumer reporting agencies have on them and get factual mistakes corrected. Unfortunately, this right is useless because these files often contain only summary subjective information about the consumer. The facts upon which a so-called negative characterization about the consumer are based are not included.

Consumer Action, a California advocacy organization released figures in 1991 showing that two-thirds of surveyed California financial institutions refuse to open checking accounts for people who are listed with Chexsystems, a checking account verification company. Chexsystems maintains a negative database of the names of people which have been reported to Chexsystems by their banks. Banks call Chexsystems with the names of all people who want to open new accounts. In most cases people who appear on the Chexsystems database are denied checking accounts when they try to open such accounts at banks that subscribe to the Chexsystems service.

A Consumer Action survey revealed that of the 56 financial institutions surveyed, 54 clear new account applicants through Chexsystems. Of those 54, two-thirds—36 banks—automatically deny new accounts to any one who appears on the Chexsystems database, regardless of the reasons their names appear there.

Take for example the case of Raymond J. Sheehy. Mr. Sheehy attempted to open a checking account with Wells Fargo Bank in July 1991 but was denied the account. Mr. Sheehy was denied an account at Wells Fargo even though the bank's records showed that Mr. Sheehy had maintained an account in good standing with the bank for 5 years. The account was closed when Mr. Sheehy left California for Hawaii. Mr. Sheehy was told that his account was denied because there was a problem with Chexsystems. Nothing more. With great difficulty, Mr. Sheehy later learned from Chexsystems that Tinker Credit Union had reported to Chexsystems that Mr. Sheehy's account with them showed an entry of NSF or not sufficient funds. No further details were given. Mr. Sheehy notified Chexsystems that the NSF reported by Tinker Credit Union was incorrect. Chexsystems nonetheless continued to report this incorrect information.

My amendment adds to the list of information that must be disclosed to a consumer by a consumer reporting agency. An agency that reports a negative characterization about the consumer, must now disclose the information upon which such characterization is based. Specifically, the agency must disclose the dates, original payees, and dollar amounts of any checks upon which is based any negative information about the consumer. Without such facts, the consumer burdened with false or inaccurate information is unable to dispute and/or correct such information.

For example, if a consumer reporting agency indicates that the consumer has had high not sufficient funds NSF activity in the past, the agency must now disclose to the consumer the specific facts upon which such a characterization is based.

This disclosure requirement would be triggered regardless of the manner in which negative information is communicated or retained by the agency. For example, if an agency only contains files on consumers who have allegedly had bad account relationships in the past, the fact that the consumer's name appears in the file would implicitly convey negative information about the consumer and thereby trigger the new disclosure requirement. Under such circumstances, the consumer would have the right to learn the specific facts surrounding such a characterization.

My amendment will make the current fair credit reporting law more meaningful. It will prevent consumers from being blacklisted from the banking system because of negative information about the consumer of which the consumer is not aware. It will make consumer reporting agencies more accountable for the information and characterizations they report.

Mr. HATFIELD. Mr. President, during the recent recession we have come to realize the poignant effects of poor credit availability on the Nation's economy, and especially upon small businesses. I support the bill before us today because it takes important steps toward addressing this problem. Not only does it use new tools to promote private lending, but it allows for better use of existing sources of capital by cutting burdensome regulations on insured financial institutions.

Access to capital is a financial phrase for a simple concept—the ability to get money to worthy private investments in hard hit areas such as those impacted by the timber shortage. The promotion of capital and technical assistance through the establishment of community development financial institutions could have a powerful impact in the places across the country where funds are toughest to get. It is reassuring for the integrity of this idea that existing institutions will participate and that Federal assistance from these funds must be matched dollar for dollar by non-Federal funding.

The Capital Access Program—CAP—which is enhanced in this bill, is something that the State of Oregon has played a special role in. Enacting this program in its 1989 legislative session, Oregon has one of the first and most successful programs in the country. The CAP promotes business lending by creating reserve funds consisting of contributions by the lenders, borrowers, and the State—controlled in our case by the Oregon Economic Development Department. This gives banks more flexibility to make loans that they might not otherwise make to small businesses. In Oregon, a total of over 330 loans have been made since 1991, averaging $24,600 per loan. This is crucial capital for small business development that would not be possible without this program.

Another very important part of S. 1275 is the title reducing some of the regulatory burdens on our insured financial institutions. Redtape has been strangling the ability of these institutions to expand lending in the consumer and small business sectors of our economy. This is critical in states such as Oregon, where small businesses employ 63 percent of the private workforce. The bill before us includes provisions, cosponsored by many of us over the last year, which streamline regulation without impacting on the safety and soundness of our insured financial institutions.

For example, a small bank in Madras, OR, handling a Small Business Administration loan for a manufacturer must

deal with 11 different governmental agencies and 25 different regulations during the transaction. This type of duplicative regulation must be trimmed away if we want to encourage lenders to do what they do best. It is encouraging to see the Senate taking action today to cut redtape while staying vigilant that the banking system stay safe and stable.

Last week, we passed a bill to enhance the competitiveness of business in America. At that time, the Senate passed an amendment that I offered to promote business research and assistance at universities across the country. This week, we are taking the next step toward competitiveness by making much needed credit more available and by removing some of the regulatory roadblocks to efficient business development.

NONBANK BANKS

Mr. SPECTER. Mr. President, I had come to the floor to discuss a provision of the pending legislation. While the Senator from North Dakota is on the floor, I wonder if I might ask him about an amendment I understand he was interested in relating to removing the 7 percent growth cap proposed on the grandfathering of nonbank banks.

Mr. DORGAN. I would say to the distinguished colleague from Pennsylvania that I am not familiar with that issue.

Mr. SPECTER. I thank my colleague from North Dakota. I will discuss it with him privately.

THE WHITEWATER AFFAIR

Mr. SPECTER. Mr. President, as I said, I had come to the floor to discuss the pending legislation. As I hear the debate on the Whitewater affair, I am impressed with the fact that much of the discussion has not dealt with the fundamental distinction between grand jury proceedings and congressional oversight hearings such as those which might be conducted by a select committee or by one of our existing committees.

The special prosecutor has referred a number of issues to grand juries which are by their nature, and by the requirements of law, secret. And it is an open question as to how long those investigations will last. The grand juries are impaneled for a period up to 18 months. Very frequently, grand juries are extended beyond that period. When a matter is before an investigating grand jury, they can take a very long time. On the other hand, a congressional oversight inquiry is one which is disclosed to the public, and one where the public has insight into what is occurring.

My own view is the country's best interests would be served by having oversight hearings preferably by a select committee so we do not have hearings conducted by many committees which have partial jurisdiction over the so-called Whitewater affair.

The critical difference is that these issues have been raised in the public view, and they have understandably attracted much public attention. The sooner there are answers to these pending questions, the sooner we can go on with the business of the country.

I have not participated in any accusations against the President because I do not know what the facts are. But there is no doubt there is an enormous distraction to the President's business. In his speech in Boston day before yesterday with the expression of concern, to put it mildly, with the repetitive "no, no, no," et cetera, some nine "noes"; there is no doubt that this is a matter of overwhelming concern to the President, to the First Lady, and to the entire operation of Government.

This is a matter of great importance at a time when it would be vastly preferable if the President could focus on the problems of the Mideast where we saw the Israeli Prime Minister yesterday, the problems of Russia and our complex transactions there, the difficulties with North Korea, the issue about their having nuclear weapons, the issue of the budget, the issue of health care, the issue of the economy, and so many, many issues.

There is one matter I have been concerned about where there has not been the kind of disclosure which I think ought to have been made public. That concerns the meetings which were conceded by the White House 2 weeks ago yesterday. It is the meeting where Treasury officials met with officials of the White House where all of the indications were those who were conducting an investigation, were privy to the investigation, were informing those who were interested in the potential subjects of the investigation. That, Mr. President, I think is fundamentally wrong.

It is my view there should have been a very detailed explanation as to what happened in those meetings where you had a high-ranking official like the No. 2 man in the Treasury Department meeting with the counsel to the President. When I read about those meetings, it seemed to me that unless there could be explicit public assurances that the subject matter of those meetings did not involve the RTC investigation, and explicit public assurances that those who were privy to the investigation in Treasury were not making inappropriate disclosures to the counsel to the President, and others in the White House who were apparently looking after the interests of the President, and others in the executive branch; unless there could be those explicit assurances, then the people who were involved in those meetings ought not to be in Federal employment. Their employment ought to be terminated. They ought to be asked to resign, or they ought to be fired.

I say that because this is a very different standard from being the subject of a grand jury investigation, or having a criminal prosecution brought as a result of a grand jury investigation, contrasted with holding a job. That is a matter which has yet to be explained.

It seems to me in the absence of a detailed explanation as to what happened in those meetings, and that has not been forthcoming even though it is under investigation by the special prosecutor, that investigation is secret, and necessarily so under the law which governs grand jury proceedings. It is a matter of utmost importance to the American people and ought to be disclosed.

If I had the authority to convene a Senate hearing, that is the subject that I would convene a Senate hearing on very, very promptly because those are important questions. Those questions have gone unanswered.

When the assertions have been made by the executive branch that there is no impropriety, I do not challenge that. But I do think there has been sufficient interest in the matter that all of the issues ought to be presented to the public that can be handled in the appropriate oversight proceedings which is a congressional responsibility. Regretfully, Congress does not engage in much oversight or as much oversight as we should.

This is one issue where oversight is sorely needed. And again focusing on the very different function of the special prosecutor, he cannot carry out the congressional authority on oversight. The critical difference is the secrecy of the grand jury proceeding contrasted with the public disclosure in the congressional oversight which I think ought to be undertaken.

The distinguished Republican leader has talked about a possible sense-of-the-Senate resolution. The distinguished majority leader has talked about a possible sense-of-the-Senate resolution. It is my hope that matter will come to the floor, will be approved by this body, and there will be an expeditious schedule established so that we can have the appropriate congressional oversight.

I thank the Chair. I yield the floor.

I note no other Senator seeking recognition. 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. SPECTER. 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. SPECTER. Mr. President, I ask unanimous consent that I may be per-

mitted to speak as if in morning business.

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

ELECTION FRAUD IN PHILADELPHIA

Mr. SPECTER. Mr. President, there has been a celebrated matter in my State, Pennsylvania, in the city of Philadelphia, concerning widespread election fraud in a special election of the second senatorial district, where substantial evidence existed of widespread voter fraud. A very unusual decision was made by the U.S. District Court for the Eastern District of Pennsylvania invalidating the election of a man named Stinson, disallowing all of the absentee votes and, instead, declaring the winner Bruce Marks, a young man who had served on my staff.

This was an extraordinary decision because of the evidence which disclosed widespread fraud, where absentee ballots were obtained and where misrepresentations were made by political workers of the Democrat Party, suggesting that where the box "Democrat" was checked off, it was only a signification of registration when, in fact, it was a vote for the Democratic candidate, and where there were many forgeries and widespread fraud.

The proceedings in the Pennsylvania Senate, as reported in yesterday's Philadelphia Inquirer, contained a very vitriolic attack on the judge who handed down that decision. As characterized on the front page,

> While starting with a comparatively mild changing of the guard, soon turned raucous and nasty, with State Senator Vincent J. Fumo, at one point characterizing a Federal judge as "senile" and "brain dead."

This judge is Judge Clarence Newcomer, who has served on the U.S. District Court for the Eastern District of Pennsylvania since approximately 1970. Prior to that, he was a very distinguished district attorney of Lancaster County, a man with whom I worked extensively when I was district attorney of Philadelphia. Judge Newcomer is in senior status, which means that he no longer has to perform if he chooses not to. But because of the backlog in the eastern district, he has taken on work there. He wrote a very extraordinary and learned opinion, an opinion which was upheld yesterday in almost all respects by the court of appeals for the third circuit, with a limiting issue being one of remedy, with a further hearing being ordered to take evidence to see if the specific evidence on the fraudulent votes total the difference, which are some 461 votes. But the thrust of Judge Newcomer's opinion was upheld unanimously, except for that one item, by the court of appeals for the third circuit.

To have a distinguished judge like Judge Newcomer characterized as "senile" and "brain dead," I think the right characterization is difficult to come by. But certainly, at a minimum, it is grossly out of order.

I wanted to take a few moments today to acquaint my colleagues with some of the particulars of that decision. I have spoken of it from time to time on the floor. I want to lend my voice to the character and qualifications and integrity and ability of Judge Newcomer, in terms of his distinguished public service as district attorney of Lancaster County, PA, and on the U.S. District Court for the Eastern District of Pennsylvania, and to decry any such characterizations as being far beyond the pale.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

COMMUNITY DEVELOPMENT BANKING AND FINANCIAL INSTITUTIONS ACT OF 1993

The Senate continued with the consideration of the bill.

Mr. BROWN. Mr. President, I ask that the pending amendment to the bill be set aside.

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

AMENDMENT NO. 1538

(Purpose: To express the sense of the Senate concerning United Nations resolutions on Jerusalem)

Mr. BROWN. Mr. President, I send an amendment to the desk on behalf of Senator MOYNIHAN, Senator D'AMATO, and myself.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. BROWN] for Mr. MOYNIHAN for himself, Mr. BROWN, Mr. D'AMATO, Mr. PACKWOOD, Mr. DECONCINI, Mr. LAUTENBERG, Mr. SPECTER, Mr. SASSER, Mr. DOLE, Mr. BURNS, and Mrs. FEINSTEIN proposes an amendment numbered 1538.

At the appropriate place in the bill, add the following new section:

SEC. . UNITED NATIONS RESOLUTIONS CONCERNING JERUSALEM.

(a) FINDINGS.—The Congress finds that—

(1) For three thousand years Jerusalem has been the focal point of Jewish religious devotion;

(2) Jerusalem is also considered a holy city by the members of other religious faiths;

(3) The once thriving Jewish majority of the historic Old City of Jerusalem was driven out by force during the 1948 Arab-Israeli War;

(4) From 1948 to 1967, Jerusalem was a divided city and Israeli citizens of all faiths as well as Jewish citizens of all states were denied access to holy sites in the area controlled by Jordan;

(5) In 1967, Jerusalem was reunited during the conflict known as the Six Day War;

(6) Since 1967, Jerusalem has been a united city administered by Israel and persons of all religious faiths have been guaranteed full access to holy sites within the city;

(7) In 1990, the United States Senate and House of Representatives overwhelmingly adopted Senate Concurrent Resolution 106 and House Concurrent Resolution 290 declaring that Jerusalem, the capital of Israel, "must remain an undivided city";

(8) The Vice President has stated the Administration's intention not to "forget the meaning of Jerusalem";

(9) The Secretary of State recently reiterated U.S. opposition to attempts in the United Nations to refer to Jerusalem as "occupied territory";

(10) It is reported that the United Nations Security Council may consider a resolution condemning the Hebron massacre but which also refers to Jerusalem as "occupied" territory;

(b) SENSE OF CONGRESS.—Therefore, it is the sense of the Congress—

(1) That the Administration should be commended for its efforts not to "forget the meaning of Jerusalem" and to oppose attempts in the United Nations to refer to Jerusalem as "occupied" territory;

(2) That sacrificing core principles for short term objectives will ultimately retard, not advance, the peace process;

(3) That the United States should exercise its veto in the United Nations Security Council on any Security Council resolution that states or implies that Jerusalem is "occupied" territory.

Mr. BROWN. Mr. President, I should note first of all that Senator MACK from Florida and Senator MOYNIHAN from New York have taken the lead in circulating a letter expressing similar sentiments among the Senators.

The urgency of this particular measure comes about because of the potential that this particular question will be addressed in the United Nations.

We think it is particularly important that this vital matter, specifically involving the status of Jerusalem, not go unnoticed or unaddressed by this Chamber.

So I rise not only to join Senator MOYNIHAN and Senator D'AMATO in offering this amendment, but to express my thanks for the leadership of Senator MACK in circulating that letter, and his particular leadership on this subject.

Mr. President, I yield the floor.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. D'AMATO. Mr. President, I cannot on one hand say that we recognize that Jerusalem is the eternal capital of Israel and then on the other hand allow the U.N. to vote to change the status of Israel or Jerusalem to now be known as occupied territory.

That is simply sending the wrong message and the wrong signal to those who are determined to bring war to that area, particularly to the State of Israel. That is why it is appropriate and necessary for us to vote on this sense of the Senate resolution, in

which we send to the State Department a very clear-cut message that the State of Israel will not be jeopardized as a result of the horrible act that took place in Hebron.

This will not help the peace process. It will indeed create grave doubts as to our determination to continue our steadfast relationship with Israel and it will embolden others to take, what I believe, is the kind of precipitous acts that cannot enhance peace.

I strongly support the resolution. I think it is appropriate for us to show our strong support for an Israel that has Jerusalem as its capital and that we, the United States of America, should demonstrate that it is determined not to put Jerusalem in the territory or in the area known as occupied territory. That would be simply unacceptable.

I yield the floor.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER (Mr. MATHEWS). The Republican leader is recognized.

WHITEWATER

Mr. DOLE. Mr. President, a lot of my colleagues on the other side have been quoting Barry Goldwater today because he said something they like. I am not certain that was always the case when he was here. Barry Goldwater has always had a mind of his own. Many of us have felt the sting of his criticisms. Those of us who stood together with him in 1964, I might add, have felt it from time to time.

He wrote a book about Nixon and Watergate. I want to read a couple of quotes out of it.

> If the war in Vietnam taught the American people and their political leaders anything, it is that truth is their strongest weapon. The Watergate scandal taught the same simple but supreme lesson. Without truth there cannot be freedom or justice, wisdom or tolerance, courage or compassion. Truth is the foundation of a stable society.

That is on page 255, chapter 9.

Then, on page 266, Senator Goldwater is talking about visits he had with President Nixon.

> In April I publicly asked the President to level with the American people on Watergate. Trying to move Nixon off his butt, I told the Christian Science Monitor: "The Watergate. The Watergate. It's beginning to be like Teapot Dome. I mean there's a smell to it. Let's get rid of that smell."
>
> In December, during another interview with the Monitor, I tried again to get Nixon to open up by saying the President was doing too little, too late about Watergate: "He chose to dibble and dabble and argue on very nebulous grounds like executive privilege and confidentiality when all the American people wanted to know was the truth."

Well, that is true today. It was true in 1973 and it is true in 1994.

So if Goldwater was right then, he was wrong yesterday. And if he was right yesterday, he was wrong in 1973. You cannot have it both ways.

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So I just suggest, for all those who are looking for little quotes from different people, there are all kinds of quotes out there. We all have them.

But I just suggest we offered a counterproposal to the majority leader to resolve this issue. If not, we are prepared to vote on the original amendment that I prepared and will offer at the appropriate time. And we hope to do that very quickly.

Mr. RIEGLE. Mr. President, the Senator from South Carolina has asked for consideration to be able to speak for 1 minute because he has to make another commitment. I suggest that we recognize him.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, the annual St. Patrick's Day is held in Charleston once a year. The Hibernian Society will hold a dinner tonight. It is something we planned on a long time ago. We thought everything was cleared, but it is not.

I am going to have to leave anyway and Senator AL SIMPSON has to go.

I just want to say that I favor this Whitewater resolution. It provides that the Congress has a constitutional obligation to conduct oversight of matters relating to the operations of the Government, including matters related to any governmental investigations which may, from time to time, be undertaken.

It also provides that the majority leader and the Republican leader should promptly determine the appropriate timetable procedures and forum for hearings concerning Whitewater.

It also provides that no witness called to testify at these hearings shall be granted immunity under Section 6002 and 6005 of Title 18, United States Code, over the objection of independent counsel Robert B. Fiske, Jr.

And it also provides, to the extent practicable, the hearings shall be structured and sequenced in such a manner so as not to interfere with the ongoing investigation of independent counsel Robert B. Fiske, Jr.

Mr. President, this resolution appears to be a very reasonable resolution. We had such investigation in the past. I think it is proper to support this.

If I were to be here, I would support it. If I am not here, I ask to be positioned for this resolution.

I wish to thank my friend for allowing me to speak at this time.

COMMUNITY DEVELOPMENT BANKING AND FINANCIAL INSTITUTIONS ACT OF 1993

The Senate continued with the consideration of the bill.

AMENDMENT NO. 1538

Mr. RIEGLE. Mr. President, I know Senator MOYNIHAN has a very keen interest and is a principal cosponsor on the amendment that has been sent to the desk by Senator BROWN.

What I may do now, knowing the strength of Senator MOYNIHAN's feelings and others, is to go ahead and move the adoption of that amendment and then reserve time for him.

He is on his way, I am told.

So I say to Senator BROWN, I am wondering if he would mind if I, just for the moment, set his amendment aside in deference to Senator MOYNIHAN, who is on his way to the floor and wants to say something, and then I am prepared to move its adoption.

Mr. SPECTER. Mr. President, if I might ask for leave to speak for 3 minutes on the amendment before it is set aside.

Mr. RIEGLE. Of course.

Mr. SPECTER. Mr. President, I ask unanimous consent to be listed as a cosponsor of the Brown amendment.

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

Mr. SPECTER. Mr. President, I commend the Senator from Colorado on offering this amendment, which has as its essential provision to commend the administration for its efforts not to forget the meaning of Jerusalem and to oppose attempts in the United Nations to refer to Jerusalem as occupied territory; and, that the United States should exercise its veto in the United Nations Security Council on any Security Council resolution that states or implies that Jerusalem is occupied territory.

Mr. President, the Mideast peace process is a matter of great importance to this country and to the world. There should not be an effort to bring the status of Jerusalem into those talks at this time or to suggest in any way that Jerusalem is part of any occupied territory, which would only inflame and make those peace talks more complicated.

Jerusalem, an undivided Jerusalem, is a part of Israel. This sense-of-the-Congress resolution would emphasize that. I think it is a very important resolution and ought to be adopted.

I thank the Chair and I yield the floor.

Mr. RIEGLE. Mr. President, I ask we temporarily lay aside the amendment by Senator BROWN until Senator MOYNIHAN has arrived and had a chance to speak.

The PRESIDING OFFICER. Is there objection?

Mr. BROWN. Reserving the right to object, if the Senator would, there is a modification of the amendment which I think is appropriate.

Mr. RIEGLE. Let me reserve my request until the Senator sends his modification to the desk.

AMENDMENT NO. 1538, AS MODIFIED

Mr. BROWN. Mr. President, I ask unanimous consent the amendment be modified, in the third paragraph by substituting the word "community"

for "majority," so it would read, "once thriving Jewish community," instead of "majority." This is a recommendation of Senator MOYNIHAN that I thought made sense.

The PRESIDING OFFICER. The Senator has a right to modify his amendment and it is so modified.

The amendment (No. 1538), as modified, is as follows:

At the appropriate place in the bill, add the following new section:

SEC. . UNITED NATIONS RESOLUTIONS CONCERNING JERUSALEM.

(a) FINDINGS.—The Congress finds that—

(1) For three thousand years Jerusalem has been the focal point of Jewish religious devotion;

(2) Jerusalem is also considered a holy city by the members of other religious faiths;

(3) The once thriving Jewish community of the historic Old City of Jerusalem was driven out by force during the 1948 Arab-Israeli War;

(4) From 1948 to 1967, Jerusalem was a divided city and Israeli citizens of all faiths as well as Jewish citizens of all states were denied access to holy sites in the area controlled by Jordan;

(5) In 1967, Jerusalem was reunited during the conflict known as the Six Day War;

(6) Since 1967, Jerusalem has been a united city administered by Israel and persons of all religious faiths have been guaranteed full access to holy sites within the city;

(7) In 1990, the United States Senate and House of Representatives overwhelmingly adopted Senate Concurrent Resolution 106 and House Concurrent Resolution 290 declaring that Jerusalem, the capital of Israel, "must remain an undivided city";

(8) The Vice President has stated the Administration's intention not to "forget the meaning of Jerusalem";

(9) The Secretary of State recently reiterated U.S. opposition to attempts in the United Nations to refer to Jerusalem as "occupied territory";

(10) It is reported that the United Nations Security Council may consider a resolution condemning the Hebron massacre but which also refers to Jerusalem as "occupied" territory;

(b) SENSE OF CONGRESS.—Therefore, it is the sense of the Congress

(1) That the Administration should be commended for its efforts not to "forget the meaning of Jerusalem" and to oppose attempts in the United Nations to refer to Jerusalem as "occupied" territory;

(2) That sacrificing core principles for short term objectives will ultimately retard, not advance, the peace process;

(3) That the United States should exercise its veto in the United Nations Security Council on any Security Council resolution that states or implies that Jerusalem is "occupied" territory.

Mr. BROWN. I ask unanimous consent Senators DOLE, BURNS, and FEINSTEIN be added as cosponsors.

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

Mr. RIEGLE. I ask we now temporarily set aside the Brown amendment so I might proceed with an amendment dealing with the securitization provision, which I am going to send to the desk in behalf of Senator D'AMATO and myself.

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

AMENDMENT NO. 1539

(Purpose: To amend provisions related to small business securities)

Mr. RIEGLE. Mr. President, on behalf of Senator D'AMATO and myself, I shortly will send an amendment to the desk and ask unanimous consent it be in order. This amendment modifies the tax and pension provisions of the small business loan and securitization subtitle to address concerns raised by the Finance and Labor Committees. The managers' amendment, adopted yesterday, amendment 1523, changed the tax provision to sense-of-the-Senate language.

It has been cleared on both sides. Let me now send that to the desk. 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 1539.

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 99, beginning with line 22, strike all through page 100, line 19, and insert the following:

(a) PROHIBITED TRANSACTION EXEMPTION.—The Secretary of Labor, in consultation with the Secretary of the Treasury, may 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) pursuant to section 408(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1108(a)) and section 4975(c)(2) of the Internal Revenue Code of 1986.

(b) CONSIDERATION OF EXEMPTION REQUESTS.—The Secretary of Labor shall consider any request for exemption under subsection (a) within a reasonable period of time after receipt of such request.

Section 210 of the bill, as amended by amendment No. 1523, is further amended—

(1) in subsection (a)—

(A) by striking "account—" and inserting "account, as appropriate—";

(B) by striking "and" at the end of paragraph (2);

(C) by striking the period at the end of paragraph (3) and inserting "; and"; and

(D) by adding at the end the following:

"(4) such other tax policies as may be warranted."; and

(2) in subsection (b)—

(A) by striking "means any entity" and inserting "means an entity";

(B) by striking "any obligation (including any participation or certificate of beneficial ownership therein)" and inserting "obligations"; and

(C) by striking "that was originated" and inserting "that were originated".

Mr. RIEGLE. This has been cleared on both sides. I urge the adoption of the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1539) was agreed to.

Mr. RIEGLE. Mr. President, I now want to send another amendment to the desk that has been cleared on both sides by myself and Senator D'AMATO. It is an amendment to the Federal Reserve Act.

The PRESIDING OFFICER. Without objection, the pending amendments are set aside.

AMENDMENT NO. 1540

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. RIEGLE], for himself and Mr. D'AMATO, proposes an amendment numbered 1540.

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. . AMENDMENT TO THE FEDERAL RESERVE ACT.

SEC. 11. Section 11 of the Federal Reserve Act (12 U.S.C. 248), is amended by inserting at the end thereof the following new subsection:

"(p) AUTHORITY.—The Board of Governors of the Federal Reserve System and the Federal Open Market Committee may each act in the Board's or the Committee's own name and through the Board's or the Committee'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 Board of Governors of the Federal Reserve System or the Federal Open Market Committee is a party.".

Mr. RIEGLE. I urge adoption of the amendment.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. I commend Senator RIEGLE and his staff for this amendment. This amendment would give the Federal Reserve Board the same authority as we gave the Comptroller of the Currency yesterday to bring lawsuits; that is, without there having to be prior consultation or permission. The Office of Thrift Supervision already has this power.

I believe what we are seeing is an attempt to give to independent regulators the opportunity to carry out their functions unimpeded.

It is a very important step. I certainly support this amendment.

THE PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1540) was agreed to.

Mr. D'AMATO. Mr. President, I move to reconsider the vote.

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 want to take a brief moment to say, as I fin-

ish, Senator KERRY is seeking recognition to present a compromise that he has worked out with Senator MACK, Senator BOND, Senator D'AMATO, and others, with respect to the flood insurance issue. It saved a lot of time and effort.

I commend the Senator from Massachusetts for his dogged efforts here, and the good will all around in working this issue out. It is not a simple matter, and has taken a lot of effort by all involved to reach this sensible compromise.

I am prepared to urge its adoption as soon as the Senator has had a chance to comment on it and sends it to the desk.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I ask for the regular order.

The PRESIDING OFFICER. The regular order is amendment No. 1537.

AMENDMENT NO. 1537

Mr. KERRY. Mr. President, I ask unanimous consent I be permitted to withdraw the amendment that is at the desk.

The PRESIDING OFFICER. The Senator has that right. Amendment No. 1537 is withdrawn.

The amendment (No. 1537) was withdrawn.

AMENDMENT NO. 1541

(Purpose: To strengthen the National Flood Insurance Program and to reduce risk to the National Flood Insurance Fund by increasing compliance, providing incentives for community floodplain management, providing for mitigation assistance, and for other purposes)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KERRY], for himself, Mr. MACK, Mr. BOND, and Mr. D'AMATO, proposes an amendment numbered 1541.

Mr. KERRY. 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. KERRY. Mr. President, I will take very brief time to describe this. I first want to thank the Senator from Florida, Senator MACK, and the Senator from Missouri, Senator BOND, for a tremendous amount of time that has gone into this, not just over today but over the course of the last couple of years.

I particularly want to thank the Senator from Florida for his good-faith efforts and his personal efforts to guarantee that we really move today. I pay a tribute to him because without his efforts and the seriousness of his staff, we would not have reached this accommodation.

I believe we are sending to the desk a fundamental, long overdue, and very important reform of our National Flood Insurance Program. As a result of this reform, we all believe the fund is going to have much greater participation; that the fund will be fiscally sound. We believe we are going to engage in significant steps to be able to mitigate and prevent future damage. And we are going to answer, because of the approach we have taken, unanswered questions while simultaneously moving down the track to guarantee that erosion and other issues are factored into this plan.

We have done this, I think, in a very sensible and reasonable way so the interests are protected for those who have doubts about it. But, at the same time, we have guaranteed progress.

I would just like to tip my hat again to the Senator from Florida for doing that.

I finally want to thank the distinguished chairman of the committee. He has patiently sat through many a hearing, or a markup, where other bills might have been jeopardized for this. I know he was standing—and perhaps sometimes sitting—on pins and needles with respect to whether this other bill he has worked on might have been slowed up as a consequence of this.

I think we have come together with a sound compromise that ensures the rapid movement of this legislation, and I thank the Senator for his leadership and his patience.

Mr. RIEGLE. Mr. President, let me thank the Senator from Massachusetts for his kind personal comments, and again for his leadership and effort. I am told that the other Senator from Florida, Senator GRAHAM, wants to be able to come over and be part of the final discussion here before we agree to the amendment. I was prepared to urge adoption of the amendment now, but that word has reached me so I am going to defer for a few moments.

Senator MOYNIHAN has arrived, and I know he wants to speak on the Jerusalem issue and I am going to suggest we do that. Once he has concluded, then we can move on that sense-of-the-Senate resolution that bears his name and Senator BROWN's, and perhaps by that time Senator GRAHAM from Florida will arrive and we can then move on the floor measure.

Mr. MACK. Mr. President, if the Senator will yield, it was my intention to make remarks with respect to the flood insurance proposal, as well. Does my colleague prefer that I withhold until after we conclude the resolution?

Mr. RIEGLE. If that would be agreeable to the Senator, I think that might be a good idea to do that because I know Senator GRAHAM is coming over, as well. So I do not know that anything will arise as a result of that, but if it does, there might be something the Senator will want to address in his remarks.

I think this might be a good time also, since we asked the Brown amendment be set aside to take up the flood insurance amendment, that we now dispose of that which we can, with Senator MOYNIHAN here. I do not think we are going to take long here to do that.

Then I think we can come right back to flood insurance, and I will ask that the Senator then be recognized.

The PRESIDING OFFICER. The Senator from New York.

AMENDMENT NO. 1538

Mr. MOYNIHAN. Mr. President, I thank the distinguished manager of the legislation, the Senator from Michigan, and my colleague and friend, the Senator from New York, who is the comanager.

I rise simply to thank all Senators who are supporting this measure, most particularly my colleague from Colorado, who is the ranking member of the Subcommittee on Near Eastern and South Asian Affairs, and a member of the Foreign Relations Committee.

Mr. President, tomorrow, a letter, which was initiated by Senators MACK, SARBANES, and MCCONNELL, and the Senator from New York, with more than 60 signatures, will go to the President restating the Senate's position on this matter. This position was explicitly laid out in Senate Concurrent Resolution 106 in the 101st Congress, which stated simply the Congress

* * * acknowledges that Jerusalem is and should remain the capital of the State of Israel; strongly believes that Jerusalem must remain an undivided city in which the rights of every ethnic religious group are protected; and calls upon all parties involved in the search for peace to maintain their strong efforts to bring about negotiations between Israel and Palestinian representatives.

Mr. President, that was 3½ years before those negotiations began. The Prime Minister of Israel, Mr. Rabin, has said this resolution was fundamental to the beginning of those negotiations. As it correctly stated, this matter would be a subject that the parties would resolve themselves.

This administration has been firm in precisely this position. No other administration, and I can speak from some experience, has been as open, direct and specific with regard to its position concerning an undivided Jerusalem as the administration. We are united as a Senate body and we would say to the United Nations at this point, "Please stay out of these matters which are now being negotiated. What we have sought for half a century is now taking place—direct negotiations. Leave the negotiators to their work."

That is what we ask in this resolution. That is what is asked in the letter which two-thirds of the Senate is sending to the President tomorrow. I hope that the matter might be unanimously

accepted, so that there is no doubt about our view as a body. I yield the floor.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, in the early 1920's an imprisoned psychotic racist wrote a diatribe called "Mein Kampf," "My Battle." In that tract of hate, Adolf Hitler referred to the Jewish people as a bacillus to be exterminated for the health of Europe.

In 1945, when Hitler died raving in his Berlin bunker, the world thought it was done with at least that sort of lunatic language. We hoped too soon.

Almost 50 years later in the Hebron, Baruch Goldstein, who, I am ashamed to say, was American born, a physician and a Jew, used almost exactly the same language to describe human beings of the Moslem faith, dozens of whom he later murdered in cold blood while they knelt in a house of worship praying to the same God to whom I believe we all pray.

I am particularly shocked, Mr. President, shamed and repulsed to say that Goldstein, who must have had relatives, as do my wife and children, who died at the bloody hands of Hitler, could commit those acts. That the man was a physician makes his crime even worse, just as it made worse the crimes of Josef Mengele and other SS physicians of his ilk.

I know the philosophy of the Jewish Defense League and its later offspring founded by Meier Kahane. That is to say that the Kach party and then Kahane Chi. That philosophy is Lahore, "Never again." I agree with that philosophy, Mr. President. I am committed to it. I have tried to live by it all my political life.

But never again means more than just a commitment to preventing oppression of the Jewish people. As most of my Jewish brothers and sisters will agree, indeed as most of them live their lives, it means a commitment to equality, justice and mercy for all people of every race, creed and philosophy. Most of all, it means that never again should any group of psychopathic racists be permitted to band together to murder innocent people whose only crime is that they belong to a different religion, that their skin is a different color, that they speak a different language.

So I say, never again. We cannot resolve all the problems of the world in this Chamber. We cannot make every man do justly or love mercy or walk with humility. But we can make laws and see that they are enforced with an equal hand.

Mr. President, I applaud the response of the Government of Israel to this abject horror. They have banned Kach and Kahane Chi, and they have arrested some of their leaders. The response is appropriate, not just because of Goldstein's act but also because of the response of those groups to that act. They applauded the murder of innocent people and called it an act of heroism. That response reminded me of the Nazis and of the PLO and Black September at their worst.

So, Mr. President, I call on my fellow Senators from both sides of the aisle to join me in answering this horrific act in Hebron and its racist aftermath. I ask you to join me in congratulating the State of Israel in their condemnation and declaration of illegality of these two terrorist organizations. This denunciation of non-Arab terrorists shows the world Israel's evenhanded approach to violence.

I ask unanimous consent that my name be joined as a cosponsor of the resolution, the Brown-Moynihan resolution.

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

Mr. REID. Mr. President, I ask that the Senate follow the advice and admonition and counsel that we received from the senior Senator from New York, a former Ambassador to the United Nations.

Mr. BROWN. Mr. President, I ask unanimous consent that Senators MACK, COATS, MATHEWS, PRESSLER, and BOXER be added as cosponsors of the amendment.

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

Mr. RIEGLE. Mr. President, I urge the adoption of the amendment.

Mr. BROWN. Mr. President, I am pleased to rise today to note that the Senate has unanimously adopted Amendment No. 1541, the National Flood Insurance Reform Act of 1993, to S. 1275, the Community Development, Credit Enhancement, and Regulatory Improvement Act of 1993. I am delighted to note that the managers of amendment No. 1541 and the full Senate have accepted the Brown amendment to amendment No. 1541, which is directly similar to an amendment I previously offered and withdrew in August 1993 to S. 2667, the 1993 emergency supplemental appropriations disaster relief bill. The Brown amendment now makes it explicitly clear that people who have been given two generous chances to get their house in order, by obtaining and maintaining flood insurance, are prohibited from again coming to the Government trough for a third time to obtain Government payments to repair, renovate, or replace their property which should have been insured in the first and second place.

Since 1973, Federal law has mandated that in order for an uninsured person to obtain Federal disaster relief payments for repair or replacement of flood damaged residential, commercial, or personal property located in a special flood hazard area, which is defined as a 100 year or less flood plan, the person must first sign up for and maintain Federal flood insurance. According to the Federal Emergency Management Administration, the average cost for this flood insurance for the average home is $25 per month.

Moreover, where persons show that they cannot afford to sign up for Federal flood insurance, the Federal Emergency Management Administration—FEMA—will not only cover the damaged property, but will also pay the first year flood insurance premium.

The intent of these flood insurance provisions was clearly one of the Federal Government providing people living in these flood plains a second chance to repair or replace their property even though they failed to maintain flood insurance in the first place. Many originally uninsured people choose to use this Federal disaster money to repair and reconstruct their homes and businesses in the same flood plain in which they were wiped out by flood the first time, and thus, these persons take on the additional risk that another flood could strike and again damage or destroy their property. All of this is done with the understanding that these persons must obtain and maintain flood insurance on this property to protect their own interest and the Federal Government's investment in helping to repair, renovate, and replace their property.

FEMA estimates that less than 10 percent of the persons affected by the last year's floods who live in 100 year flood plains had flood insurance in place at the time of the floods. Most of these persons received or will receive Federal disaster assistance under the condition that they first sign up for and maintain Federal flood insurance.

However, unfortunately, some uninsured persons will also attempt to obtain yet another round of Government disaster relief. These are persons for whom an occurring flood disaster represents the second or third time they have come to the Government to ask you and me to pay to repair or replace of their flood damaged property—all because they failed and refused to keep their promise made the first time to the Federal Government to keep their property insured with flood insurance—a result certainly not intended by this Congress.

I understand that FEMA and other Federal agencies may follow a policy consistent with Federal law of not allowing these second-time uninsured persons to receive Federal flood disaster assistance for repair or replacement of their property; however, none of these agencies apply the same policy, and none are consistent in interpreting and applying Federal law in this area.

Again, the Brown amendment now remedies this time worn problem by making it explicitly clear that people who twice received the opportunity to obtain and maintain flood insurance, and yet refused to do so, are not prohibited from again coming to the Fed-

eral Government to ask for a bail out in payments to repair or replace their property which should have been insured in the first and second place.

The Brown amendment, along with the other major flood insurance reforms included in amendment No. 1541, will go a long way toward improving our Nation's flood insurance system.

The PRESIDING OFFICER. If there is no objection, we will resume consideration of amendment No. 1538, as modified.

The question is on agreeing to the amendment, as modified.

The amendment (No. 1538) 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, the Senator from Florida was kind enough to defer earlier. I thank him for his courtesy. I suggest he be recognized now.

AMENDMENT NO. 1541

The PRESIDING OFFICER. The Senator from Florida is recognized on amendment No. 1541.

Mr. MACK. Mr. President, I too want to express some thoughts of appreciation to Senator KERRY and his staff and, by the same token, to thank the staff on our side for the work that was done over the last several hours in order to bring about a compromise with respect to the National Flood Insurance Program Reform Act.

The primary purpose of the act, at least from my perspective, was to strengthen the fund and to protect the interests of the home owner or the property owner. Or, to say it another way, to protect the interest of those paying premiums into the fund.

The compromise that we have worked out retains the mitigation insurance provisions as well as assistance grants to States and local communities. It also retains the increased compliance measures to ensure greater participation in the fund.

We do have a limited mapping of erosion zones, but they are done only for the purpose of providing more information to enable us to draw conclusions about what mapping erosion areas nationwide will do to the fund. We want to make sure that if we expend policyholder premium dollars on mapping, it will, in fact, prove cost beneficial to the fund.

During the period of time when we are studying this issue, there would be no denial of insurance or increases in rates. That is a fundamental concern that we had. And there has been an agreement on that. There has also been an agreement to ensure that nothing happens with respect to the establishment of any erosion zone until after the study has been done, the information is reviewed by the Congress, and the Congress acts at that time. A thorough and comprehensive examination of all aspects of erosion management will take place as a result of this work.

Moreover, we have established a clear directive to, above all else, maintain the financial stability of the Flood Insurance Fund. The driving force behind all our efforts has always been to maintain and increase the viability of the insurance fund. And, again, it is based on protecting the fund for those who have paid into it, that is, those who have been making premium payments for years.

Again, I wish to thank Senator KERRY for his willingness to work on this issue, to come to a compromise. And on the basis of that work and on the basis of that compromise, I am pleased not only to be a cosponsor but to endorse the measure as well.

I thank the Chair.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I want to congratulate my colleagues. I congratulate Senator MACK for the work he has put into arriving at this point. I commend Senator KERRY for his persistence, and I commend my colleague Senator BOND. I think what they have done is worked out important reforms to improve the National Flood Insurance Program. Those reforms are aimed at increasing the participation. There are too many people who drop out of this program. I think once we get improvement in participation, we are going to see that this program then is made one that is self-sufficient and does not have to rely upon the taxpayers. That is important.

In addition, reforms will help protect homes from flood damage. The amendment includes a study to obtain information about erosion, to make sure that we understand the risk to the fund. Once we have that information, then Congress can be in a better position to address the issue. That means we are moving forward in a way which will not unduly jeopardize property rights but, by the same token, actuarially strengthen the fund and see to it in the future we utilize the best planning methods to deal with the problems of erosion and flood control.

Again I wish to commend my colleagues. They, as well as staff, have done an outstanding job. They have worked many, many hours on this.

I see my colleague from Missouri, Senator BOND, who wants to speak. But again let me say I am pleased to support this amendment. At times I did not think we would ever reach this point, so this is truly an accomplishment.

I yield the floor.

Mr. BENNETT addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. I ask unanimous consent that I be added as a cosponsor to amendment No. 1538.

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

The Senator from Missouri.

Mr. BOND. Mr. President, I want to join in saying a very heartfelt thanks to my good friends, Senator KERRY, Senator D'AMATO, and Senator MACK for their efforts on achieving a workable compromise on the National Flood Insurance Reform Act of 1993.

While this certainly is not a perfect bill—I have seen very few that are perfect go through here—I believe it does put the National Flood Insurance Program on a sound financial footing. I believe the Senator from Massachusetts is going to have a modification to correct one point in the bill that we agreed upon. But, as corrected, as agreed upon, this is legislation that I believe all of our colleagues can support.

Coming from a State like Missouri, I have a very special interest in the National Flood Insurance Program. Two of the largest rivers in the world run through our State, in addition to many tributaries. Unfortunately, as everyone saw on the evening news, those rivers did not run through it; they expanded over it this year. And for a State like Missouri to continue to prosper, our citizens must be able to insure against the possibility—yes, in some cases even the probability—of flooding.

There are almost 15,000 Missouri policies in effect providing more than $760 million in coverage for homes and businesses. But we need to get more covered. Over 15,000 Missouri homes were damaged in the great flood of 1993, and many of those homes were without flood insurance. It is too late to insure those homes for that flood, but it is not too late to bring into the program these homes and other uninsured homes, to bring them up to code, to insure them against the risk of flooding. We need to spread the risk and to place the National Flood Insurance Program on a sound financial footing.

The National Flood Insurance Reform Act of 1993 provides many needed reforms. As already described, the legislation would provide stricter requirements to ensure the placement of insurance on properties in flood-prone areas. It would increase flood insurance coverage amounts. It would establish a community rating system to provide premium rate credits for communities that implement land use and loss control measures that exceed minimum criteria, and it would establish a new program for mitigation assistance.

I really believe, Mr. President, that mitigation is one way in which we can make great strides in assuring the actuarial soundness of the program as well as helping protect structures, individuals who live in them, and the families who live in them from the losses and the devastation of floods.

As the Senator from Massachusetts so strongly urged, it also gets us on the road to having FEMA report a study on erosion hazard risks and conduct a representative sampling of erosion hazard risks to the Flood Insurance Fund. These are important reforms. I commend the Senator for bringing those to our attention.

Again, I express my sincere thanks for the efforts of the staff that worked extremely hard to bring all this together, FEMA, which responded to our questions, and obviously to my colleagues for being willing to compromise to move forward on what I think should be a measure to bring significant benefit to the National Flood Insurance Program and the structures it protects.

I thank the Chair.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, first of all, I thank the Senator from Missouri for his generous comments. And again—he was not here at the time, but I thanked him previously and do so again for his dogged pursuit of a number of different reforms in this bill, and also a good commonsense approach to some of the compromises we needed to reach.

I, also, while it is a little premature—we are still waiting for one Senator to come over to clarify a couple of things and then I think we will be able to proceed, hopefully expeditiously—would like to join in thanking a couple members of the staff, Ira Paull, of the committee and Senator D'AMATO's staff, and Pam Ray-Strunk, who have done terrific work on this; John Kamarch and Kim Cobb, working for Senator MACK, to whom we are particularly appreciative. On my side, Dave Jansen and John Winer have really labored at this for a long period of time. Scott Bunton has kind of overseen that effort. We are very appreciative of them.

Mr. President, I ask for a modification at this time.

The PRESIDING OFFICER. The Senator has that right.

MODIFICATION TO AMENDMENT NO. 1541

Mr. KERRY. I ask to strike section 403 and renumber the remaining sections accordingly and also a small modification with respect to the effective date, and I send that modification to the desk.

The PRESIDING OFFICER. The amendment is so modified.

Mr. KERRY. I thank the Chair.

The modification is as follows:

Amendment to section 475.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to disasters assistance provided declared after the date of enactment of the National Flood Insurance Reform Act of 1994.

Strike section 403 and renumber the remaining sections accordingly.

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

The PRESIDING OFFICER. A quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LAUTENBERG. 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. LAUTENBERG. Mr. President, I ask unanimous consent to proceed as in morning business for up to 4 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

THE ISRAELI-PLO PEACE ACCORD

Mr. LAUTENBERG. Mr. President, I regret that I was not on the floor when the Brown-Moynihan sense-of-the-Senate resolution was offered on the question of whether or not the United Nations is going to be permitted to bring the question of Jerusalem into the discussion about the peace accord with the Israelis and the PLO.

Mr. President, there are almost none here that do not salute and commend the effort that has been taken by our country, by the Israelis, and by the PLO, in the initial signing of the peace accord we witnessed on the lawn of the White House some months ago. It was a great day, and everybody had the feeling that though the road was rocky, eventually, we were going to see an end to the routine killing that has taken place there for so many years, a reduction in violence, and perhaps really establishing a framework for a long lasting, perhaps permanent, peace. And though the killings have not stopped, though the violence has not let up, there is a climate that is substantially better than had been seen in the area for some time—until the events of a couple of weeks ago, when a madman, a deranged individual, who lived in one of the settlements on the West Bank, took it upon himself to adjudicate what was fair and equitable, and assassinated, it is believed, 30 people, and wounded many others—people in a peaceful moment of prayer, of worship. He led this senseless slaughter.

There is a review and investigation going on by the Israelis at the present time to see whether or not there was anyone else involved. But there is no doubt that a fellow named Goldstein was the principal perpetrator, if not the sole perpetrator.

Mr. President, that was not an act by the Israeli Government. If there was a dereliction, they are going to review and investigate to make sure that those who encouraged it or permitted it are held accountable for their lack of attention to duty. But it was an act simply of a madman, of a deranged person whose viciousness is incomprehensible at the most. And now the discussion has been elevated considerably, because there is talk of a U.N. resolution that would not only condemn the killing, but also would bring into the equation the status of Jerusalem. I submit to you that I hope our Government will not fall prey to bringing the question of Jerusalem into the debate, because that will only tend to sidetrack it. It will not permit a serious discussion of peace to take place.

So I commend Senator BROWN, Senator MOYNIHAN, and those who joined in establishing the fact that Jerusalem is not part of this discussion and should not be. I hope that our country will, given the opportunity, veto that resolution before it in fact becomes a matter of record.

I thank the Chair and yield the floor.

COMMUNITY DEVELOPMENT BANKING AND FINANCIAL INSTITUTIONS ACT OF 1993

The Senate continued with the consideration of the bill.

Mr. KERRY. Regular order.

The PRESIDING OFFICER. Regular order is amendment No. 1541.

AMENDMENT NO. 1541

Mr. KOHL. Mr. President, I rise in support of the amendment of the Senator from Massachusetts, and congratulate him on his tireless efforts to bring some reason to the Federal flood insurance program. This amendment is good for the taxpayers, it's good for the environment, and it's good for communities located in the flood-prone areas of the Nation.

Because of the disastrous floods that we in the Midwest experienced last year, I have come to a better understanding of the need for these sorts of reforms. Studies have shown that only 5 to 10 percent of the structures damaged by the floods last year were covered by flood insurance. That is certainly a sign to me that our National Flood Insurance Program needs fixing.

The National Flood Insurance Program was created in 1968 to provide affordable flood insurance for existing buildings in flood-prone areas, and to try to prevent future flood damages by encouraging communities to guide new development away from the water's edge.

The program has achieved the first objective, because Federal flood insurance is affordable. In some cases, it can be said that the program is far too affordable. Already, millions of taxpayer dollars have been diverted into the supposedly self-supporting national flood insurance fund.

But the program has failed miserably at the second objective, because rather than guiding development away from flood hazard shoreline areas, the flood insurance program actually subsidizes building in high hazard zones. And in many cases these shoreline areas are also very ecologically sensitive, and

they are damaged or destroyed by the structural development that is encouraged by the Federal flood insurance program. The Kerry amendment will end this perverse incentive.

The Kerry amendment also authorizes a grant program to help communities mitigate the damages of future floods.

In my State of Wisconsin, the community of Soldiers Grove experienced significant damage in its business district as a result of the 1978 flood on the Kickapoo River. Instead of waiting for the next flood to devastate their town, the community got to work immediately in an effort to relocate the business district out of the floodplain. Over the next few years, the community was able to piece together various sources of funding to relocate the business district out of the floodplain.

Their work has not been for naught. In the past 2 years, when the Kickapoo River has again overflowed its banks, the community of Soldiers Grove has remained high and dry because of the foresight of its residents. And I'm proud to say that other Wisconsin communities, such as Prairie du Chien, Darlington, Eau Claire County, and Trenton Island, have followed Soldiers Grove's example and made efforts to mitigate against future flood damages, or are in the process of doing so.

Soldiers Grove, WI, is a national model of a community that had the foresight to relocate out of harm's way. But it was very difficult for Soldiers Grove to find the funding for their project. The Kerry amendment would create a specific mitigation grant program to make it easier for communities in flood-prone areas to do what Soldiers Grove had to struggle to do 15 years ago.

Mr. President, this amendment makes good sense fiscally, and it makes good sense environmentally. I urge my colleagues to support this important amendment.

Mr. KERRY. Mr. President, I believe both sides are clear on the amendment.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the amendment.

The amendment (No. 1541), as modified, was agreed to.

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

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. D'AMATO. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. (Mr. DASCHLE). The clerk will call the roll.

The bill 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 any amendment that may be pending that may be at the desk be set aside.

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

AMENDMENT NO. 1542

(Purpose: To require the Federal banking agencies to perform a survey to determine public awareness of Federal banking laws)

Mr. RIEGLE. Mr. President, I send to the desk an amendment on behalf of Senator DOLE. The amendment provides for a study of the effectiveness of numerous consumer protection statutes administered by the Federal banking regulatory agencies and the Department of Housing and Urban Development.

The amendment has been agreed to by myself and Senator D'AMATO.

I ask that the amendment be adopted once it has been delivered to the desk and read.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Michigan [Mr. RIEGLE], for Mr. DOLE, proposes an amendment numbered 1542.

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 end of title III, add the following new section:

SEC. . CONSUMER SURVEYS AND REPORT.

(a) SURVEYS.—Not later than 6 months after the date of enactment of this Act, the Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act) and the Secretary of Housing and Urban Development shall jointly conduct an objective and statistically valid survey of financial services consumers to determine the general public awareness of, perceived benefits to consumers of, and effectiveness of the Federal banking laws under which the Federal banking agencies and Department of Housing and Urban Development operate that are intended for the protection of such consumers, including—

(1) the Expedited Funds Availability Act;

(2) the Truth in Lending Act;

(3) the Truth in Savings Act;

(4) the Real Estate Settlement Procedures Act of 1974;

(5) the Home Mortgage Disclosures Act of 1975;

(6) the Equal Credit Opportunity Act;

(7) the Community Reinvestment Act of 1977;

(8) the Home Equity Loan Consumer Protection Act;

(9) the Fair Credit and Charge Card Disclosure Act; and

(10) the rules and regulations promulgated under those banking laws.

(b) CONSULTATION.—In developing such a survey, the Federal banking agencies and the Secretary of Housing and Urban Development shall consult with consumer groups, insured depository institutions, other lenders, and any other interested parties.

(c) INFORMATION FOR SURVEYED CONSUMERS.—The survey shall provide for distribution to participating consumers a summary explanation of the Federal banking law being surveyed and how each is currently being implemented.

(d) REPORT.—Not later than 60 days after completion of its survey under subsection (a), the Federal banking agencies and the Secretary of Housing and Urban Development shall jointly submit a report of the results of their survey 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.

Mr. DOLE. Mr. President, I do not think anyone would argue that this bill seeks to aid communities that are being underserved, whether in the rural or urban areas. Areas that desperately need access to capital and credit in order to improve their businesses, their housing, their neighborhoods, their communities.

I do not think anyone here would argue that there has been a lack of available credit and access to capital, particularly for small businesses. Unfortunately, outdated regulatory burdens and overly restrictive examination practices by bank regulators have discouraged banks from making even prudent loans, thereby choking off capital to creditworthy businesses. The result is fewer jobs and less economic growth.

This bipartisan bill seeks to address these issues. By focussing on community development and consumer protection; paperwork reduction and regulatory improvement; by encouraging securitization of small business loans; and by enabling more small companies to raise capital in the public markets.

However, all too often, Mr. President, Congress passes laws under the banner of "consumer protection" without having a clear sense of whether these laws will work as they are supposed to. I suspect some consumer protection laws actually end up harming the consumer in the long run, due to additional costs of regulation being passed on to them. To determine whether bank consumers are, in fact, benefiting from the laws we pass, Congress and the regulators should do what most businesses usually do—ask the consumers themselves whether or not the laws we enact are helping them. That is what my amendment will do.

This amendment directs each Federal banking regulatory agency to conduct a statistically valid survey of bank customers to determine whether those laws that Congress designed to protect consumers are, in fact, achieving their intended goals. Each survey would have to be conducted within 6 months of enactment of this bill and a report summarizing the survey results must be submitted to the House and Senate Banking Committees within 30 days of the surveys' completion. The laws that will be surveyed include the Truth-in-Savings Act, the Truth-in-Lending Act, and the Community Reinvestment Act.

Mr. President, let my distinguished colleagues understand. Neither this

amendment, nor this bill, will end the credit crunch overnight. But they are a step in the right direction. We all agree that regulation is necessary to protect the taxpayers from the costs of bank failures and to protect the consumers from the unscrupulous practices of the few bad apples in the banking industry. But regulation should never be an end in itself, and it should never act as an obstacle to long-term economic growth and prosperity.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 1542) 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.

AMENDMENT NO. 1543

(Purpose: To modify a provision of the bill related to selection of institutions for assistance, and for other purposes)

Mr. RIEGLE. Mr. President, I now ask unanimous consent that an amendment proposed by Senator DORGAN be incorporated into S. 1275. The amendment will modify the definition of an investment area to include rural communities that have lost more than 10 percent of their population between the 1980 and 1990 census.

I send the amendment to the desk and ask that it be reported.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Michigan [Mr. RIEGLE], for Mr. DORGAN, proposes an amendment numbered 1543.

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 43, line 16, strike "or".

On page 43, line 20, strike the period at the end and insert "; or".

On page 43, between lines 20 and 21, insert the following:

(D) is located in an area which is not a metropolitan statistical area and which has experienced a decrease in population of not less than 10 percent (as determined in the most recent decennial census) between 1980 and 1990.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 1543) 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 bill 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. 1544

(Purpose: To make an amendment to offset the costs of certain programs in order to pay for the bill)

Mr. RIEGLE. Mr. President, I will shortly send an amendment to the desk on behalf of Senator DOLE, the purpose of which is to offset the cost of certain programs in order to pay for this bill.

The text of the amendment is quite long, but I send it to the desk and ask that it be reported.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. RIEGLE], for Mr. DOLE, proposes an amendment numbered 1544.

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. DOLE. Mr. President, come April 15, a lot of Americans are going to be in for a big shock. Why? Because last year, Congress socked the American people with the largest tax package in American history.

Although we won't fully realize the larger implications of the tax hikes for some time, it is clear to me that many small businesses continue to be uncertain about their future. And until this uncertainty gives way to confidence, and a stronger economy, they are going to postpone hiring, and spending and investment decisions that could give the economy a much-needed boost.

Mr. President, S. 1275 will do much to make credit available and allow the small businesses of our country access to much needed capital. And it will encourage aid to communities that are being underserved, whether in rural or urban areas. Areas that desperately need access to capital and credit in order to improve their businesses, their housing, their neighborhoods, their communities.

It is my understanding that the pending bill will cost $437 million during the next 4 years—$382 million for a community development financial institutions fund and $5 million to provide technical assistance and loans to low-income credit unions, in title 1 of this bill; $50 million for Federal matching funds to State capital access programs in title 2. It is further my understanding that this $437 million is not paid for.

Mr. President, just a few weeks ago, a majority of the Senate voted in favor of the balanced budget amendment. We did not have the necessary two-thirds majority to pass the bill, but the American people watched C-Span closely and saw Congress debate what to many Americans is a fundamental principle of survival—the ability to pay their bills. Now, with a budget deficit of $234 billion, some people in this Chamber may think that $437 million is a small figure. But, Mr. President, there is no reason why we cannot start today what we told the American people we would do just a few weeks ago—that we would be fiscally responsible. And I think my amendment does just that.

Mr. President, my amendment seeks some simple spending cuts which I proposed earlier this year in S. 1843, the Government Downsizing, Performance, and Accountability Act of 1994. I seek two spending reductions in particular: streamlining the Department of Housing and Urban Development's multifamily housing disposition process; and terminating funds for the Small Business Administration's tree planting program.

The Department of Housing and Urban Development currently owns 69,000 units of multifamily housing. Although HUD was never meant to function as a realtor, the agency has been unable to sell these units because of restrictions in section 203 of the Housing and Community Development Amendments of 1978 requiring that each unit be sold with 15-year project-based section 8 assistance. Over the past several years, funding for section 8 has been significantly reduced. This proposal would loosen the restrictions of section 203, allowing HUD to dispose of the multifamily units more easily. Streamlining this process, according to the Congressional Budget Office, would save the Federal Government $425 million over the next 5 years. Mr. President, this particular provision is also recommended by Vice President GORE's national performance review, as well as the Penny-Kasich task force, and the Kerrey-Brown plan.

The second provision would terminate funds from the Small Business Administration's tree planting program. Mr. President, I do not think anyone would disagree that tree planting does not fall under the jurisdiction of job promotion by the SBA. These funds were not requested by the administration or by SBA. The program should be terminated, and doing so would free up $64 million over the next 5 years.

That's a total of $489 million to pay for this bill. A bill that is being supported by the President. A bill that will be a good step in helping communities and small businesses across the Nation. I think it is imperative that we show the American people that the Federal Government has heard their

wake-up call, and that we will pay its bill just like they do.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1544) 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. FORD. 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. D'AMATO. 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. 1545

Mr. D'AMATO. Mr. President, on behalf of Senator CRAIG, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New York [Mr. D'AMATO], for Mr. CRAIG, proposes an amendment numbered 1545.

Mr. D'AMATO. 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:

SEC. . SIMPLIFIED DISCLOSURE FOR EXISTING DEPOSITORS.

(a) IN GENERAL.—Section 43(b)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1831t(b)(3)) is amended to read as follows:

"(3) ACKNOWLEDGEMENT OF DISCLOSURE.—

"(A) NEW DEPOSITORS.—With respect to any depositor who was not a depositor at the depository institution before June 19, 1994, receive any deposit for the account of such depositor only if the depositor has signed a written acknowledgement that—

"(i) the institution is not federally insured; and

"(ii) if the institution fails, the Federal Government does not guarantee that the depositor will get back the depositor's money.

"(B) CURRENT DEPOSITORS.—Receive any deposit after the effective date of this paragraph for the account of any depositor who was a depositor before June 19, 1994, only if—

"(i) the depositor has signed a written acknowledgement described in subparagraph (A); or

"(ii) the institution has complied with the provisions of subparagraph (C) which are applicable as of the date of the deposit.

"(C) ALTERNATIVE PROVISION OF NOTICE TO CURRENT DEPOSITORS.—

"(i) IN GENERAL.—Transmit to each depositor who was a depositor before June 19, 1994, and has not signed a written acknowledgement described in subparagraph (A)—

"(I) a card containing the information described in clauses (i) and (ii) of subparagraph (A), and a line for the signature of the depositor; and

"(II) accompanying materials requesting the depositor to sign the card, and return the signed card to the institution.

"(ii) MANNER AND TIMING OF NOTICE.)

"(I) FIRST NOTICE.—Make the transmission described in clause (i) via first class mail within 90 days after June 19, 1994.

"(II) SECOND NOTICE.—Make a 2d transmission described in clause (i) via first class mail not less than 30 days and not more than 45 days after a transmission to the depositor in accordance with subclause (I), if the institution has not, by the date of such mailing, received from the depositor a card referred to in clause (i)(I) which has been signed by the depositor.

"(III) THIRD NOTICE.—Make a 3d transmission described in clause (i) via first class mail not less than 30 days and not more than 45 days after a transmission to the depositor in accordance with subclause (II), if the institution has not, by the date of such mailing, received from the depositor a card referred to in clause (i)(I) which has been signed by the depositor.".

(b) EFFECTIVE DATE.—Section 43(b)(3) of the Federal Deposit Insurance Act, as amended by subsection (a), shall take effect in accordance with section 151(a)(2)(D) of the Federal Deposit Insurance Corporation Improvement Act of 1991.

Mr. D'AMATO. This language deals with private community development banks, credit unions. There is similar language in the House. Ideally, we believe these provisions will make it easier, rather than send separate notices to credit union members. I urge its adoption. It has been cleared on both sides.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Will the Senator from New York yield?

Mr. D'AMATO. Yes.

Mr. CRAIG. I thank my colleague and the chairman for consideration of this amendment affecting privately insured credit unions after a reasonable effort to deal with their members and full notification. We hope we could agree with the House. I think it is after three efforts and proper notification of changes and all of that that this satisfies the need that is currently not the case in the law. This addresses only privately insured.

THE PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1545) was agreed to.

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

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

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

UNANIMOUS-CONSENT AGREEMENT—S. 1935

Mr. MITCHELL. Mr. President, I am about to propound a unanimous consent request which has been cleared on both sides of the aisle.

I ask unanimous consent that if the Governmental Affairs Committee reports S. 1935, the gift ban bill of Senators LAUTENBERG, WELLSTONE, and FEINGOLD, by the close of business on April 27, the majority leader, after consultation with the Republican leader, shall turn to the consideration of that bill no later than the close of business on Wednesday, May 4; that if the committee has not reported the bill by the close of business on April 27, the bill will then be discharged and placed on the calendar and the majority leader, after consultation with the Republican leader, shall turn to the consideration of that bill no later than the close of business on Wednesday, May 4.

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

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, speaking in behalf of myself, and I know Senator LAUTENBERG will speak in a moment, I want to thank the majority leader. I really feel as if we had very fruitful negotiations. I think it is a very important initiative, and has a lot to do with ethics.

I think there is going to be a lot of support for it, but I think people want a time to study it. I think we want to come up with the best possible proposal. I think we now have a kind of guarantee of a process that will move along. We have a date certain, and we will be able to have an up-or-down vote on what I think is an important piece of legislation.

I thank the majority leader for his sense of fairness and for the final product. I appreciate it.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I, too, want to say thank you to the majority leader for the cooperation he lent us with the presentation of this bill that we await review through the committee process, and look forward to having a chance to debate it on the floor and to take the appropriate action.

It is a bill whose time has come, and that is to negotiate and discuss what we think exists by way of problems, in terms of perception out there, and to try to clear the air once and for all.

So I look forward to the opportunity to debate it. And, once again, I also ex-

tend thanks to the majority leader for his usual patience in handling this.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I thank my colleagues for their kind comments and for their cooperation in this matter. I think this is an appropriate way to consider and deal with and ultimately dispose of what is a very important matter for the Members of the Senate and for the American people, as well.

COMMUNITY DEVELOPMENT BANKING AND FINANCIAL INSTITUTIONS ACT OF 1993

The Senate continued with the consideration of the bill.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, it is my hope that we can either shortly—within the next few minutes—reach an agreement with respect to a resolution on the Whitewater matter, or reach the point where it is clear that we cannot reach an agreement, and then just to proceed to debate and vote on the matter one way or the other, up or down. We are prepared to proceed in either form.

We have an alternative resolution ready and, as I said earlier, we are ready to debate and vote on the matter one way or the other, as soon as possible. My understanding is that we have about finished action on this bill, and I hope we can complete action on the bill very shortly.

I know my colleagues have been asking me about this matter about the schedule for the rest of the evening. We have had a number of different matters under negotiation all day, one having just been concluded. My hope is that we can complete action one way or the other on the remaining matter and finish action on this bill in the very near future, meaning shortly this evening.

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. 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. 1546

(Purpose: To include securities backed by commercial real estate in the definition of a mortgage backed security)

Mr. RIEGLE. Mr. President, on behalf of Senators BRYAN, DOMENICI, D'AMATO, and MACK, I send an amendment to the desk and ask for its immediate consideration. It deals with the securitization of commercial real estate. Let me now send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. RIEGLE], for Mr. BRYAN, Mr. DOMENICI, Mr. D'AMATO, and Mr. MACK, proposes an amendment numbered 1546.

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 160, between lines 6 and 7, insert the following new section:

SEC. . COMMERCIAL MORTGAGE RELATED SECURITIES.

(a) IN GENERAL.—Section 3(a)(41)(A)(i) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(41)(A)(i)) is amended—

(1) by striking "or on a residential" and inserting "on a residential"; and

(2) by inserting before the semicolon ", or on one or more parcels of real estate upon which is located one or more commercial structures".

(b) AMENDMENT TO THE REVISED STATUTES.—Paragraph Seventh of section 5136 of the Revised Statutes (12 U.S.C. 24) is amended in the twelfth sentence, by striking "(15 U.S.C. 78c(a)(41))), subject to such regulations" and inserting "(15 U.S.C. 78c(a)(41)). The exception provided for the securities described in subparagraphs (A), (B), and (C) shall be subject to such regulations".

(c) REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Comptroller of the Currency shall promulgate final regulations, in accordance with the thirteenth sentence of Paragraph Seventh of section 5136 of the Revised Statutes (as amended by subsection (b)), to carry out the amendments made by this section.

(d) EFFECTIVE DATE.—The amendments made by this section shall become effective upon the date of promulgation of final regulations under subsection (c).

(e) STATE OPT OUT.—Notwithstanding the amendments made by this section, a note that is directly secured by a first lien on one or more parcels of real estate upon which is located one or more commercial structures shall not be considered to be a mortgage related security under section 3(a)(41) of the Securities Exchange Act of 1934 in any State that, prior to the expiration of 7 years after the date of enactment of this Act, enacts a statute that specifically refers to this section and either prohibits or provides for a more limited authority to purchase, hold, or invest in such securities by any person, trust, corporation, partnership, association, business trust, or business entity or class thereof than is provided by the amendments made by this subsection. The enactment by any State of any statute of the type described in the preceding sentence shall not affect the validity of any contractual commitment to purchase, hold, or invest that was made prior thereto, and shall not require the sale or other disposition of any securities acquired prior thereto.

Mr. RIEGLE. Mr. President, the Comptroller of the Currency has the responsibility for prescribing regulations and issuing orders to ensure the safety and soundness of national banks. Under section 5136 of the Revised Statutes (12 U.S.C. sec. 24), the Comptroller may prescribe limitations and restrictions on national banks' purchase of investment securities. Section 5136 further provides the Comptroller authority to regulate national banks' purchase for their own account of mortgage-related securities, as that term is defined under the Securities Exchange Act of 1934.

While amending the definition of mortgage-related security to allow inclusion of mortgages on commercial structures, this amendment does not limit the Comptroller's authority to regulate national bank purchases of mortgage-related securities. For example, undue concentration of risk could arise if a bank invested in a security backed by a pool containing a small number of loans or a loan that represented a large percentage of the assets in the pool. The Comptroller has authority to require diversification in the pools of loans that underlie mortgage-related securities purchased by national banks. As another means of preventing concentration of risk, the Comptroller could prescribe regulations requiring aggregation and limitation of loans to the same borrower or aggregating securities with the same issuer or third-party credit enhancer. The Comptroller has authority to adopt such other provisions as may be necessary to address safety and soundness concerns.

Investments by banks in mortgage-related securities would remain subject to relevant risk-based bank capital requirements.

Inclusion of mortgages on commercial structures in the definition of mortgage-related securities could allow for greater investment in commercial real estate by institutional investors such as pension funds and municipalities. As in the 1984 Secondary Mortgage Market Enhancement Act, the States are given 7 years to limit this investment authority if they choose—the States' authority, of course, does not extend to national banks.

The authority to invest in securities backed by mortgages on commercial real estate should be used carefully. While mortgage-related securities will continue to require a rating in one of the two highest rating categories by at least one nationally recognized statistical rating organization, recent experience demonstrates that commercial real estate can be a volatile investment.

Mr. BRYAN. Mr. President, Senator DOMENICI and I are offering an amendment that will facilitate the creation of a secondary mortgage market for commercial real estate and, thereby, will help ease the credit crunch which persists in many parts of our country.

This amendment is a significant first step towards removing the impediments that now exists in creating a viable secondary market for commercial real estate, and I hope we can make further strides when this bill goes to conference.

Our amendment would allow securities backed by mortgages secured on commercial property to qualify as Mortgage Related Securities MRS. This qualification confers several significant benefits.

Qualifying as a MRS authorizes federally and State-chartered institutions to invest in these commercial real estate mortgages and would remove a number of regulatory impediments to issuing these securities.

Strengthening the secondary market in commercial real estate loans will foster economic growth, create jobs, and add to the financial stability of our lending institutions. These benefits will occur by increasing the flow of funds through capital markets and fostering liquidity.

One of the most serious problems that has impeded the stabilization and recovery of real estate markets is the lack of liquidity.

In residential markets, Freddie Mac and Fannie Mae have established a steady flow of capital into residential mortgages. It has endowed the market with a dependable flow of available credit to homebuyers and stabilized mortgage pricing across the country. A secondary market for commercial real estate would present these same advantages to lenders, borrowers, and investors in the commercial market.

I believe this amendment will contribute to the recovery of our commercial real estate sector and help assure that the financial crisis experienced over the past several years, will not be repeated.

The PRESIDING OFFICER. Is there further debate?

Mr. D'AMATO. Mr. President, I am pleased to cosponsor this important legislation because I believe it will provide liquidity that is desperately needed in the commercial mortgage area. I think Senators DOMENICI and BRYAN in particular should be complimented, and I applaud my colleagues' efforts to promote stability in this critical market, which will ultimately bring greater stability to the overall economy. We still have some great problems as in relation to getting credit in the commercial real estate area, and I think the amendment will go a long way towards promoting that stability and making credit available.

Mr. DOMENICI. Mr. President, the Senator from Nevada [Mr. BRYAN] and I introduced S. 1728, the Commericial Mortgage Capital Availability Act of 1993 last year. This bill addresses the credit crunch by removing impediments to securitization. This is the process Wall Street uses to convert relatively illiquid real estate assets into marketable securities that can be purchased by a broad range of investors including pension funds, banks, insurance companies, mutual funds, and investment funds. The securities are backed by pools of commercial mortgages or sometimes by a single property, such as a large urban, mixed use complex.

Securitization makes money for lending recyclable. A banker makes a loan, sells it, takes the proceeds and lends out in again. Wall Street buys the loans, pools them, securitizes them and enables banks to make more loans without waiting for repayment month after month.

In the last Congress, I chaired the Real Estate Task Force. We received recommendations from 40 or more real estate lending institutions. The task force examined ways to increase commercial real estate liquidity by expanding the secondary market. An expanded secondary market would make more credit available for commercial real estate and small business lending purposes.

In April of this year, I held a Senate Banking Committee credit crunch hearing in New Mexico. Senator BRYAN held a hearing on the same topic in Nevada. We came to the same conclusion—we need to make it easier for the secondary market in commercial real estate to function and grow.

Testimony at the hearing in New Mexico included some very illuminating testimony from Lou Toulga who is an Albuquerque real estate broker and the chairman of the National Association of Realtors commercial investment committee.

The commercial real estate market has been hurt because the traditional sources of funding for long-term loans have either disappeared, been traumatized, or experienced considerable price instability.

He and other witnesses knew of many banks that are not making any commercial real estate loans. Those that do make loans only offer terms with very short amortization periods. This makes it difficult to satisfy debt coverage ratios and make cash flow work. Loan to value ratio limits are often below 60 percent and required debt coverage ratios are often above 1.5. Interest rates are higher too—the spreads against 10-year treasuries are now more than 200 basis points.

Loan terms tend to be too short—5 years with the accompanying uncertainty of rollovers and the uncertainty of reappraisals and the potential of revaluations through the appraising process. To get a 20-year loan on a building, a developer needs to have tenants with 20-year leases. This is usually impossible.

Facing these serious obstacles the National Association of Realtors, the National Realty Committee and the Mortgage Bankers Association started a consortium to do the necessary work to create a secondary market for commercial lending. They have asked for Congress' help to eliminate some of the regulatory restraints in current law. Modify the Secondary Mortgage Market Enhancement Act to allow the securities from commercial loan pools to be accepted across all 50 States.

We also need to deal with subordination. When a banker subordinates a particular obligation and sells it, he still needs to maintain the same capital requirements as if he had held on to the loan. This locks up capital that could be lent out for other productive purposes.

We also need to modify ERISA to allow comparable treatment of commercial real estate. Commercial real estate should be treated as favorably as residential by allowing secondary mortgage securitization. This would provide parity under ERISA for commercial real estate.

The bill Senator BRYAN and I introduced does three things:

Broadens the Secondary Mortgage Market Enhancement Act [SMMEA] to apply to commercial securities;

Amends the Employment Retirement Income Security Act [ERISA] to include a class exemption for commercial mortgage securities. They would no longer be classified as prohibited transactions.

Changes the regulatory treatment—risk-based capital requirements—of subordinated commercial loans to avoid forcing financial institutions to set aside more reserves than are really necessary for safety and soundness of the financial institutions.

There continues to be a shortage of commercial mortgage credit. Mortgage loan renewals continue to be difficult to secure even notwithstanding long-term credit relationships.

The amendment we are offering today accomplishes the following:

Amending SMMEA to allow securities backed by mortgages secured by liens on commercial property to qualify as Mortgage Related Securities [MRS] as that term is defined by SMMEA would confer several significant benefits. It would authorize various federally and state-chartered institutions to invest in committed MRS; it would preempt State Blue Sky Laws; and it would provide various exceptions to the Securities Act of 1934 to allow for delayed settlements—up to 180 days—to account for the forward delivery nature of the mortgage market. MRS status is conferred on mortgage securities rated by at least two nationally known rating agencies in their top two investment grades. The mortgages themselves must be originated by federally-regulated mortgages.

POLICY ARGUMENTS FOR SMMEA AMENDMENT

There are, as indicated above, strong reasons to recommend conferring the benefits of SMMEA on the commercial real estate market. The expected increase in availability of credit could speed recovery from the commercial real estate depression which many markets are experiencing. While credit availability alone will not correct the

effects of over building, at least it would assure that when rents and values stabilize, credit would be more readily available to help assure orderly disposition of REO and assets acquired by FDIC and RTC liquidators.

There is a similar bill moving in the House and we hope that the differences can be worked out in conference to address the ERISA and capital requirements contained in our original bill.

Mr. RIEGLE. Mr. President, I urge adoption of the amendment.

Mr. BURNS. Mr. President, I would like to join my colleague from New Mexico, Senator DOMENICI, and the Senator from Nevada [Mr. BRYAN], in strong support of this amendment.

This amendment addresses the commercial real estate credit crunch by removing impediments to securitization. As we all know securitization makes money for lending recyclable and this amendment will increase commercial real estate liquidity by expanding the secondary market. The expanded market would make more credit available for commercial real estate and small business lending purposes.

It has become apparent that the commercial real estate market has been hurt because the traditional sources of funding for long-term loans have either disappeared or experienced considerable price instability.

Facing these obstacles, Senator DOMENICI and Senator BRYAN worked diligently to resolve a very serious liquidity problem. Special recognition must also be paid to the National Association of Realtors, the National Realty Committee, and the Mortgage Bankers Association for the efforts they have made to create a secondary market for commercial lending.

Because of their tireless efforts, I am confident that the shortage of commercial mortgage credit that we have previously experienced will no longer be a problem. I applaud their efforts, and am pleased to be an original cosponsor of this amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

So the amendment (No. 1546) was agreed to.

Mr. D'AMATO. Mr. President, I move to reconsider the vote.

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

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

Mr. DOMENICI. Madam President, just a few moments ago Senators RIEGLE and D'AMATO asked the Senate to accept and the Senate did accept an amendment that was proposed by Senator BRYAN of Nevada and the Senator from New Mexico. We introduced this bill as Senate bill 1728, and its title was the Commercial Mortgage Capital Availability Act of 1993.

As we look across the real estate market and real estate business in the United States, we find that when it comes to residential mortgages and the financing of homes the United States has come upon a system which is absolutely the envy of the world. At the heart of it is a secondary market for the loans and mortgages that are put on housing either by the buyer of the house or the builder of the house.

When that mortgage securing a loan is put on that house, the first lender, be it a bank or S&L, or other source of financing, does not have to hold that note and that mortgage subject to the vagaries of interest as it applies to the lending institution which means if they have low interest rate mortgages and they are paying a high interest rate on savings they soon go broke.

So what has happened in America is all those mortgages and loans are taken out of the hands of the lender, are bundled and are purchased and sold in the marketplace.

That is essentially what Fannie Mae, one of the America's large corporations, does. It is one of the principal sources of seeing that that secondary market works.

Obviously, without that all of the lending institutions of the country would be bogged down with billions of dollars of mortgages on the houses of the United States and who knows whether we would really have a housing market like we have. Most would say it would not even work.

But what this bill that we introduced, Senator BRYAN and I, that is now an amendment that was adopted by the Senate at the request of the managers, attempts to do is to start to permit commercial mortgages, that is mortgages on commercial property, offices and the like, to develop a secondary market that will apply and buy them and bundle them so that the lending institutions of the United States will be available for more mortgages, more loans and notes and mortgages and will stabilize the real estate market as it applies to commercial real estate.

As a matter of fact, just for discussion purposes, it might very well have been that if there was a secondary market for commercial real estate loans and the mortgages that secured them prior to the S&L crisis, it might very well have been we would not have had such a severe crisis because, for one thing, the secondary market establishes some very good, strong and firm standardization guidelines to be eligible for sale in the secondary market. Selling a loan is like recycling money. A banker receives the cash for the loan that he put out to finance it, so he can go on with some other business, and makes more loans and credit available. Those mortgages have to meet a certain standard. And maybe had we had a giant secondary market maybe the standards would have precluded some of the S&L's and banks from getting into the rather close-call mortgages that brought down a lot of that thrift infrastructure of the United States and cost us billions and billions of dollars.

But that is not the purpose of the bill, because that is done and finished and I just give it as aside.

There are many impediments to making the secondary market for commercial mortgages work. There are certain places within Wall Street and within the markets of America where programs of making commercial loans, commercial mortgages part of a secondary market are beginning to flourish, but it is a far cry from becoming a reality on the scale that our economy demands.

What we have done in this amendment, and I will not go into the details, is take a very significant step toward making it easier and making it such that the market can take advantage of this kind of securitization—a secondary market broad in scope for commercial mortgages. And guess what it would do? I do not know how others in this Chamber find the real estate financing in their home States, but I meet families and developers and just a wide variety of people who have a very difficult time getting a long-term note and mortgage on commercial property. If you are buying it or building it today, you cannot even get 10 years of financing. You may get two 5-years as the best the lender can do. And guess what? The interest rates are substantially higher than they are for residential property and for many other kinds of properties that people are borrowing money for.

That is because we have not found a way to set the appropriate guidelines that will permit that whole market of securities on commercial property to be in a secondary market which raises its own capital in completely different ways than the banking and lending institutions have to raise theirs.

In my State, I allude to the fact that 2 years ago I was asked by the Republican leader to head a task force on real estate in the United States. We were overbuilt and that after the debacle of the S&L's, the downfall of the real estate market was putting a damper on America's economic growth. It was becoming a very big part of our inability to grow out of the recession. Addressing impediments to securitization was one of the suggestions that almost every real estate person large

and small made. Let us see if we can get a secondary commercial market working here.

I have the suggestions that were made back then and who made them in my State and other States, and they will be incorporated in the remainder of my statement.

But I just wanted to come to the floor and share with my fellow Senators that if this finally gets done in conference and perhaps even made broader. We have to create a secondary market for commercial mortgages. This will be a giant step towards totally revitalizing that part of the American economic scene that is known as commercial real estate, a very big and important part, with many thousands of people employed in it and much capital invested in it.

So I will now read my statement indicating with precision the various aspects of the amendment that was adopted and other remarks:

Madam President, the Senator from Nevada [Mr. BRYAN] and I introduced S. 1728, the "Commercial Mortgage Capital Availability Act of 1993 last year." This bill addresses the credit crunch by removing impediments to "securitization." This is the process Wall Street uses to covert relatively illiquid real estate assets into marketable securities that can be purchased by a broad range of investors including pension funds, banks, insurance companies, mutual funds and investment funds. The securities are backed by pools of commercial mortgages or sometimes by a single property, such as a large urban, mixed use complex.

Securitization makes money for lending "recyclable." A banker makes a loan, sells it, takes the proceeds and lends it out again. Wall Street buys the loans, pools them, securitizes them and enables banks to make more loans without waiting for repayment month after month.

In the last Congress, I chaired the Real Estate Task Force. We received recommendations from 40 or more real estate and lending institutions. The Task Force examined ways to increase commercial real estate liquidity by expanding the secondary market. An expanded secondary market would make more credit available for commercial real estate and small business lending purposes.

In April of this year, I held a Senate Banking Committee credit crunch hearing in New Mexico. Senator Bryan held a hearing on the same topic in Nevada. We came to the same conclusion—we need to make it easier for the secondary market in commercial real estate to function and grow.

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Loan terms tend to be too short—five years with the accompanying uncertainty of rollovers and the uncertainty of reappraisals and the potential of revaluations through the appraising process. To get a twenty year loan on a building, a developer needs to have tenants with twenty year leases. This is usually impossible.

Facing these serious obstacles the National Association of Realtors, the National Realty Committee and the Mortgage Bankers Association started a consortium to do the necessary work to create a secondary market for commercial lending. They have asked for Congress' help to eliminate some of the regulatory restraints in current law. Modify the Secondary Mortgage Market Enhancement Act to allow the securities from commercial loan pools to be accepted across all fifty states.

We also need to deal with subordination. When a banker subordinates a particular obligation and sells it, he still needs to maintain the same capital requirements as if he had held on to the loan. This locks up capital that could be lent out for other productive purposes.

We also need to modify ERISA to allow comparable treatment of commercial real estate. Commercial real estate should be treated as favorably as residential by allowing secondary mortgage securitization. This would provide parity under ERISA for commercial real estate.

The bill Senator Bryan and I introduced does three things:

Broadens the Secondary Mortgage Market Enhancement Act (SMMEA) to apply to commercial securities.

Amend the Employment Retirement Income Security Act (ERISA) to include a class exemption for commercial mortgage securities. They would no longer be classified as "prohibited transactions."

Change the regulatory treatment (risk-based capital requirements) of subordinated commercial loans to avoid forcing financial institutions to set aside more reserves than are really necessary for safety and soundness of the financial institutions.

There continues to be a shortage of commercial mortgage credit. Mortgage loan renewals continue to be difficult to secure even notwithstanding long-term credit relationships.

The amendment we are offering today accomplishes the following: Amends the Secondary Mortgage Market Enhancement Act (SMMEA) to allow securities backed by mortgages secured by liens on commercial property to qualify as Mortgage Related Securities ("MRS") as that term is defined by SMMEA would confer several significant benefits. It would authorize various federally and state-chartered institutions to invest in committed MRS; it would preempt state Blue Sky Laws; and it would provide various exceptions to the Securities Act of 1934 to allow for delayed settlements (up to 180 days) to account for the forward delivery nature of the mortgage market. MRS status is conferred on mortgage securities rated by at least two nationally known rating agencies in their top two investment grades. The mortgage themselves must be originated by Federally-regulated mortgagees.

There are strong reasons to confer the benefits of SMMEA on the Commercial real estate market. The expected increase in availability credit could speed recovery from the commercial real estate depression which many markets are experiencing. While credit availability alone will not correct the effects of overbuilding, at least it would assure that when rents and values stabilize, credit would be more readily available to help assure orderly disposition of REO and assets acquired by FDIC and RTC liquidators.

There is a similar bill moving in the House and we hope that the differences can be worked out in conference.

Madam President, I ask unanimous consent that Senator BURNS be made a cosponsor of the amendment that heretofore passed as if he were an original cosponsor.

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

Mr. DOMENICI. Madam President, I have a statement with reference to the basic underlying bill that praises it and sets out what it is going to do which I will now read:

Madam President, I would like to thank and compliment Senators RIEGLE, D'AMATO, SHELBY, and MACK for the leadership they have exhibited on one or more titles of this bill. Without their work, we would not be able to offer this bill.

There is a tremendous need in this country for greater access to capital. All throughout the country, we see women, Indians and other groups eager to become significant contributors to our economy—if only they are given the chance. This bill will help them become significant contributors.

In New Mexico, we have two established community development financial institutions: The New Mexico Community Development Loan Fund and the Women's Economic Self-Sufficiency Team, both located in Albuquerque.

We also have several CDFI Coalition Affiliates: Home Education Livelihood Program, Inc., of Albuquerque; Siete del Norte Community Development Corporation, Embudo, NM; the Navajo Townsite Community Development Corporation in Navajo, NM, and the Granada De Valley, Santa Fe, NM.

Let me take one of these programs, the Navajo Townsite Community Development Corporation and tell you about the big difference it has been making with a little money. In the past 4 years, they have worked with McKinley County, the State of New Mexico legislature, the U.S. Department of Health and Human Services, the Bureau of Indian Affairs, the Navajo Nation's Divisions of Economic and Community Development.

They have used $5.4 million for social, economic and infrastructure programs to benefit the 3,100 residents of Navajo, McKinley County, NM. They helped finance a shopping center; provided start up funds for several businesses; and helped fund a day care center. All in all, the program has lead to the creation of almost 100 jobs.

Another New Mexico fund is WESSTcorp which is a nonprofit agency created to help women start and grow their businesses. Over the past five years WESSTcorp has helped more than 250 women develop their businesses and has enjoyed a zero default rate.

The New Mexico Community Development Loan Fund is a private, nonprofit financial intermediary created in 1989 and dedicated to the economic and social empowerment of the people of the State. It currently has $820,000 in capital under management. Their capital has come from Catholic women religious groups, Protestant religious groups, Jewish

synagogues, foundation program-related investments, corporations, and Federal economic development programs. It is well underway. It has made 17 loans totalling $284,571. All loans are current and the fund has experienced no losses. These loans are making a big difference all over the State.

The New Mexico Community Development Loan Fund has financed an organic grower to buy equipment; helped finance inventory for a nonprofit store which sells crafts made by low income artisans from New Mexico. It has financed a transitional housing project in Santa Fe. It has financed a grass-roots organization which provides various health and social services to low income villages near Las Cruces. It helped finance an expansion of a health care facility used by farm worker families and the elderly.

Another interesting project helped financed the Costilla co-op's purchase of materials necessary to make Hispanic folk art dolls that are sold. Another loan helped buy industrial sewing machines for a Southwest fashion cottage industry in Costilla and Amalia. It helped finance land acquisition for the Grant County Cooperative Ownership Development Corporation in Silver City. This small business incubator center will help other small businesses develop by holding down the costs of offering services. Another loan helped the Santa Fe Housing Authority set up a renters' fund for single mothers and fathers who needed down payment assistance.

Nationwide, community development loan funds have loaned more than $100 million which has leveraged $760 million in public and private capital to finance 15,000 housing units and to create 3,500 jobs for poor Americans. Hopefully, this bill will help these types of endeavors. I commend the chairman and ranking member of the Banking Committee for the improvements they have made in this bill.

I also am pleased that the manager's amendment includes a data collection provision which will in the future help the Banking Committee and lending institutions evaluate lending practices to women and other minorities.

The Community Development Financial Institutions title of the bill have the government playing a role that private micro loan funds, low income credit unions and nonprofits have been pioneering for years.

These private initiatives have shown us that people and a little money can make a big difference. I hope this bill takes the $382 million we are authorizing and puts into place the policies that will assist in making an even bigger difference.

I also want to thank the chairman and the ranking member for including Indian reservations in the definition of an eligible investment area. Senator Campbell and I filed an amendment to insure that the Indian reservations are treated like the urban and rural enterprise zones. The amendment was incorporated when the Banking Committee considered the bill. This bill, in conjunction with the provisions included in the Reconciliation bill should help spur investment on Indian reservations. These are enclaves in our nation of extreme deprivation—too many times overlooked because they quietly suffer. Their needs don't scream out on the front pages of the newspapers.

I am very pleased that we are including the Small Business Securitization Act in Title II of this bill. It will help address the credit crunch. It is a market driven approach that won't cost the federal government a single dollar. It significantly removes current legal impediments to the securitization of small business loans.

Securitization is the banking world's version recycling. A bank makes a loan to a small business, and rather than waiting for that small business to pay back the loan before the bank can make another loan, bank sells the loan so that it can be pooled, securitized and sold in the secondary market. The bank then can immediately make another loan to help another business. That is why I call securitization "recycling" financial resources.

This bill will bring new sources of funds to small and medium sized businesses. It will enable pension funds, insurance companies, trust departments and other institutional and private investors to invest in small business loans made by other financial institutions. Another benefit is that by increasing the number of participants in the market it will increase competition and lower interest rates. Hopefully, eventually, this will enable financial institutions to increase their volume of lending to better meet the credit needs of small businesses.

The bottom line is that this bill means more credit for small businesses at lower rates.

The Home Equity Protection Act is another title in the bill which I feel is important. Predatory lending operates in a credit vacuum created when mainstream banks abandon direct lending in minority neighborhoods. Making matters worse, lending practices shifted from "ability to pay" to "asset-based lending." With asset-based lending the loan is made based on the value of the security, rather than on the borrower's ability to pay. This sometimes leads to unaffordable loans.

This bill goes after the equity skimmer who originates loans because it can charge enormous up-front fees, and then sells the loan. The manager's amendment includes language to make sure this legislation does not have unintended consequences of making less fair credit available. With a series of safeguards, the amendment provides regulatory flexibility.

Finally, Madam President, I would like to express my support for an amendment included in the version of this bill the House passed dealing with Federal Home Loan Banks that Representative Baker offered. It increased the non-Qualified Thrift Lending Borrowing Limit from 30 percent to 40 percent of total advances. This amendment, too, will help the credit crunch. Let me explain why.

Banks will comprise 60 percent of the systems' stockholders by the end of this year.

The preponderance of the new members have been small to mid-size community commercial banks: 58 percent have total assets of $100 million or less, and 83 percent have total assets of less than $500 million. The average asset size is about $265 million and the average mortgage asset level is about $96 million.

New members are predominantly commercial banks, but also include 50 credit unions and 19 insurance companies. Despite being newcomers to the System, these new stockholders are already using the FHL Banks almost as much as traditional thrift stockholders. In fact, the smaller community commercial banks already use the Banks to a greater extent than their thrift counterparts.

The current 30 percent cap on advances to nonqualified thrift lending institutions threatens to impede the Home Loan Banks' ability to serve the community commercial banks. The cap originally was included in FIRREA to protect thrifts access to advances, but has proven unnecessary. Raising the cap will increase the money available to commercial banks, which they in turn can make available to borrowers for the formation of new businesses.

This provision in the House bill is particularly important to the Dallas region, which is responsible for New Mexico. They are projected to bump up against the 3 percent cap in the near future. I hope the conferees will take the Baker amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Madam President, I ask unanimous consent that I be recognized to offer an amendment in behalf of myself and Senator DOLE, that the amendment be read, that following the reading of the amendment, Senator DOLE be recognized to address the Senate for up to 10 minutes; that following Senator DOLE'S remarks, I be recognized to address the Senate for up to 10 minutes; that upon the use or yielding back of that time, the Senate vote on the amendment, that no second degree amendments to the amendment be in order, and that no motions to recommit be in order.

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

AMENDMENT NO. 1547

Mr. MITCHELL. Madam President, I send a sense-of-the-Senate amendment to the desk and ask that it be read by the clerk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

At the Appropriate place insert the following:

SEC. . It is the sense of the Senate that—

(a) Congress has a constitutional obligation to conduct oversight of matters relating to the operations of the government, including matters related to any governmental investigations which may, from time to time, be undertaken.

(b) The Majority Leader and the Republican Leader should meet and determine the appropriate timetable, procedures, and forum for appropriate Congressional oversight, including hearings on all matters related to "Madison Guaranty Savings and Loan Association ('MGS&L'), Whitewater Development Corporation and Capital Management Services Inc. ('CMS')."

(c) No witness called to testify at these hearings shall be granted immunity under sections 6002 and 6005 of Title 18, United States Code, over the objection of Special Counsel Robert B. Fiske, Jr.

(d) The hearings should be structured and sequenced in such a manner that in the judgment of the Leaders they would not interfere with the ongoing investigation of Special Counsel Robert B. Fiske, Jr.

The PRESIDING OFFICER. Under the previous order, the Republican leader is recognized for up to 10 minutes.

Mr. DOLE. Madam President, I think it is clear from this resolution there will be a rollcall vote on it. I ask for the yeas and nays on the resolution.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. Madam President, at least as far as the Senate is concerned, we understand our obligations, congressional oversight—we understand the serious nature of that obligation. As I pointed out earlier, it goes back to 1946, and there are four or five statutes, plus implications in the Constitution, that we have oversight responsibility.

That is paragraph (a).

Paragraph (b) indicates that the two leaders will meet and determine the appropriate timetable, procedures, and forum for appropriate congressional oversight, including all hearings related to the Madison Guaranty Savings & Loan Association, Whitewater Development Corp., and Capital Management Services. I think that would cover anything that has been mentioned thus far. In fact, it would cover the insolvency and regulation of Madison Guaranty, the relationship of the Madison Guaranty Savings & Loan Association to its affiliates, and so forth, the Federal regulatory agencies—everything that has been discussed plus, I assume, like anything else, if something popped up, it would probably be broad enough to cover that, too.

In an effort to make certain we do not compromise the investigation of Robert Fiske, paragraph (c) talks about no grants of immunity. As I pointed out earlier, I do not think, by having that in advance, it is going to keep people from telling the truth. It will not keep us from getting documents. It will not keep the regulators from cooperating.

I point out again, in the Watergate hearings, John Dean was not granted immunity, John Erhlichman was not granted immunity, Bob Halderman was not granted immunity—several others were not. They still were convicted and testimony was given, so it worked at Watergate. It did not work in Iran-Contra. And we see no reason it will not work in the event of hearings in the so-called Whitewater matter.

I think the final paragraph, (d), the thing that we do not want to do—speaking now, not as a Republican, but speaking as a Member of this body—is to give any public official, whether it be Robert B. Fiske or somebody else, a veto power over what Congress can do, what Congress should do and has the right to do and has a mandate, as far as I am concerned, for the American people, to carry out oversight responsibilities.

So we have tried to not interfere with that but also to let the leaders make a determination that we can proceed without interfering with the ongoing investigation. But the bottom line is that Robert Fiske cannot have a veto. I do not care how many letters he writes or how many statements he makes on television. Congress has some responsibility, too. We had some difficulty with that particular paragraph, because I know my colleagues on the other side keep citing the Fiske letters, the Fiske this and the Fiske that. We are not trying to compromise the investigation, but it could happen sometimes that Congress might determine something is more important than getting a conviction somewhere or doing something else the special counsel might do. Congress has some real responsibilities, as I pointed out earlier for the record.

So I hope there would be a unanimous vote for this resolution. I hope I could get together with the majority leader next week and start working, if we can. We have not reached an agreement yet. It is not going to be easy. We have already had a preliminary discussion. We trust each other. It will be in good faith, I have no question about that. We may not be able to put it together. If not, we will be back on the floor, I assume, with additional amendments or whatever.

So I thank the majority leader, and I thank my colleagues on this side of the aisle.

I yield 2 minutes to the Senator from Maine and 2 minutes to the Senator from New York.

Mr. COHEN. I thank the minority leader for yielding.

Madam President, let me just make this point. It has been reiterated, over and over again, that Iran-Contra, the hearing into Iran-Contra was a failure. It was not a failure. It was necessary to conduct that hearing to find out what in fact took place. Let me submit that, notwithstanding the fact that Oliver North and Admiral Poindexter and perhaps several others were not successfully prosecuted ultimately because the law was interpreted differently than we had understood it to be before, nonetheless it was far more important for this country to have learned about an off-the-shelf, self-sustaining, covert capability that was being conducted by members of the White House staff—far more important that we learn about that and put a stop to it than worry about whether or not certain individuals would be convicted later on.

So to those who maintain it was a mistake, I say it was not a mistake. It was the right thing to do. If any mistake was made, that had to do with the granting of immunity, in which case we do not intend to repeat that mistake.

The important language in this particular resolution is "hearing should be structured and sequenced." There shall be hearings, and they shall be structured and sequenced—meaning we can have hearings on the matters pertaining to Washington occurring while President Clinton is President and has been President, and allow the hearings pertaining to those events that occurred years ago in Arkansas to be taken on a much longer-term basis.

So in this resolution the language, I think, is significant: Structured. It shall be structured and sequenced. So we anticipate a series of hearings and not just one at the end of the Fiske investigation.

I thank the Senator for yielding.

The PRESIDING OFFICER. The Senator from New York is recognized for 2 minutes.

Mr. D'AMATO. Madam President, some weeks ago I predicted that we would have hearings. There were those who said no, there was no need, we would not have them. I think the great strength of our democracy is that we will get to the facts and at times, those facts may not be pleasant. I paraphrase the concerns and thoughts of my two colleagues, the Senate majority leader and his colleague from Maine, when they said that is our obligation. The abuse of power is something that is important to curb and to expose. I am pleased that we have been able to come to this point, where there will be hearings as outlined.

I am pleased that the white waters have finally parted and the Senate can pursue its march for the truth. I believe that we have learned how to avoid some of the pitfalls that have been referred to in the past. Once we get to the truth, we can continue the business of the people, and all of us—Democrats and Republicans—can say that we have upheld the law.

I am pleased that we have come to this point. It is something that I was confident we would arrive at.

Mr. DOLE. Madam President, is there any time remaining?

The PRESIDING OFFICER. The Republican leader has 2 minutes remaining.

Mr. DOLE. I yield it back.

The PRESIDING OFFICER. The majority leader is recognized for up to 10 minutes.

Mr. MITCHELL. Madam President, I am pleased to sponsor this amendment. It is completely consistent with all of my previous public statements on this matter. I have stated from the outset that Congress has a serious oversight responsibility that it will meet and that it will do so in a manner that does not interfere with the investigation of the special counsel.

The Senator from New York said that he predicted hearings, and others said there would not be hearings. I know of no such person. I did not ever state that nor did anyone else to my knowledge.

What was stated was that the demand made by our colleague for immediate hearings would not be met and has not been met under this amendment. I am pleased that our colleagues have agreed not to pursue that request and have agreed to proceed in the manner which I suggested at the outset and which I have consistently suggested throughout; that is to say that we will meet our oversight responsibilities, but we will do so in a responsible and serious manner, not in a political circus, but one which will be set up in a way that will not interfere with the ongoing investigation of the special counsel.

That is both in terms of the structure of the hearings and the timing of the hearings.

I emphasize, as did the Republican leader, that this requires us in good faith to meet, to discuss the matter, and to make a determination as the best and most appropriate manner to proceed consistent with this resolution which restates Congress' obligation. And being the author of the amendment, it is drafted with the words that I have consistently used in this matter; that no witness called to testify will be granted immunity over the objection of the special counsel, another concern which I have expressed throughout, and the final paragraph, which I quote:

> The hearings should be structured and sequenced in such a manner that in the judgment of the leaders, they would not interfere with the ongoing investigation of Special Counsel Robert B. Fiske, Jr.

This is the responsible way to deal with this matter. This is the way to have the hearings at a time and under conditions and circumstances which will not interfere with the special counsel's investigation, entirely consistent, indeed identical, to the position which I have stated from the outset.

I repeat, I know of no Member of this body who has ever said there should never be hearings. That may have been said, but I did not hear it and I never read it. Every Member whose statements with which I am familiar has stated that there should be hearings. The disagreement has been over the time and the conditions and the circumstances.

I am very pleased that our colleagues have now agreed to do so in the manner which I have previously suggested. That is to say, at a time and under conditions and circumstances which will not interfere with the investigation of the special counsel.

Madam President, I thank my colleagues. I thank the Republican leader for his cooperation and for our colleagues who have been involved in this matter. I think this is the way to proceed.

There are two things that will come out of this. The first is that, as I have said all along, there will be and there should be appropriate and serious congressional oversight. The second thing is that the special counsel's investigation can go forward and not be interfered with by the actions of Congress.

I think those are two important objectives that have been attained by this resolution, and I encourage all of my colleagues to vote for this amendment.

The PRESIDING OFFICER. Does the majority leader yield back the remainder of his time?

Under the previous order, the majority leader controls the remaining 4 minutes and 40 seconds of time.

Mr. MITCHELL. Madam President, my understanding is that the Senator from Texas wishes to discuss a matter unrelated to this amendment, an amendment of his own, which he will discuss. Therefore, I ask unanimous consent that he be recognized for 5 minutes to discuss his amendment, and that upon the completion of his remarks, the Senate proceed to vote on the pending matter.

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

Mr. MITCHELL. I reserve the remainder of my time.

The PRESIDING OFFICER. The majority leader reserves his 4 minutes 40 seconds. The Senator from Texas is recognized.

Mr. GRAMM. Madam President, I thank the majority leader for allowing me to speak now.

It seems almost superfluous trying to talk about the underlying bill given the magnitude of the discussion just having gone on here. I thought of offering an amendment to deal with the implicit usury limit which is part of this bill. I am very concerned about it, because I think it represents bad public policy.

But I realize that at 9 o'clock at night, when we are getting ready to vote on an amendment regarding the Whitewater matter, few will be paying any attention to the underlying bill that is before us. So I thought, Madam President, that I would simply remind my colleagues of the usury limit provision in this bill, point out how unenlightened a policy this represents, and say to my colleagues that I am hopeful that when we go to conference with the House we will end up modifying or dropping these provisions.

I ask my colleagues to note the paradox, in that all over the world tonight, countries in Eastern Europe, the former Soviet Union, in Asia that have been dominated by Marxism for 30 years, are now repealing laws exactly like the bill that we are about to pass.

Under the provisions of subtitle B of title I of the bill that is before us, if interest rates on a loan that uses an underlying mortgage as collateral are above a certain level specified in this bill, a variety of restrictions are imposed on the lender. This is, in reality, a usury limit. We have debated usury limits for hundreds of years. In fact, St. Thomas Aquinas presented a clear explanation as to why we should not be in the business of trying to set interest rates by law and why, by doing that, we hurt the very people we are trying to help.

The bill before us, by imposing an implicit usury limit, is simply going to mean that what we are doing is not helping the people who will not be able to borrow at that rate. When we say that people cannot lend at certain interest rates without suffering all kinds of restrictions, then we take the profitability of that loan away. What we are doing is hurting people. People who could have obtained a loan at a higher interest rate will now be forced to go to pawnshops, they will be forced to borrow from their brother-in-law, they will be denied credit, they will be denied the ability to get access to capital that might have allowed them to start a business, that might have allowed them to go to trade school.

And so the bottom line is, we have an unenlightened policy before us in this bill that imposes by law a price control on interest rates and that, in doing so, hurts the very people that it is supposed to help.

You would think in 1994 that no such proposal could be given serious consideration by the Senate, that it would be laughable to consider it here, but it is clearly not so.

So, I am going to vote for the Whitewater resolution, but I am going to vote against the underlying bill because it is a bad bill. It represents policy which is rejected almost worldwide today. Only on the floor of the Senate are we still debating and voting on usury limits, to allow the Government to interfere with the ability of the market system to set interest rates.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator yields back his time.

The majority leader controls 4 minutes and 30 seconds.

Mr. MITCHELL. Madam President, we will now vote on this amendment. That will be the last rollcall vote unless some Senator now states that he or she will insist on a recorded vote on the underlying bill.

There has been no such request, and I would hope there will be none. That way Senators could vote on this resolution and depart. Therefore, there will be no vote on final passage. That will be by voice vote. This will be the last vote this evening. We will be in session tomorrow dealing with another bill.

So, Madam President, I now yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1547. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DOLE. I announce that the Senator from Wyoming [Mr. SIMPSON] and the Senator from South Carolina [Mr. THURMOND] are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. SIMPSON] and the Senator from South Carolina [Mr. THURMOND] would each vote yea.

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

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 62 Leg.]

YEAS—98

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

NOT VOTING—2

Simpson	Thurmond

So the amendment (No. 1547) was agreed to.

Mr. DOLE. Madam President, I move to reconsider the vote.

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. METZENBAUM. Madam President, I suggest the absence——

Mr. DOLE. If the Senator will withhold that request, while the managers are conferring, I wonder if I might speak.

The PRESIDING OFFICER. The Republican leader is recognized.

TWENTY-FIRST ANNIVERSARY OF SENATOR JOHN MCCAIN'S RELEASE AS A POW

Mr. DOLE. Madam President, I want to call to the attention of my colleagues that today is the 21st anniversary of the release of Senator JOHN MCCAIN from prison in Vietnam. JOHN MCCAIN is one of our real American heroes, and I know we are all proud of him and what he has done. I certainly salute JOHN MCCAIN, as I do at every opportunity. Our prayers were with him then, and they are with him now. I call that to the attention of my colleagues.

The PRESIDING OFFICER. Who seeks recognition?

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

COMMUNITY DEVELOPMENT BANKING AND FINANCIAL INSTITUTIONS ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 1548

Mr. METZENBAUM. Madam President, I send a sense-of-the-Senate amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM] proposes an amendment numbered 1548.

Mr. METZENBAUM. Madam 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 Committee Substitute insert the following:

It is the sense of the Senate that: No insurer shall enter into a transfer agreement or transfer a contract of insurance pursuant to a transfer agreement unless the transferring insurer has first provided or caused to be provided to each policyholder of the insurer affected by the agreement a notice of the intent of the insurer to transfer the contract of insurance held by such policyholder.

(b) FORM OF NOTICE.—The notice shall be sent by first-class mail, addressed to the last known address of the policyholder or to the address to which premium notices or other policy documents are sent or, with respect to home service business, by personal delivery with acknowledged receipt. A notice of intent to transfer shall also be sent to the transferring insurer's agent or broker of record on the affected policy.

(c) CONTENT OF NOTICE.—The notice required by subsection (a) shall state or provide—

(1) the date the intended transfer and novation of the contract of insurance of the policyholder is proposed to take place and become effective;

(2) the name, address, and telephone number of the transferring insurer and the assuming insurer under the proposed transfer agreement;

(3) that the transfer and novation of the insurance contract of the policyholder cannot take effect without the written consent of the policyholders except as provided in section 5 of this Act;

(4) the procedures and any time limitation for consenting to the transfer and novation;

(5) a summary informing the policyholder regarding any adverse effect that the policyholder might experience as a result of consenting to the transfer and novation;

(6) a statement that, without the written consent of the policyholder, the transferring insurer will remain as the insurance company of the policyholder or beneficiary, except as provided in section 5 of this Act;

(7) a statement that the assuming insurer is licensed to write the type of business being transferred in the State where the policyholder resides, or is otherwise authorized, under applicable law, to assume such business;

(8) the name, address, and telephone number of the person designated by the transferring insurer as the person for receiving the written consent of the policyholder affected by the proposed transfer and novation;

(9) the address and telephone number of the chief insurance regulatory official of the State in which the policyholder resides;

(10) financial data for the transferring insurer and the assuming insurer involved in the proposed transfer agreement, including—

(A)(i) the ratings, together with enough information to understand where the ratings fall within the range of rating categories of each rating agency, for the last 5 years, if available, or if not available for 5 years, for such lesser period as is available, from each nationally recognized insurance company rating organization that has rated the insurer, including an explanation of the meaning of each rating category of each rating organization;

(ii) if ratings are unavailable for any year of the 5-year period, a disclosure of this fact; and

(iii) a statement that any or all of the above insurance company rating organization reports may be obtained at no cost by writing or calling an address or phone number listed in the statement;

(B) a balance sheet as of December 31 for each of the 3 years immediately preceding the notice, if available, or for such lesser period as is available, and as of the date of the most recent quarterly statement;

(C) a copy of the Management's Discussion and Analysis that was filed as a supplement to the annual statement of the preceding year; and

(D) an explanation of the reason for the proposed transfer signed by the highest executive official of the transferring insurer and the assuming insurer;

(11) a statement setting forth the financial condition of the transferring insurer and of the assuming insurer under the proposed transfer agreement, and the effect the transaction will have on the financial condition of each such insurer;

(12) an opinion by a disinterested third-party expert, such as an actuary, finding that the transfer is fair and in the best interests of the policyholders affected by the transfer, and a statement that the report on which the opinion is based is available at no cost by writing or calling an address and phone number listed in the statement;

Mr. METZENBAUM. Madam President, it is rather late in the evening, I am aware, but there is a matter that has caused me great concern and is, in my opinion, one of the most audacious acts conducted by the insurance industry—not all of them, but a certain portion of them—where "John Jones" takes out a policy with company "X",

and he wakes up one day to find that company "X" has transferred his policy to company "Y," without giving him any notice, without asking for his consent.

There is no other industry in the country, no other business deal in the country that could be made in that manner, where you put your money in a bank, and then the bank transfers your deposits to another bank and says: Now you are doing business with another bank. And that bank may be far weaker. This is not a figment of my imagination. This is something that has occurred in this country, not once, but a number of times.

It is only fair to point out that the National Association of Insurance Commissioners has been looking at the problem, and they have come up with some model legislation. But realistically speaking, model legislation of the NAIC normally does not become law for many years after the suggestion is made by the commissioners themselves. Even so, the model legislation does not provide for adequate notice and consent to the individual involved.

I believe we ought to change the law in this respect. Senator BRYAN and I expect to introduce legislation to that effect and will do so at an appropriate time, probably the first of this coming week. But because I think it is necessary that the insurance industry be aware of the attitude of the U.S. Senate on this question of an insurance company transferring an insured's policy without the consent of the insured, I offer this sense-of-the-Senate amendment spelling out the notice that would be required, and the consent of the insured, before it could become effective.

I yield the floor.

Mr. RIEGLE. Madam President, we are prepared to accept the sense-of-the-Senate resolution.

I urge its adoption.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the amendment.

The amendment (No. 1548) was agreed to.

Mr. METZENBAUM. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. RIEGLE. Madam President, I now ask unanimous consent that the committee substitute be agreed to, the bill be read a third time, and the Banking Committee be discharged from further consideration of H.R. 3474, the House companion measure, and that the Senate then proceed to its immediate consideration; that all after the enacting clause be stricken and the text of S. 1275, as amended, be inserted in lieu thereof; that the bill be read the third time and the Senate proceed to vote on final passage of H.R. 3474; that upon the disposition of H.R. 3474, the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees, and that all of the above occur without intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3474) to reduce administrative requirements for insured depository institutions to the extent consistent with safe and sound banking practices to facilitate the establishment of community development financial institutions, and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. Under the previous order, all after the enacting clause is stricken, the text of S. 1275, as amended, is inserted in lieu thereof.

The clerk will read the bill for the third time.

The bill was read a third time.

Mr. FAIRCLOTH. Madam President, if a rollcall vote were held on H.R. 3474, I would have been recorded in the negative.

Mr. WALLOP. Madam President, if a rollcall vote were held on H.R. 3474, I would have been recorded in the negative.

The PRESIDING OFFICER. The question is on the passage of the bill, as amended.

So the bill (H.R. 3474) was passed.

(The text of the bill (H.R. 3474) as passed by the Senate will appear in a future edition of the RECORD.)

Mr. RIEGLE. Madam President, I move to reconsider the vote.

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RIEGLE. Madam President, I ask unanimous consent that upon disposition of H.R. 3474, S. 1275 be indefinitely postponed.

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

Mr. RIEGLE. Madam President, if I may, I want to just take a moment to thank my colleague, Senator D'AMATO, and thank the other members of the committee on both sides of the aisle for their hard work and cooperation in committee leading up to the bill today and then the work over the last 2 days to get this bill to final passage.

I also thank the staff on both sides for really an extraordinary work effort. They are here many of them—not all are here—there are others in other places. Wherever they are I want to thank them for the extraordinary amount of work that has gone into this all the time leading up through the Senate floor action and now final passage.

I say the same with respect to the minority staff. I think we have an exceptionally good working relationship on our committee. It has sort of been the hallmark of our committee, as the Presiding Officer knows, over the now 6 years that I have been chairman of the committee, and I think the work that we have been able to produce is a result of the kind of teamwork that we received from all Members and staff on both sides.

So I am grateful for that.

I think we passed a good bill here. I think it will help the country when finally enacted, coming back from the conference committee and put into written law and then fully implemented.

So I thank all involved and I am very grateful for that support.

With that, Madam President, I yield back the floor.

Mr. D'AMATO. Madam President, let me just take several seconds to commend the distinguished chairman of the committee, Senator RIEGLE, to commend his staff, and to commend the staff on the minority side for an outstanding job. So many Members have worked to bring this bill to a point where we are really, I think, on a threshold of accomplishing unusual things: "Securization" in the area of small business loans, making commercial loans hopefully more accessible, providing capital for the loans, and seeing to it that we have a sound flood insurance program.

None of this was accomplished with a great deal of ease. It was a lot of hard work, and I might say a very bipartisan effort.

So, may I start by again thanking the staff, both on the Republican side and on the Democratic side, and commending the chairman and all of our colleagues who participated in putting forth a bill that I believe is going to help put people to work.

I believe you are going to see a great deal of capital that otherwise would not be made available to the little people, small businesses, and entrepreneurs. They in turn will be able to put their expertise to use, move this country forward, and in the truest sense provide real jobs and job opportunities.

I just want to take this opportunity to thank the chairman again and all those who participated.

The PRESIDING OFFICER. The Senator from Kentucky, the majority whip.

MORNING BUSINESS

Mr. FORD. Madam President, I ask unanimous consent that there now be period for morning business with Senators allowed to speak therein for up to 5 minutes each.

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

THE JUDICIARY COMMITTEE'S INQUIRY INTO PROFESSIONAL SPORTS

Mr. BIDEN. Mr. President, on Monday, March 21, 1994, Senator METZENBAUM will open the Judiciary Committee's broad inquiry into professional sports when he convenes a field hearing in Tampa Bay, FL. Professional sports leagues in the United States are accorded special treatment—a treatment that is not necessarily undeserved. Spectator sports have provided fans with entertainment for the family, role models for the children, and symbols around which to rally civic spirit. I know from my own personal experience with the Wilmington Blue Rocks Single-A baseball team that cities and towns with a sports team are all the wealthier for having a place to come together as a community to pull for the home team. In exchange, the fans not only have paid admission to attend the games, but have provided various other financial and legal incentives not normally available to other businesses.

Regrettably, Mr. President, the owners and players of professional sports today have forgotten that in return for the special status they have been accorded, they have obligations to their communities that are more than making a profit or signing a multi-million dollar contract. The fans are owed more because the fans have been asked to do more.

"Fans as taxpayers" provide their financial support for the often massive infrastructure that is needed by a professional team—which can include the construction and maintenance of a stadium, parking lots, roads, sewers, utilities, and public transportation.

"Fans as voters" provide exemptions and exceptions in their laws, municipal regulations and zoning requirements that relate to television contract rights, neighborhood curfews, and variances.

"Fans as fans," after providing support as taxpayers and voters, are required to pay more for parking, pay more for tickets, pay more for hot dogs and pretzels, pay more to watch their favorite team on pay television, and even then, after "paying," are sometimes faced with threats by their team that it will move to another city.

Mr. President, clearly, the present state of affairs must change. The question is how. Senator METZENBAUM's focus in the past has been baseball's antitrust exemption. He introduced a bill a year ago that would repeal major league baseball's antitrust exemption. Last fall, I, along with many of the other members of the Judiciary Committee, asked him to conduct a broader examination of professional sports. The complaints often directed at major league baseball's antitrust exemption related to stadium financing, league expansion, franchise movement, television rights and salaries have also occurred or presently exist in professional sports that do not enjoy an antitrust exemption.

The Judiciary Committee's examination of professional sports will proceed along two tracks to determine the proper extent of congressional involvement. First, the committee needs to determine the role Congress should take to deal with the complaints from the public involving stadium financing, broadcasting rights, the move to pay television, and owner and player conduct. Conflicts in these areas have raised issues as to the "public mindedness" and responsibilities of professional sports leagues and teams to local communities. Second, the committee needs to consider a set of graduated steps—other than simply eliminating baseball's antitrust exemption—that Congress might take to guarantee that all professional sports meet their obligations to fans and taxpayers.

Because Senator METZENBAUM's hearing will take place during major league baseball's spring training, I have no doubt that ample attention will be given to the issues involving the antitrust exemption and the recent restructuring of the still vacant commissioner's office. As I pointed out last fall, I certainly do not dispute that major league baseball receives special treatment under the antitrust laws, and I think the assertion of some people, including that of former Commissioner Fay Vincent from the September 26, 1993, New York Times, that "baseball deserves its immunity from the antitrust laws" should be reconsidered in light of recent events. These events suggest that the Judiciary Committee examine the legal and financial advantages bestowed upon baseball and other professional sports by the citizens of this country.

The failure of the owners to hire a commissioner is disappointing. In the past, an independent baseball commissioner has maintained the health and integrity of the sport by balancing the interests of the fans with the concerns of the players and the owners. The owners' omission is exacerbated by the fact that a commissioner, the fans' representative, will not be available to help resolve the remaining and potentially contentious labor issues over which the Major League Baseball Players Association has threatened a strike later this summer.

These issues are important and I look forward to reviewing the hearing record. As the committee carries out this examination, the focus must be on the issues that affect the fans. I am specifically concerned about the potential effect the proposed repeal of baseball's antitrust exemption on minor league baseball, and issues that exist regardless of the antitrust exemption related to league expansion and franchise movement, taxpayer financed stadiums, television rights, and salary caps, revenue sharing and player salaries.

The dependence of minor league baseball on major league baseball's antitrust exemption needs to be ascertained. Minor league teams exist in more than 150 communities across the country, including Wilmington, DE, the home of the Blue Rocks. As many of us are aware, on March 3, 1994, the National Association of Professional Baseball Leagues held a "Congressional Education Day" that brought representatives from more than 100 minor league baseball teams to Capitol Hill offices. These minor league teams oppose repealing the exemption because they contend that most minor league clubs do not have the financial resources to identify players and negotiate salaries. Presently, major league baseball provides the players and pays all the salaries for minor league clubs, in addition to paying expenses for uniforms, equipment, and travel. The importance of the minor leagues to the more than 30 million fans that attended games last year is undoubted. Before taking steps to repeal the exemption, the Judiciary Committee needs to explore the historical relationship between major league baseball and the minor leagues to determine whether alternatives exist to support minor league baseball from the largest to the smallest communities.

Issues with regard to league expansion and franchise movement exist in all professional sports leagues. Increasingly, stadium finacing and revenues have been tied to whether a league will grant a city a new franchise or whether an existing franchise will remain. Because this problem exists in all sports, it is not necessarily tied to the antitrust exemption.

Recently, major league baseball announced the possibility of expanding the league by creating two additional teams. No doubt, the announcement will inspire a flury of activity and expenditures on the part of a number of cities in order to attract a team. Such activity is not unique to baseball, however, as recently evidenced by the bidding for two new NFL franchises on the part of Memphis, St. Louis, Charlotte, Baltimore, and Jacksonville. In order to gain its franchise, Jacksonville committed to a $121 million renovation of the Gator Bowl. St. Louis has started construction of a $258 million domed stadium in the belief it will get an NFL franchise eventually. All of the cities spent significant amounts of money merely to be considered as a viable location.

Recently, many football and baseball teams have threatened to leave for other cities unless the city builds a new stadium or provides favorable ar-

rangements on concessions such as parking and sky boxes. Locally, Jack Kent Cooke, owner of the Washington Redskins, is in the process of trying to move his team out of Washington if he can find a municipal or State government to finance a stadium. The city of Buffalo recently announced it will spend $23 million on the Bills' stadium—$5 million on the largest scoreboard in the country and an undisclosed amount on new private suites. The Bills organization indicated that any needed additional revenue would be covered by increased ticket prices. The Judiciary Committee should consider whether the taxpayers' return on these stadium improvements are comparable to their investments.

Purportedly, there is a movement to pay television among the professional sports leagues. The recent television contract major league baseball signed has raised concerns because it could mean that playoffs are not on network television for the first time ever. Certainly, on step the committee should take is a review of the law that provides a limited antitrust exemption for all professional sports leagues to negotiate television contracts. The law was passed in 1966 and has not been amended since that time even though telecasting has changed radically. The original purpose and foundation for the law should be examined in light of the expanded use and availability of cable television and pay per-view.

Normally, Congress would not take an interest in the salaries or financial arrangements of a private business. In the case of professional sports, however, the many instances in which municipalities and States provides funds for facilities create a public interest in the fiscal health of a team. The committee has an obligation at least to highlight the different options available to assure that teams remain viable and community money is not wasted. The owners of major league baseball have recommended a salary cap to be imposed on each team. Presently, the National Basketball Association has a salary cap, and the National Football League will have one in place next season.

In addition, the ability of teams in small media markets to exist and remain competitive becomes less certain as team salaries rise. A city's significant investment in stadiam infrastructure is threatened when a team fails. Baseball has a revenue sharing proposal under negotiation to attempt a more equitable distribution of money among teams from large and small media markets. The commitee needs to consider whether measures such as a salary cap and revenue sharing will help to stabilize clubs financially in small media markets and protect the investment of the local community.

Mr. President, the Judiciary Committee has undertaken a bold examination as part of its obligation to address the problems facing sports fans. I look forward to reviewing the proceedings of Senator METZENBAUM'S next hearing and those in the future. I am confident that in the end, the committee will develop a comprehensive and effective approach to restore the importance of the fan in the scheme of professional sports.

IN SUPPORT OF DEVAL PATRICK TO HEAD THE CIVIL RIGHTS DIVISION OF THE JUSTICE DEPARTMENT

Mr. DECONCINI, Mr. President, I rise in strong support of the President's nomination of Deval Patrick to head the Civil Rights Division of the Justice Department. Mr. Patrick is an accomplished lawyer, with experience in both civil rights litigation and private practice. Throughout his legal career, he has demonstrated a passionate commitment to civil rights.

His personal and professional background is impressive. Mr. Patrick hails from an impoverished neighborhood on the south side of Chicago. From there, he went to Harvard College where he graduated cum laude. After graduation he spent a year in the Sudan and Nigeria as a Rockefeller fellow. Upon completion of his fellowship he returned to Harvard for law school, where he had the great distinction of winning the Ames Moot Court Competition.

After earning his law degree, Deval Patrick clerked for Judge Reinhardt on the Ninth Circuit Court of Appeals. He then joined the NAACP Legal Defense and Educational Fund as a staff attorney. In this position, he defended death row inmates and litigated many voting rights cases.

Even after leaving the NAACP Legal Defense and Educational Fund, Mr. Patrick remained active in civil rights issues. He has devoted approximately 30 percent of his time since joining the Boston law firm of Hill and Barlow to pro bono work, most of which were civil rights cases. He obtained a landmark settlement on behalf of a large number of African-American borrowers who were victims of a lending scam. He also drafted an amicus brief in a successful Supreme Court challenge to the racially motivated use of preemptory challenges in a civil case.

There is a need in America and in the Justice Department for lawyers like Mr. Patrick. Last year, the civil rights division filed a record number of cases and launched a record number of investigations. Under the leadership of Attorney General Janet Reno and Deval Patrick, I am certain the Civil Rights Division will continue to eradicate discrimination in America. In addition, I believe Mr. Patrick serves as an important role model to our young people today. He has dedicated his life and committed his work and talents to the struggle of overcoming racism and preserving he basic concepts of fair play and due process in our society.

Mr. Patrick's background clearly demonstrates his commitment to civil rights. I am confident that Mr. Patrick will continue in the struggle to uphold our freedoms by protecting our civil rights. He has my strongest support for this nomination, and I also urge my colleagues to lend their support to this outstanding candidate.

VERONA KNISELY: DOYENNE OF CHARLESTON VOLUNTARISM

Mr. HOLLINGS. Mr. President, next week the family and friends of Verona Knisely will gather to celebrate her 90th birthday. Of course, this will be much more than a birthday party. It will be a celebration of a life exceptionally well lived, a life dedicated to voluntarism and community service.

Mr. President, to outsiders, the city of Charleston is defined by its culture and architecture. But to us native Charlestonians, the city is defined first and foremost by the special people who live there. Verona Knisely is one of those special people.

Verona established herself as an environmental activist long before most Americans even knew what environmentalist meant. She dedicated herself first to the cause of cleaning up Charleston's waterways, and later became a leader in the fight to reduce pollution in the city's air. Concurrent with her environmental work, she has been a leader in the League of Women Voters, in the field of mental health, in the arts and much more. In recognition of decades of achievement, in 1990 the Trident Community Foundation in Charleston awarded her the prestigious Malcolm D. Haven Award for outstanding voluntarism.

Mr. President, Verona Knisely is proof positive that you don't have to be on the public payroll in order to be a public servant. She has served the Charleston community with dedication and selflessness. I salute Verona, and congratulate her on this latest milestone.

JAN CONKLIN: 12 YEARS OF DEDICATED SERVICE

Mr. HOLLINGS. Mr. President, most Members of the Senate are blessed with a core group of loyal, dedicated aides—staff members who have been with them for years and on whom they rely for consistently high-quality performance. Jan Conklin of my Charleston-based staff is one such aide.

Mr. President, Jan performs a wide range of administrative duties in my Charleston office. Her specialty is the thoughtfully written letter and the specially crafted personal note to constituents. No one surpasses Jan in her knowledge of the people in Charles-

ton—their families, their work, how to locate them, and so on. By her fellow staffers and by the many Charlestonians she assists on a day-to-day basis, Jan is respected for her unfailing kindness and courtesy. Jan's dedication to her office duties is surpassed only by her dedication to Otis, her husband, as well as her three grown children and four grandchildren.

Mr. President, I appreciate all that Jan has done for me down through the years. Tomorrow will be her 12th anniversary with my staff. I salute Jan, and wish her all the best in her next 12 years.

NATIONAL COMPETITIVENESS ACT OF 1994

The text of the bill H.R. 820, entitled "An Act to amend the Stevenson-Wydler Technology Innovation Act of 1980 to enhance manufacturing technology development and transfer, to authorize appropriations for the Technology Administration of the Department of Commerce, including the National Institute of Standards and Technology, and for other purposes," as passed by the Senate on March 16, 1994, is as follows:

H.R. 820

TITLE I—GENERAL PROVISIONS

SEC. 101. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "National Competitiveness Act of 1994".

(b) TABLE OF CONTENTS.—

TITLE I—GENERAL PROVISIONS

Sec. 101. Short title and table of contents.
Sec. 102. Findings.
Sec. 103. Purposes.
Sec. 104. Definitions.
Sec. 105. Overall authorization limit.

TITLE II—MANUFACTURING

Sec. 201. Short title.

SUBTITLE A—MANUFACTURING TECHNOLOGY AND EXTENSION

Sec. 211. Manufacturing amendments to the Stevenson-Wydler Technology Innovation Act.
Sec. 212. Manufacturing amendments to the National Institute of Standards and Technology Act.
Sec. 213. Additional amendments to the Stevenson-Wydler Technology Innovation Act.
Sec. 214. Manufacturing technology centers.
Sec. 215. State Technology Extension Program.
Sec. 216. Report on options for accelerating the adoption of new manufacturing equipment.

SUBTITLE B—NATIONAL SCIENCE FOUNDATION MANUFACTURING PROGRAMS

Sec. 221. National Science Foundation manufacturing programs.

TITLE III—CRITICAL TECHNOLOGIES

Sec. 301. Development of plan for the Advanced Technology Program.
Sec. 302. Large-scale research and development consortia.
Sec. 303. Technical amendments.
Sec. 304. Technology monitoring and competitiveness assessment.
Sec. 305. Recoupment.
Sec. 306. Technology financing pilot program.
Sec. 307. Reports on foreign industrial espionage.

TITLE IV—ADDITIONAL COMMERCE DEPARTMENT PROVISIONS

Sec. 401. Department of Commerce Technology Advisory Board.
Sec. 402. International standardization.
Sec. 403. Malcolm Baldrige award amendments.
Sec. 404. Cooperative research and development agreements.
Sec. 405. Program evaluations.
Sec. 406. Study of semiconductor lithography technologies.
Sec. 407. Clearinghouse on State and Local Initiatives.
Sec. 408. Wind engineering research program.
Sec. 409. Environmentally sensitive construction technologies.
Sec. 410. American workforce quality.
Sec. 411. Severability.
Sec. 412. Use of domestic products.
Sec. 413. Personnel.

TITLE V—AUTHORIZATIONS OF APPROPRIATIONS

Sec. 501. Technology Administration.
Sec. 502. National Institute of Standards and Technology.
Sec. 503. Additional activities of the Technology Administration.
Sec. 504. National Science Foundation.
Sec. 505. Availability of appropriations.

TITLE VI—INFORMATION TECHNOLOGY APPLICATIONS

Sec. 601. Short title.
Sec. 602. Findings and purpose.
Sec. 603. Information technology applications.
Sec. 604. Applications for education and libraries.
Sec. 605. Applications for manufacturing and information.
Sec. 606. Applications in energy and other areas.
Sec. 607. Applications for health care; access to networks.
Sec. 608. High-Performance Computing and Applications Advisory Committee.
Sec. 609. National Research and Education Network Program.
Sec. 610. Support for computer education programs.
Sec. 611. Support for State-based digital libraries.
Sec. 612. Support for computing activities at tribal colleges.
Sec. 613. Department of Education support for computer education programs.

TITLE VII—FASTENER QUALITY ACT AMENDMENTS

Sec. 701. Fastener Quality Act amendments.

TITLE VIII—PRIVATE CARRIAGE OF URGENT LETTERS

Sec. 801. Private carriage of urgent letters.

TITLE IX—REGULATORY FLEXIBILITY ANALYSIS

Sec. 901. Definitions.
Sec. 902. Initial regulatory flexibility analysis.
Sec. 903. Final regulatory flexibility analysis.
Sec. 904. Judicial review.

TITLE X—COUNTERINTELLIGENCE

Sec. 1001. Short title.
Sec. 1002. Amendment to the National Security Act of 1947.
Sec. 1003. Protection of cryptographic information.
Sec. 1004. Amendment to Right to Financial Privacy Act.
Sec. 1005. New criminal offense for the possession of espionage devices.
Sec. 1006. New offense for sale or transfer to foreign governments documents and other materials designated as top secret.
Sec. 1007. Lesser criminal offense for the removal of top secret documents by government employees and contractors.
Sec. 1008. Jurisdiction of United States courts to try cases involving espionage outside the United States.
Sec. 1009. Expansion of existing statute regarding forfeiture of collateral profits of crime to additional espionage offenses.
Sec. 1010. Denial of annuities or retired pay to persons convicted of espionage in foreign courts involving United States information.
Sec. 1011. Authorizing the FBI to obtain consumer reports on persons believed to be agents of foreign powers.
Sec. 1012. To provide for rewards for information concerning espionage.
Sec. 1013. To provide a court order process for physical searches undertaken for foreign intelligence purposes.

TITLE XI—LOCAL EMPOWERMENT AND FLEXIBILITY

Sec. 1101. Short title.
Sec. 1102. Findings.
Sec. 1103. Purposes.
Sec. 1104. Definitions.
Sec. 1105. Demonstration program.
Sec. 1106. Provision of Federal assistance in accordance with approved local flexibility plan.
Sec. 1107. Application for approval of local flexibility plan.
Sec. 1108. Review and approval of local flexibility plans.
Sec. 1109. Implementation of approved local flexibility plans; waiver of requirements.
Sec. 1110. Community advisory committees.
Sec. 1111. Technical and other assistance.
Sec. 1112. Community enterprise board.
Sec. 1113. Termination and repeal; report.

TITLE XII—HERO ACT

Sec. 1201. Short title.
Sec. 1202. Findings.
Sec. 1203. Citations.

TITLE XIII—MISCELLANEOUS PROVISIONS

Sec. 1301. Economic and Employment Impact Act.
Sec. 1302. Urban university business initiative grants.
Sec. 1303. Prohibition on solicitation of campaign contributions by persons awarding contracts.

SEC. 102. FINDINGS.

Congress finds and declares the following:

(1) In an increasingly competitive world economy, the companies and nations which lead in the rapid development, adoption, and application of new technologies, and in the low-priced, high-quality manufacture of products based on those technologies, will lead in economic growth, employment, and high living standards.

(2) While the United States remains the world leader in science and invention, it has not done as well as it should in manufacturing new products based on these innovations. This lag and the unprecedented competitive challenge that the Nation has faced from abroad have contributed to a drop in real wages, living standards, and employment opportunities.

(3) There is general agreement on which fields of technology are critical for economic competitiveness through the first decade of the next century, but the United States Government must pursue a comprehensive strategy to ensure that the appropriate research, development, and applications activities and other reforms occur so these technologies are readily available to United States manufacturers for incorporation into products made in the United States.

(4) Maintaining a highly competitive manufacturing base in the United States is essential for economic prosperity and national welfare and requires continuous development and adoption of advanced manufacturing technologies that will enable United States manufacturers to develop innovative products rapidly and manufacture goods of the highest quality at competitive prices.

(5) While the private sector must take the lead in the development, application, and manufacture of new technologies, the Federal Government should—

(A) assist industry in the development of high-risk, long-term precommercial technologies which promise large economic benefits for the Nation;

(B) support industry-led efforts to develop and refine advanced manufacturing technologies, including technologies which improve productivity and quality and which build upon and enhance employee skills;

(C) work with States, the private sector, worker organizations, and technical and professional societies to help small- and medium-sized manufacturers throughout the Nation to adopt best current manufacturing technologies and practices, to improve worker skills, to establish high-performance work organizations, and to prepare, as appropriate, to adopt the advanced computer-controlled manufacturing technologies of the twenty-first century; and

(D) cooperate with industry and academia to help create an advanced information infrastructure for the United States.

(6) In working with industry to promote the technological leadership and economic growth of the United States, the Federal Government also has a responsibility to consult with business and labor leaders on industry's long-term technological and skill needs, to monitor technological trends, production process trends, and technology targeting efforts in other nations, and generally to ensure that Federal technology and industrial modernization programs help United States industry to remain competitive and create good domestic jobs.

(7) Technology-based products of the twenty-first century should be developed incorporating the values of sustainable development, including low material use, safety, recyclability, and minimal pollution.

(8) The Department of Commerce, and particularly its Technology Administration and National Institute of Standards and Technology, can effectively assist industry to speed the development and utilization of new technologies, improve and modernize manufacturing, adopt new methods of production, and ensure a growing and healthy national industrial base and good manufacturing jobs. To promote the long-term economic growth of the Nation, these Department of Commerce programs should be strengthened and expanded.

SEC. 103. PURPOSES.

The purposes of this Act are to—

(1) strengthen and expand the ability of Federal technology programs, particularly those of the Department of Commerce, to support industry-led and State-supported efforts to improve the technological capabilities, manufacturing performance, information infrastructure, and employment opportunities of the United States;

(2) promote and facilitate, particularly through the Advanced Technology Program of the Department of Commerce, the creation, development, and adoption of technologies that will contribute significantly to United States economic competitiveness, employment, high quality jobs, and prosperity;

(3) develop a nationwide network of sources of technological and industrial modernization advice for manufacturers, particularly small and medium-sized firms, and provide high quality, current information to that network;

(4) encourage cooperation among Federal departments and agencies to help companies, managers, and workers, in a coordinated fashion, to take full advantage of advanced manufacturing technologies, to improve productivity and quality, and adopt advanced workplace practices which successfully integrate technology and employees;

(5) stimulate the flow of capital to business concerns engaged principally in development or utilization of critical technologies and other advanced manufacturing technologies;

(6) ensure the widest possible application of high-performance computing and high-speed networking and aid United States industry to develop an advanced national information infrastructure; and

(7) enhance and expand the core programs of the National Institute of Standards and Technology.

SEC. 104. DEFINITIONS.

For purposes of this Act—

(1) the terms "advanced manufacturing technology", "advanced workplace practices", "modern technology", and "sustainable economic growth" have the meanings given such terms, respectively, in section 4 of the Stevenson-Wydler Technology Innovation Act of 1980, as amended by section 211(b) of this Act;

(2) the term "critical technologies" means technologies identified as critical technologies pursuant to section 603(d) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6683(d));

(3) the term "Director" means the Director of the Institute;

(4) the term "Institute" means the National Institute of Standards and Technology;

(5) the term "Secretary" means the Secretary of Commerce;

(6) the term "small business" has the meaning given such term in the Small Business Act;

(7) the term "source reduction" has the meaning given that term in section 6603 of the Pollution Prevention Act of 1990 (42 U.S.C. 13102);

(8) the term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or any other territory or possession of the United States;

(9) the term "Under Secretary" means the Under Secretary of Commerce for Technology; and

(10) the term "United States" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States.

SEC. 105. OVERALL AUTHORIZATION LIMIT.

Notwithstanding any other provision of this Act, the total amount authorized to be appropriated under this Act shall not exceed $1,900,000,000.

TITLE II—MANUFACTURING

SEC. 201. SHORT TITLE.

This title may be cited as the "Manufacturing Technology and Extension Act of 1994".

Subtitle A—Manufacturing Technology and Extension

SEC. 211. MANUFACTURING AMENDMENTS TO THE STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT.

(a) AMENDMENTS.—The Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.), as amended by section 213 of this Act, is further amended by adding after section 101 (as so redesignated by section 213 of this Act) the following new sections:

"SEC. 102. MANUFACTURING TECHNOLOGY.

"(a) STATEMENT OF POLICY.—Congress declares that it is the policy of the United States that—

"(1) Federal agencies, particularly the Department of Commerce, shall work with manufacturers in the United States and labor to ensure that within 10 years of the date of enactment of the National Competitiveness Act of 1994 the United States is second to no other nation in the development, deployment, and use of advanced manufacturing technologies;

"(2) all the major Federal research and development agencies shall place a high priority on the development and deployment of skill-based and advanced manufacturing technologies, and shall work closely with manufacturers in the United States and labor and with the Nation's universities to develop and test those technologies; and

"(3) since the development of new skills in the existing and entry workforce, and the development of new organizational and managerial approaches, are integral parts of successfully deploying advanced manufacturing technologies and related technologies, advanced workplace practices should be developed and deployed simultaneously and in a coordinated fashion with the development and deployment of advanced manufacturing technologies.

"(b) ROLE OF THE DEPARTMENT OF COMMERCE.—The Department of Commerce, consistent with the policy declared in subsection (a), shall have primary responsibility in the Federal Government for commercial and industrial civilian technology and shall—

"(1) through the activities of the Technology Administration, the Institute's laboratories, and the Advanced Technology Program created under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n), work with manufacturers in the United States and labor and, as appropriate, with other Federal departments and agencies to help develop new generic advanced manufacturing technologies, including technologies which build upon and enhance employee skills and technologies which facilitate flexibility, agility, and electronic integration in manufacturing enterprises;

"(2) through the Manufacturing Extension Partnership established under section 24 of the National Institute of Standards and Technology Act and through other activities of the Department, assist the States and the private sector to help manufacturers in the United States, especially small and medium-sized manufacturing enterprises, to adopt modern technologies and advanced workplace practices and, as appropriate, advanced manufacturing technologies and equipment;

"(3) work with the private sector, other Federal departments and agencies, State and local governments, and educational institutions to—

"(A) help develop advanced workplace practices, improved supplier-customer relations, manufacturing modernization and investment justification strategies, and other steps which would accelerate the development, deployment, and use of advanced manufacturing technologies by United States companies; and

"(B) evaluate foreign programs to modernize manufacturing;

"(4) have primary responsibility in the Federal Government in working with industry and labor and the States to develop advanced manufacturing technologies and to promote and assist the adoption and use of modern technologies, advanced manufacturing technologies, and management techniques throughout the United States; and

"(5) through the Under Secretary, develop measurements and coordinate with appropriate Federal agencies to ensure that Federal research and development expenditures are linked to the economic needs of industry and the promotion of economic growth.

"SEC. 103. MANUFACTURING ADVISORY COMMITTEE.

"(a) ESTABLISHMENT.—Subject to subsection (d), the Secretary shall establish a Manufacturing Advisory Committee (in this section referred to as the 'Committee'), which shall be chaired by the Secretary and which shall provide advice to the Secretary and, as appropriate, to other Federal officials.

"(b) FUNCTIONS.—The Committee shall—

"(1) collect and analyze information on the range of factors which determine the success of United States-based manufacturing industries, and particularly factors regarding the development of advanced manufacturing technologies, the deployment of modern technologies, and the application of advanced workplace practices;

"(2) identify areas where appropriate cooperation between the Federal Government and industry and labor, including Government support for industry-led joint research and development ventures and for manufacturing extension activities, would enhance United States industrial competitiveness, and provide advice and guidance for such cooperative efforts;

"(3) provide guidance on what Federal policies and practices are necessary to strengthen United States-based manufacturing, particularly Federal policies and practices regarding research budgets, interagency coordination and initiatives, and technology transfer; and

"(4) generally develop recommendations for guiding Federal agency and interagency activities related to United States-based manufacturing.

"(c) MEMBERSHIP AND PROCEDURES.—(1) The Committee shall be composed of 16 members, of whom—

"(A) 6 members shall be the Secretary, the Director of the Office of Science and Technology Policy, the Secretary of Defense, the Secretary of Energy, the Secretary of Labor, and the Director of the National Science Foundation, or their designees; and

"(B) 10 members shall, within 120 days after the date of enactment of the National Competitiveness Act of 1994, be appointed by the Secretary from the private manufacturing industry, worker organizations, technical and professional societies, State technology agencies, and academia.

At least two of the members appointed under subparagraph (B) shall be from small business.

"(2) The Secretary shall call the first meeting of the Committee within 30 days after the appointment of members is completed.

"(3) The Committee may use such personnel detailed from Federal agencies as may be necessary to enable it to perform its functions.

"(4) Nine members of the Committee shall constitute a quorum for the transaction of business.

"(5) Members of the Committee, other than full-time employees of the Federal Government, while attending meetings of the Committee or otherwise performing duties of the Committee while away from their homes or regular places of business, shall be allowed travel expenses in accordance with subchapter I of chapter 57 of title 5, United States Code.

"(6) The Committee, as appropriate, shall work with the Department of Commerce Technology Advisory Board and with other appropriate Federal advisory mechanisms to ensure integrated Federal-private consideration of technology and manufacturing policies and programs.

"(d) SECRETARIAL DISCRETION.—Notwithstanding any other provision of this section, the Secretary shall have the discretion to decide whether to establish the Committee or create a more cost-effective way to achieve the goal of closer cooperation with industry. If the Secretary exercises such discretion and establishes an alternative mechanism, the Under Secretary shall make an effort to ensure the participation of socially and economically disadvantaged individuals (within the meaning of section 8(a) (5) and (6) of the Small Business Act, and including women) in the alternative mechanism.".

(b) ADDITIONAL DEFINITIONS.—Section 4 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703) is amended by adding at the end the following new paragraphs:

"(14) 'Advanced manufacturing technology' means—

"(A) numerically-controlled machine tools, robots, automated process control equipment, computerized flexible manufacturing systems, associated computer software, and other technology for improving manufacturing and industrial production of goods, including biotechnology products, which advance the state-of-the-art; or

"(B) novel manufacturing techniques and processes not previously generally available that improve manufacturing quality, productivity, and practices, including engineering design, quality assurance, concurrent engineering, continuous process production technology, inventory management, upgraded worker skills, communications with customers and suppliers, and promotion of sustainable economic growth.

"(15) 'Modern technology' means the best available proven technology, techniques, and processes appropriate to enhancing the productivity of manufacturers or to promoting sustainable economic growth.

"(16) 'Advanced workplace practices' means innovations in work organization and performance, including high-performance workplace systems, flexible production techniques, quality programs, continuous improvement, concurrent engineering, close relations between suppliers and customers, widely diffused decision-making and work teams, and effective integration of production technology, worker skills and training, and workplace organization.

"(17) 'Sustainable economic growth' means economic growth that enhances the national quality of life and preserves environmental integrity.".

SEC. 212. MANUFACTURING AMENDMENTS TO THE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY ACT.

(a) NATIONAL QUALITY LABORATORY; MANUFACTURING EXTENSION PARTNERSHIP.—The National Institute of Standards and Technology Act (15 U.S.C. 271 et seq.) is amended—

(1) by redesignating sections 29 through 31 as sections 31 through 33, respectively;

(2) by redesignating sections 23 and 24 as sections 29 and 30, respectively; and

(3) by inserting after section 22 the following new sections:

"NATIONAL QUALITY LABORATORY

"SEC. 23. A National Quality Laboratory is established within the Institute, the purpose of which is to perform research and outreach activities to assist private sector quality efforts and to serve as a mechanism by which companies in the United States, universities and other interested parties, and the Institute can work together to advance quality management programs and to share and, as appropriate, develop manufacturing best practices.

"MANUFACTURING EXTENSION PARTNERSHIP

"SEC. 24. (a) There is established within the Institute a Manufacturing Extension Partnership (in this section referred to as the 'Partnership'). The Secretary, acting through the Under Secretary and the Director, shall implement and coordinate the Partnership in accordance with the initial and 5-year plans prepared under subsection (h). The purpose of the Partnership is to link electronically and strengthen the Nation's manufacturing extension centers and activities in order to assist manufacturers in the United States, especially small- and medium-sized companies, to expand and accelerate the use of modern technologies, and to accelerate the development and use of advanced manufacturing technologies and advanced workplace practices.

"(b) The Partnership shall be a cooperative effort of the Department of Commerce, the States, manufacturers in the United States, labor, nonprofit organizations, and, as appropriate, other Federal agencies to provide a national system of manufacturing extension centers and technical services to United States companies, particularly small- and medium-sized manufacturers. The Partnership shall include—

"(1) Manufacturing Outreach Centers, as authorized under subsection (c);

"(2) Regional Centers for the Transfer of Manufacturing Technology and Local Manufacturing Offices, as established under section 25, and the State Technology Extension Program, as established under section 26;

"(3) the outreach network provided for under subsection (d) and the clearinghouse system developed under subsection (e); and

"(4) such technology and manufacturing extension centers supported by other Federal departments and agencies, States, industry, and nonprofit organizations as the Secretary considers appropriate for inclusion in the Partnership.

"(c)(1) Government and private sector organizations, actively engaged in technology or manufacturing extension activities, may apply to the Secretary to be designated as Manufacturing Outreach Centers. Eligible organizations may include Federal, State, and local government agencies, their extension programs, and their laboratories; small business development centers; and appropriate programs run by professional and technical societies, worker organizations, industrial organizations, for-profit or nonprofit organizations, community development organizations, State universities and other universities, community colleges, and technical schools and colleges, including, where appropriate, vendor-supported demonstrations of production applications.

"(2) The purpose of such Manufacturing Outreach Centers shall be to—

"(A) disseminate technical and information services to manufacturers in the United States, particularly small- and medium-sized companies; and

"(B) strengthen direct assistance to small- and medium-sized manufacturers in the United States to expand and accelerate the use of modern technologies and advanced workplace practices.

"(3) The Secretary shall establish terms and conditions of participation in a Manufacturing Outreach Center, including qualifications of start-up programs as Manufacturing Outreach Centers, and may provide financial assistance, on a cost-shared basis and through competitive, merit-based review processes, to nonprofit or government participants throughout the United States to enable them to establish a Manufacturing Outreach Center.

"(4) Any Regional Center for the Transfer of Manufacturing Technology may apply to the Secretary to establish a Manufacturing Outreach Center, managed by or in cooperation with such Regional Center, if the Manufacturing Outreach Center would be located outside and would primarily serve an area outside the effective service area of such Regional Center. Funding for the establishment and management of such Manufacturing Outreach Center may be awarded to such Regional Center under this subsection, notwithstanding the restrictions of paragraph (6).

"(5) If a State plan for technology extension exists in a State where an applicant for financial assistance under this subsection is operating or plans to operate, the applicant shall demonstrate in its application that its proposal is compatible with such State plan.

"(6) If a Manufacturing Outreach Center is in or near a State which has a Regional Center for the Transfer of Manufacturing Technology, the Director shall, as appropriate, encourage the Manufacturing Outreach Center to cooperate with the Regional Center in coordinating its proposals and ongoing programs to serve manufacturers in the region. Manufacturing Outreach Centers may not concurrently be designated as Regional Centers for the Transfer of Manufacturing Technology under section 25.

"(7) Financial assistance may be awarded under this subsection for an initial period not to exceed 3 years and may, subject to successful evaluation by the Institute, be renewed for additional periods, not to exceed 3 years each. Such assistance may not at any time exceed 50 percent of the operating costs and other costs of the Manufacturing Outreach Center, as defined by regulation.

"(d)(1) The Department of Commerce shall provide for an instantaneous, interactive electronic communications network (in this section referred to as the 'outreach network') to serve the Partnership, to facilitate effective and efficient interaction within it, and to permit the collection and dissemination in electronic form, in a timely and accurate manner, of information described in subsection (e). The outreach network shall, wherever practicable, make use of existing public and private computer networks, data bases, and electronic bulletin boards. The design, configuration, acquisition plan, and operating policies, including user fees and appropriate electronic access for public and private information suppliers and users, of the outreach network shall be included in the 5-year plan prepared under subsection (h)(2).

"(2) Except as provided in this section, the outreach network established under paragraph (1) shall be designed and configured in a manner that will enable interoperability with networks and technologies developed under the National High-Performance Computing Program described in section 101 of the High-Performance Computing Act of 1991 (15 U.S.C. 5511). The Secretary shall also, as appropriate, coordinate activities under this subsection with the relevant activities of other Federal agencies, particularly the agile manufacturing/enterprise integration activities of the Department of Defense.

"(e)(1) The Secretary, acting through the Under Secretary, shall develop a clearinghouse system, using appropriate components of the Technology Administration and other public and private sector information providers and carriers, where appropriate, to—

"(A) identify expertise and acquire information, appropriate to the purpose of the Partnership stated in subsection (a), from all available Federal sources, and where appropriate from other sources, providing assistance where necessary in making such information electronically available and compatible with the outreach network established under subsection (d);

"(B) ensure ready access by manufacturers, governmental agencies, and nonprofit organizations in the United States to the most recent relevant available such information and expertise;

"(C) ensure that common standards of interconnection are utilized by the outreach network and the clearinghouse to allow maximum interoperability and usership; and

"(D) to the extent practicable, inform potential users of the availability of such information.

"(2) The clearinghouse shall include information available electronically regarding—

"(A) activities of Manufacturing Outreach Centers, Regional Centers for the Transfer of Manufacturing Technology, the State Technology Extension Program, and the users of the outreach network;

"(B) domestic and international standards from the Institute and private sector organizations and other export promotion information, including conformity assessment requirements and procedures;

"(C) the Malcolm Baldrige National Quality Award program, and quality principles and standards;

"(D) manufacturing processes that minimize waste and negative environmental impact;

"(E) advanced workplace practices;

"(F) federally funded technology development and transfer programs;

"(G) responsibilities assigned to the Clearinghouse for State and Local Initiatives on Productivity, Technology, and Innovation;

"(H) how to access data bases and services;

"(I) skills training, particularly for production workers, that is available through trade and professional organizations, federally supported programs, State resources, private industry, or other organizations; and

"(J) other subjects relevant to the ability of companies to manufacture and sell competitive products throughout the world.

"(f) In carrying out this section, the Department of Commerce shall take into consideration the following principles:

"(1) The Partnership and the outreach network provided for under subsection (d) shall be established and operated through cooperation and co-funding among Federal, State, and local governments, other public and private contributors, and end users.

"(2) The Partnership and the outreach network shall utilize and leverage, to the extent practicable, existing organizations, data bases, electronic networks, facilities, and capabilities, and shall be designed to complement rather than supplant State and local programs.

"(3) The Partnership should, to the extent practicable, involve key stakeholders at all levels in the planning and governance of modernization strategies; concentrate on assisting local clusters of firms; assist rural as well as urban manufacturers; promote collaborative learning and cooperative action among manufacturers; link industrial modernization programs tightly to existing and future Federal training initiatives, including those for youth apprenticeship programs and for assisting other workers; encourage small firms to seek modernization services by working with major manufacturers; encourage small firms, as appropriate, to select manufacturing equipment and practices which build upon and expand the skills of their employees; identify and honor best practices by firms and the programs that support them, including both technology and workplace practices; provide funding based on performance and ensure rigorous evaluation of extension services; as appropriate, coordinate Federal programs that support manufacturing modernization; work with Federal, State, local, and private organizations so that Manufacturing Outreach Centers and Regional Centers for the Transfer of Manufacturing Technology can provide referrals to other important business services, such as assistance with financing, training, and exporting, and contribute to local business climates supportive of high-performance manufacturing.

"(4) The Partnership and the outreach network provided for under subsection (d) shall be subject to all applicable provisions of law for the protection of trade secrets and business confidential information.

"(5) Local or regional needs should determine the management structure and staffing of the Manufacturing Outreach Centers. The Partnership shall strive for geographical balance and for balance between urban and rural recipients, with the ultimate goal of access for all United States manufacturers.

"(6) Manufacturing Outreach Centers should have the capability to deliver outreach services directly to manufacturers; actively work with, rather than supplant, the private sector; help firms assess needs regarding technology, workplace practices, and training; and to the extent practicable, maximize the exposure of United States manufacturers to demonstrations of modern technologies in use.

"(7) Manufacturing Outreach Centers shall focus, where possible, on the deployment of flexible manufacturing technologies and practices applicable to both defense and commercial applications and on opportunities to modernize operations in ways which improve productivity, reduce waste and pollution, and increase energy efficiency.

"(8) The Department of Commerce shall develop mechanisms for—

"(A) soliciting the perspectives of manufacturers using the services of the Manufacturing Outreach Centers and Regional Centers for the Transfer of Manufacturing Technology;

"(B) assisting in the training of technology extension agents and in helping them disseminate information on modern manufacturing technologies, including technologies for source reduction, and advanced workplace practices; and

"(C) rigorously evaluating the effectiveness of the Manufacturing Outreach Centers and other components of the Partnership.

"(9) This Act does not supersede, modify, or otherwise alter the rights and obligations of employers, employees, and labor organizations as set forth in the National Labor Relations Act and the Railway Labor Act or in any collective bargaining agreement entered into by parties covered by those Acts.

"(g)(1) The Regional Centers for the Transfer of Manufacturing Technology and Manufacturing Outreach Centers shall, as appropriate, make available source reduction and energy conservation assessments to interested manufacturers in the United States. These assessments shall assist such interested manufacturers in identifying opportunities for energy conservation and source reduction, and thus reduce operating costs, through either improvement in manufacturing processes or the purchase of new equipment.

"(2) The Secretary is authorized to work with other appropriate Federal officials and other parties to provide employees of Regional Centers for the Transfer of Manufacturing Technology and Manufacturing Outreach Centers with the training needed to carry out the assessments specified in paragraph (1).

"(h)(1) Within 6 months after the date of enactment of the National Competitiveness Act of 1994, the Secretary, through the Under Secretary and Director and after consulting with the private sector, shall submit an initial plan for the implementation of this section to Congress—

"(A) describing how the Secretary will carry out the responsibility to create, operate, and support the Partnership and the outreach network;

"(B) establishing criteria and procedures, consistent with the requirements of this section, for—

"(i) the selection of organizations to receive Department of Commerce services or financial assistance as part of the Partnership, including qualifications and training of technology extension agents;

"(ii) access to services provided by participants in the Partnership and to information available through the outreach network servicing the Partnership; and

"(iii) the annual evaluation of the Partnership in achieving the purposes of this section; and

"(C) evaluating the need for and the benefits of a National Conference of States on Tech-

nology Extension, similar in structure to the National Conference on Weights and Measures, and, if the Secretary determines that such a Conference is advisable, developing, in consultation with the States and other interested parties, a plan for the establishment, operation, funding, and evaluation of such a Conference.

"(2)(A) Within 1 year after the date of enactment of the National Competitiveness Act of 1994, the Secretary, through the Under Secretary and Director, shall prepare and submit to the Congress a 5-year plan for implementing the Partnership and the outreach network and clearinghouse established under subsections (d) and (e), respectively, of this section.

"(B) Such 5-year plan shall address—

"(i) effective mechanisms for providing operating funds for the maintenance and use of the outreach network established under subsection (d), including user fees, industry support, and continued Federal investment;

"(ii) the future operation and evolution of the outreach network, including its relationship with other public or private information services;

"(iii) how to protect the copyrights of material distributed over the outreach network; and

"(iv) appropriate policies to ensure the security of proprietary information that might be available on the outreach network and to protect the privacy of users of the outreach network.

"(C) Such 5-year plan shall identify appropriate methods for expanding the Partnership in a geographically balanced manner. Such 5-year plan shall include a detailed implementation plan and cost estimates and shall take into consideration and build on the report submitted under paragraph (1). In the preparation of such 5-year plan, the Secretary shall provide an opportunity for public comment, and the plan submitted to Congress shall include a summary of comments received. Any new types of activities proposed by such plan may not be implemented until 90 days after its submission to the Congress.

"(3) Beginning with the first year after submission of the 5-year plan under paragraph (2), the Secretary shall annually report to the Congress, at the time of the President's annual budget request to Congress, on—

"(A) progress made in achieving the purposes of the Partnership described in subsection (a), using criteria and procedures established under paragraph (1)(B)(iii) of this subsection;

"(B) changes proposed to the 5-year plan;

"(C) performance in adhering to schedules; and

"(D) any recommendations for legislative changes necessary to enhance the Partnership.

The report under this paragraph submitted at the end of the fourth year of operation of the Partnership shall include recommendations on whether to terminate the Partnership or extend it for an additional period not to exceed 5 years.".

(b) DEFINITIONS.—The National Institute of Standards and Technology Act (15 U.S.C. 271 et seq.) is amended by inserting after section 1 the following new section:

"SEC. 1A. As used in this Act—

"(1) the terms 'advanced manufacturing technology', 'modern technology', 'advanced workplace practices', and 'sustainable economic growth' have the meanings given such terms in section 4 of the Stevenson-Wydler Technology Innovation Act;

"(2) the term 'independent research organizations' means nonprofit organizations organized primarily for the purpose of conducting or managing research activities;

"(3) the term 'source reduction' has the meaning given that term in section 6603 of the Pollution Prevention Act of 1990 (42 U.S.C. 13102);

"(4) the term 'State' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or any other territory or possession of the United States; and

"(5) the term 'United States' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States.".

SEC. 213. ADDITIONAL AMENDMENTS TO THE STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT.

The Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.) is amended—

(1) by inserting after section 4 the following new title heading:

"TITLE I—DEPARTMENT OF COMMERCE AND RELATED PROGRAMS";

(2) by redesignating section 5 as section 101;

(3) by redesignating sections 6 through 10 as sections 105 through 109, respectively;

(4) by striking section 21;

(5) by redesignating sections 16, 17, 18, 19, 20, and 22 as sections 110 through 115, respectively;

(6) by inserting after section 115 (as redesignated by paragraph (5) of this subsection) the following new title heading:

"TITLE II—FEDERAL TECHNOLOGY TRANSFER";

(7) by redesignating sections 11 through 15 as sections 201 through 205, respectively;

(8) by redesignating section 23 as section 206;

(9) in section 4—

(A) by striking "section 5" and inserting in lieu thereof "section 101";

(B) by striking "section 5(b)(1)" and inserting in lieu thereof "section 101(b)(1)";

(C) in paragraphs (4) and (6), by striking "section 6" and "section 8" each place they appear and inserting in lieu thereof "section 105" and "section 107", respectively; and

(D) in paragraph (13), by striking "section 6" and inserting in lieu thereof "section 105";

(10) in section 108 (as redesignated by paragraph (3) of this subsection) by striking "section 6(a)" and inserting in lieu thereof "section 106(a)"; by striking "section 6(b)" and inserting in lieu thereof "section 106(b)"; and by striking "section 6(c)(3)" and inserting in lieu thereof "section 106(c)(3)";

(11) in section 109(d) (as redesignated by paragraph (2) of this subsection) by striking "section 7, 9, 11, 15, 17, or 20 of";

(12) in section 201(i) (as redesignated by paragraph (7) of this subsection) by inserting "loan, lease, or" after "may"; and by inserting "Actions taken under this subsection shall not be subject to Federal requirements on the disposal of property." after "activities.";

(13) in section 202(b) (as redesignated by paragraph (7) of this subsection) by striking "section 14(a)(1)(B) (i), (ii), and (iv)" and inserting in lieu thereof "section 204(a)(1)(B) (i), (ii), and (iv)";

(14) in section 204(a)(1) (as redesignated by paragraph (7) of this subsection) by striking "section 12" and inserting in lieu thereof "section 202";

(15) in section 115 (as redesignated by paragraph (5) of this subsection) by striking "Act (other than sections 11, 12, and 13)" and inserting in lieu thereof "title";

(16) in section 206 (as redesignated by paragraph (7) of this subsection)—

(A) by striking "section 12(d)(2)" in the introductory matter of subsection (a) and inserting in lieu thereof "section 202(d)(2)";

(B) by striking "section 11(b)" in subsection (a)(2) and inserting in lieu thereof "section 201(b)"; and

(C) by striking "section 6(d)" in subsection (b) and inserting in lieu thereof "section 105(d)";

(17) in section 112 (as redesignated by paragraph (5) of this subsection)—

(A) in the section heading, by striking "**CONFERENCE**" and inserting in lieu thereof "**CONFERENCES**";

(B) by striking "Not later than" through "shall convene a conference" and inserting in lieu thereof "The Secretary, through the Under Secretary, in consultation with other appropriate officials, may convene conferences"; and

(C) by striking "such conference shall" and in insert in lieu thereof "any such conferences shall, whenever appropriate,";

(18) by adding at the end of section 201 (as redesignated by paragraph (7) of this subsection) the following new subsection:

"(j) ADDITIONAL TECHNOLOGY TRANSFER MECHANISMS.—In addition to the technology transfer mechanisms set forth in this section and section 202, the heads of Federal departments and agencies also may transfer technologies through the technology transfer, extension, and deployment programs of the Department of Commerce and the Department of Defense."; and

(19) in section 101(c) (as redesignated by paragraph (2) of this subsection)—

(A) by striking "and" at the end of paragraph (14);

(B) by striking the period at the end of paragraph (15) and inserting in lieu thereof "; and"; and

(C) by adding at the end the following new paragraph:

"(16) engage in joint projects with any person or persons on matters within the authority of the Department of Commerce, accept temporary personnel from industrial partners, and receive cash donations in the course of such joint projects, and in conjunction with the planning and operation of such joint projects hold private meetings of matters of mutual interest with groups of interested persons, in order to protect sensitive information about United States industry and to ensure industry participation in such joint projects.".

SEC. 214. MANUFACTURING TECHNOLOGY CENTERS.

(a) AMENDMENTS.—(1) Section 25(a) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(a)) is amended by striking "and" at the end of paragraph (4); by striking the period at the end of paragraph (5) and inserting in lieu thereof a semicolon; and by inserting after paragraph (5) the following new paragraphs:

"(6) the active dissemination of information on advanced workplace practices and available education and training programs, and the encouragement of companies to train workers in the effective use of modern technologies and advanced manufacturing technologies; and

"(7) demonstration projects in which Centers work with States, local governments, community development organizations, worker and business organizations, and community banks to create a business climate supportive of high-performance manufacturing.".

(2) Section 25(b) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(b)) is amended by striking "and" at the end of paragraph (2); by redesignating paragraph (3) as paragraph (4); and by inserting after paragraph (2) the following new paragraph:

"(3) assessments of client companies' modernization needs, assistance in implementing quality processes, advice on pollution minimization and source reduction, and, where needed, cooperation with training institutions to ensure that employees, particularly production workers, receive training in the most effective use of

modern technologies and advanced workplace practices; and".

(3) Section 25(c) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(c)) is amended—

(A) in paragraph (1) by striking "for a period not to exceed six years"; and

(B) in paragraph (5) by striking "which are designed" and all that follows through the period at the end of the paragraph and inserting in lieu thereof "to a maximum of one-third Federal funding. Each Center which receives financial assistance under this section shall be evaluated during its sixth year of operation, and at least triennially thereafter as the Secretary considers appropriate, by an evaluation panel appointed by the Secretary in the same manner as was the evaluation panel previously appointed. The Secretary shall not provide funding for additional years of the Center's operation unless the most recent evaluation is positive and the Secretary finds that continuation of funding furthers the purposes of this section.".

(4) Section 25 of the National Institute of Standards and Technology Act (15 U.S.C. 278k) is amended by adding at the end the following new subsections:

"(e) In addition to any assistance provided or contracts entered into with a Center under this section, the Director is authorized to make separate and smaller awards, through a competitive process, to nonprofit organizations which wish to work with a Center. Such awards shall be for the purpose of enabling those organizations to provide outreach services, in collaboration with the Center, to manufacturers located in parts of the region served by the Center which are not easily accessible to the Center and which are not served by any other manufacturing outreach center. Organizations which receive such awards shall be known as Local Manufacturing Offices. In reviewing applications, the Director shall consider the needs of rural as well as urban manufacturers. No single award for a Local Manufacturing Office shall be for more than 3 years, awards shall be renewable through the competitive awards process, and no award shall be made unless the applicant provides matching funds at least equal to the amount received under this subsection.

"(f) In carrying out this section, the Director shall coordinate his efforts with the plans for the Manufacturing Extension Partnership established under section 24.".

SEC. 215. STATE TECHNOLOGY EXTENSION PROGRAM.

(a) ESTABLISHMENT.—Section 26(a) of the National Institute of Standards and Technology Act (15 U.S.C. 278l(a)) is amended—

(1) by inserting after "(a)" the following new sentence: "There is established within the Institute a State Technology Extension Program."; and

(2) by inserting "through that Program" after "technical assistance".

(b) ASSISTANCE PROVIDED BY PROGRAM.—Section 26 of the National Institute of Standards and Technology Act (15 U.S.C. 278l) is amended by adding at the end the following new subsection:

"(c) In addition to the general authorities listed in subsection (b), the State Technology Extension Program also shall, through merit-based competitive review processes and to the extent provided in advance in appropriations Acts—

"(1) make awards to States and conduct workshops, pursuant to section 5121(b) of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 278l note) in order to help States improve their planning and coordination of technology extension activities;

"(2) assist States, including States which historically have had no manufacturing or technology extension programs or only small programs, to plan, develop, and coordinate such programs and to help bring those State programs to a level of performance where they can provide the full range of manufacturing extension services required by their manufacturers or, as appropriate, apply successfully for awards to establish Manufacturing Outreach Centers, Regional Centers for the Transfer of Manufacturing Technology, or both;

"(3) support industrial modernization demonstration projects to help States create networks among small manufacturers for the purpose of facilitating technical assistance, group services, and improved productivity and competitiveness;

"(4) support State efforts to develop and test innovative ways to help small- and medium-sized manufacturers in the United States improve their technical capabilities, including, as appropriate, State contracts with private-sector technology transfer companies to provide technology assistance and development services that are beyond the current capacity of a given State's industrial extension activities;

"(5) support State efforts designed to help small- and medium-sized manufacturers in rural as well as urban areas improve and modernize their technical capabilities, including, as appropriate, interstate efforts to achieve such end;

"(6) support State efforts to assist interested small defense manufacturing firms to convert their production to nondefense or dual-use purposes;

"(7) support planning for worker technology education programs in the States at institutions such as research universities, community colleges, technical and professional societies, labor education centers, labor-management committees, and worker organizations in production technologies critical to the Nation's future, with an emphasis on high-performance work systems, the skills necessary to use advanced manufacturing system well, and best production practice; and support on-the-job training programs in the States to build and enhance the skills of employees, particularly production workers, in small- and medium-sized manufacturers; and

"(8) help States develop programs to train personnel who in turn can provide technical skills to managers and workers of manufacturing firms.".

SEC. 216. REPORT ON OPTIONS FOR ACCELERATING THE ADOPTION OF NEW MANUFACTURING EQUIPMENT.

Within 1 year after the date of enactment of this Act, the Secretary, acting through the Under Secretary, shall submit to Congress a report on—

(1) the degree to which United States manufacturers have difficulty obtaining financing for the purpose of purchasing equipment needed to implement advanced manufacturing technology and modernize operations;

(2) the policies and practices followed in other industrialized countries to help manufacturers obtain financing for modernization; and

(3) the advantages, disadvantages, and costs of major options by which the Federal Government might help stimulate the flow of capital to manufacturers and thus accelerate industrial modernization, including—

(A) creation of a Government-sponsored enterprise to stimulate the flow of capital to manufacturing;

(B) increasing technical advice to banks and other financial institutions, perhaps through the Manufacturing Extension Partnership in order to increase their ability to judge whether or not individual manufacturers have sound modernization plans;

(C) cooperation between extension activities supported under the Manufacturing Extension Partnership and manufacturing equipment leasing firms in order to provide manufacturers with additional information or equipment leasing options; and

(D) tax incentives.

Subtitle B—National Science Foundation Manufacturing Programs

SEC. 221. NATIONAL SCIENCE FOUNDATION MANUFACTURING PROGRAMS.

(a) IN GENERAL.—The Director of the National Science Foundation, after, as appropriate, consultation with the Secretary, the Under Secretary, and the Director, shall—

(1) work with United States companies to identify areas of research in advanced manufacturing technologies and advanced workplace practices that offer the potential to improve United States productivity, competitiveness, and employment;

(2) support research at United States universities to improve advanced manufacturing technologies and advanced workplace practices; and

(3) work with the Technology Administration of the Department of Commerce and the Institute and, as appropriate, other Federal agencies to accelerate the transfer to United States companies of manufacturing research and innovations developed at universities.

(b) ENGINEERING RESEARCH CENTERS AND INDUSTRY/UNIVERSITY COOPERATIVE RESEARCH CENTERS.—The Director of the National Science Foundation shall strengthen and expand the number of Engineering Research Centers and strengthen and expand the Industry/University Cooperative Research Centers Program with the goals of increasing the engineering talent base versed in technologies and workplace practices critical to the Nation's future, with emphasis on advanced manufacturing technologies, and of advancing fundamental engineering knowledge in these technologies. At least one Engineering Research Center shall have a research and education focus on the concerns of United States manufacturers, including small- and medium-sized manufacturers that are trying to modernize their operations. Awards under this subsection shall be made on a competitive, merit review basis. Such awards may include support for acquisition of instrumentation, equipment, and facilities related to the research and education activities of the Engineering Research Centers and support for undergraduate students to participate in the activities of the Engineering Research Centers.

(c) GRADUATE TRAINEESHIPS.—The Director of the National Science Foundation, in consultation with the Secretary, may establish a program to provide traineeships to United States citizens or permanent resident aliens who are graduate students at institutions of higher education within the United States who choose to pursue masters or doctoral degrees in manufacturing or industrial engineering. The Director of the National Science Foundation shall make an effort to ensure the provision of traineeships under this subsection to socially and economically disadvantaged individuals (within the meaning of section 8(a) (5) and (6) of the Small Business Act, and including women).

(d) MANUFACTURING MANAGERS IN THE CLASSROOM PROGRAM.—The Director of the National Science Foundation, in consultation with the Secretary, may establish a program to provide fellowships, on a cost-shared basis, to individuals from industry with experience in manufacturing to serve for 1 or 2 years as instructors in manufacturing at 2-year community and technical colleges in the United States. In selecting fellows, the Director of the National Science Foundation shall place special emphasis on supporting individuals who not only have expertise and practical experience in manufacturing but who also will work to foster cooperation between 2-year colleges and nearby manufacturing firms.

(e) PROGRAMS TO TEACH TOTAL QUALITY MANAGEMENT.—The Director of the National

Science Foundation, in consultation with the Secretary, the Under Secretary, and the Director, may establish a program to develop innovative curricula, courses, and materials for use by institutions of higher education for instruction in total quality management and related management practices, in order to help improve the productivity of United States companies.

(f) SMALL MANUFACTURERS RENEWAL AND TRAINING.—(1) The Director of the National Science Foundation, acting in cooperation with the Director, shall establish and carry out a pilot program, known as the Small Manufacturers Renewal and Training Program in this subsection referred to as the "Program"), to award grants to eligible partnerships for internship activities under this section. Partnerships between engineering colleges and manufacturing extension centers are eligible to apply for grants under the Program and be designated as SMaRT Partnerships. The Director of the National Science Foundation shall establish requirements for proposals for funding under the Program, for activities undertaken by SMaRT Partnerships with such funding, and for reporting by SMaRT Partnerships and other persons participating in the Program, and criteria for selecting proposals, including economic need.

(2) Each SMaRT Partnership receiving a grant under the Program shall use such grant funds to sponsor qualified engineering students to work as interns with eligible small manufacturers, especially very small manufacturers, by paying the host company the Federal share of the intern's wages, not to exceed the Federal minimum wage.

(3) A small manufacturer shall be eligible to host interns under the Program only for manufacturing operations in the United States, shall provide adequate supervision to each intern, and shall use funds provided under the Program only to pay wages to the intern that supplement the host company share of the intern's wages, not be less than the Federal minimum wage. No company shall be eligible to receive funding in excess of 2 years' wages at the Federal minimum wage.

TITLE III—CRITICAL TECHNOLOGIES

SEC. 301. DEVELOPMENT OF PLAN FOR THE ADVANCED TECHNOLOGY PROGRAM.

The Secretary, acting through the Under Secretary and the Director, shall, within 6 months after the date of enactment of this Act, submit to Congress a plan for the expansion of the Advanced Technology Program established under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n), with specific consideration given to—

(1) closer coordination and cooperation with the Advanced Research Projects Agency and other Federal research and development agencies as appropriate;

(2) establishment of temporary staff positions that can be filled by industrial or technical experts for a period of 1 to 2 years;

(3) ensuring that the Advanced Technology Program will have a meaningful impact on the utilization of a broad range of critical technologies and on the refinement of advanced manufacturing technologies;

(4) changes that may be needed when annual funds available for grants under the Advanced Technology Program reach levels of $200,000,000 and $500,000,000; and

(5) any additional administrative steps that may be necessary for the Advanced Technology Program to support large-scale joint research and development ventures.

SEC. 302. LARGE-SCALE RESEARCH AND DEVELOPMENT CONSORTIA.

Section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n) is amended by adding at the end the following new subsection:

"(k) In addition to the general authority under this section to provide financial assistance to joint ventures, the Secretary, through the Director, also may, as permitted by levels of authorizations and appropriations, provide financial support for up to 7 years to large-scale joint ventures requesting $20,000,000 or more a year in Department of Commerce funds. The Secretary may work with industrial groups to develop such proposed large-scale joint ventures and shall give preference to proposals which represent a broad spectrum of companies for a given industry and which focus either on speeding the commercialization of important new technologies or on accelerating the development, testing, and deployment of valuable new process technologies and workplace practices. The Secretary and Director, as appropriate, shall obtain independent technical review of industry proposals submitted under this subsection.".

SEC. 303. TECHNICAL AMENDMENTS.

(a) AMENDMENTS TO THE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY ACT.—Section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n), as amended by section 302 of this Act, is further amended—

(1) by adding at the end of subsection (a), the following new sentence: "The Secretary, acting through the Director, shall ensure that the principal economic benefits of the Program accrue to the economy of the United States.";

(2) in subsection (b)—

(A) in paragraph (1)(B), by striking "or contracts" and inserting in lieu thereof "contracts, and, subject to the last sentence of this subsection, other transactions";

(B) strike paragraph (1)(B)(ii) and replace with: "participation in such joint ventures, if the Secretary, acting through the Director, determines participation to be appropriate and if the joint venture as a whole agrees to pay at least half of the total costs of such joint ventures during the participation period, which shall not extend beyond 5 years,";

(C) in paragraph (2) by striking "and cooperative agreements" and inserting in lieu thereof "cooperative agreements, and, subject to the last sentence of this subsection, other transactions"; and

(D) by adding after paragraph (4) the following: "The authority under paragraph (1)(B) and paragraph (2) to enter into other transactions shall apply only if the Secretary, acting through the Director, determines that standard contracts, grants, or cooperative agreements are not feasible or appropriate, and only when other transaction instruments incorporate terms and conditions that reflect the use of generally accepted commercial accounting and auditing practices.";

(3) in subsection (d)(3), by striking "$2,000,000"; and inserting in lieu thereof "$3,000,000".

(4) by adding at the end the following new subsection: "(1) Notwithstanding subsections (b)(1)(B)(ii) and (d)(3), the Director may grant an extension beyond the deadlines established under those subsections for joint venture and single applicant awardees to expend Federal funds to complete their projects, if such extension may be granted with no additional cost to the Federal Government.".

(b) UNITED STATES JOINT VENTURES.—(1) Section 28(d)(11)(A) of the National Institute of Standards and Technology Act (15 U.S.C. 278n(d)(11)(A)) is amended by striking the period at the end of the first sentence and inserting in lieu thereof the following: "or any other person otherwise eligible to participate in an eligible joint venture, as agreed by the parties, receiving funding under any particular award, notwithstanding the requirements of section 202 (a) and (b) of title 35, United States Code.".

(2) The amendments made by sections 303 (a) and (b) shall be effective only with respect to assistance for which solicitations for proposals are made after the date of enactment of this Act or October 1, 1994, whichever occurs later.

(c) AMENDMENTS TO THE AMERICAN TECHNOLOGY PREEMINENCE ACT OF 1991.—(1) Section 201(d) of the American Technology Preeminence Act of 1991 (15 U.S.C. 278n note) is amended by adding at the end the following new sentence: "In the case of the amendment made by subparagraph (A) of subsection (c)(6), such amendment shall be effective as of the date of enactment of the paragraph stricken by such subparagraph.".

(2) Section 507 of the American Technology Preeminence Act of 1991 (15 U.S.C. 3717) is repealed.

(d) AMENDMENTS TO THE NATIONAL SCIENCE AND TECHNOLOGY POLICY, ORGANIZATION, AND PRIORITIES ACT.—(1) Title IV of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6651) is amended to read as follows:

"TITLE IV—NATIONAL SCIENCE AND TECHNOLOGY COUNCIL

"SEC. 401. There is established a National Science and Technology Council (hereafter in this title referred to as the 'Council').

"SEC. 402. Within 30 days after the date of enactment of the National Competitiveness Act of 1994, the President shall submit to Congress a report that outlines the composition and functions of the Council.

"SEC. 403. (a) The Council shall assume the responsibilities and authorities of the Federal Coordinating Council for Science, Engineering, and Technology, the National Space Council, and the National Critical Materials Council.

"(b) Executive departments and agencies shall make resources, including, but not limited to, personnel, office support, and printing, available to the Council.

"(c) The Council is authorized to establish such committees and working groups as it may require.".

(2) The Federal Coordinating Council for Science, Engineering, and Technology established by Public Law 94–282 and by Executive Order 12039, the National Space Council established by Public Law 100-685 and Executive Order 12675, and the National Critical Materials Council established by Public Law 98–373 are hereby abolished.

(3) Section 207(c) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6616(c)) is amended—

(A) by amending paragraph (1) to read as follows:

"(1) appoint such officers and employees as deemed necessary to perform the functions now or hereafter vested in the Director without regard to any provision of law regulating the employment or compensation of persons in the Government service, at rates not to exceed the rate of pay for level VI of the Senior Executive schedule as provided pursuant to section 5382 of title 5, the United States Code, and to prescribe their duties;"; and

(B) by striking "and" at the end of paragraph (2); by striking the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and by adding at the end the following new paragraph:

"(4) accept voluntary and uncompensated services, notwithstanding the provisions of section 1342, title 31, United States Code.".

SEC. 304. TECHNOLOGY MONITORING AND COMPETITIVENESS ASSESSMENT.

Section 101 of the Stevenson-Wydler Technology Innovation Act of 1980, as redesignated by section 213(2) of this Act, is amended by striking subsection (e) and inserting in lieu thereof the following new subsections:

"(e) OFFICE OF TECHNOLOGY MONITORING AND COMPETITIVENESS ASSESSMENT.—(1) The Sec-

retary, through the Under Secretary, shall establish within the Technology Administration an Office of Technology Monitoring and Competitiveness Assessment, to collect, evaluate, assess, and disseminate to United States industry, State and local governments, nonprofit organizations, and other interested parties information on—

"(A) foreign science and technology, specifically information assessing foreign capabilities relative to the United States;

"(B) policies and programs used by foreign governments and industries to develop and apply economically important critical technologies, how these policies and programs compare with public and private activities in the United States, and the effects that these foreign policies and programs have on the competitiveness of United States industry; and

"(C) the way in which the economic competitiveness of United States industry can be enhanced through Federal programs, including Department of Commerce programs, and evaluations of the effectiveness of Federal technology programs in helping to promote United States industrial competitiveness and economic growth.

"(2) Based on the information gathered under paragraph (1), the President, with the assistance of the Secretary, shall submit to Congress an annual report on United States technology and competitiveness analyzing the condition of United States technology relative to major trading partners, key trends in foreign technology and competitiveness policies and targeting, and the degree to which Federal programs are helping the United States to stay competitive with other countries and create domestic employment opportunities.

"(3) The Office of Technology Monitoring and Competitiveness Assessment is authorized to—

"(A) act as a focal point within the Federal Government for the collection and dissemination, including electronic dissemination, of information on foreign process and product technologies, including information collected under the Japanese Technical Literature Program;

"(B) work and, as appropriate, enter into cooperative arrangements with sector-specific industry trade associations or consortia to define the information desired by industry;

"(C) compile and make available the extensive foreign technology monitoring and assessment information already collected and analyzed by the Federal Government;

"(D) as appropriate, enter into controlled access agreements with other Federal agencies to fill the industry's information needs;

"(E) act as an electronic clearinghouse for such information or otherwise provide for such a clearinghouse;

"(F) direct and fund the collection of additional related information;

"(G) direct and fund analysis of foreign research and development activities, technical capabilities, workplace practices, particularly in technical areas where the United States is considered to be at par or lagging foreign capabilities;

"(H) establish a program to identify technical areas needing a full-scale technical evaluation, and provide, on a cost-shared basis to private sector or government-industry joint ventures, grants to conduct the evaluation; and

"(I) work with the Department of State to place technical experts from the Institute and other Federal laboratories into United States embassies to serve as technology attaches and counselors.

"(f) FELLOWSHIP PROGRAM.—(1) The Secretary, acting through the Under Secretary, shall establish and administer a fellowship program to support Technology Fellows to assist the Under Secretary in carrying out activities under subsection (e) relating to those countries that are major competitors of the United States in critical technologies, and to identify opportunities for technology transfer to the United States or technological collaboration for United States industries.

"(2) Technology Fellows shall—

"(A) regularly report to the Department of Commerce on work planned, in progress, and accomplished; and

"(B) provide support to the Department of Commerce as requested by that Department.

"(3) Fellowships awarded under the program established under this subsection shall—

"(A) be awarded for a period of 2 years;

"(B) be reasonable and appropriate; and

"(C) include provisions for living and office arrangements in the host country.

"(4) Only individuals who—

"(A) have at least a bachelors degree in engineering or science; and

"(B) have at least 5 years of work experience in manufacturing or technology development,

shall be eligible for a fellowship under this program.".

SEC. 305. RECOUPMENT.

Section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n), as amended by this Act, is further amended by adding at the end the following new subsection:

"(n)(1) Any transaction providing assistance under this section may include a clause that requires the recipient to make payments to the Department of Commerce as a condition of receiving such assistance.

"(2) There is established on the books of the Treasury a separate account for the Advanced Technology Program established under this section. Amounts received by the United States pursuant to a requirement imposed under paragraph (1) may be credited to the extent authorized by the Secretary, to the account established under this paragraph. Amounts so credited shall be merged with other funds in the account and shall be available, to the extent provided in advance in appropriations Acts, for the same purposes and the same period for which other funds in such account are available.".

SEC. 306. TECHNOLOGY FINANCING PILOT PROGRAM.

The Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.), as amended by title II of this Act, is further amended by adding at the end the following new title:

"TITLE III—ADDITIONAL ASSISTANCE TO INDUSTRY

"SEC. 301. FINDINGS AND STATEMENT OF POLICY.

"Congress finds and declares the following:

"(1) In recent years, United States technology firms appear to have had increasing difficulty financing the development and early-stage commercialization of important new critical civilian technologies. Venture capital is less available than in past years; banks appear less willing to provide loans; and medium-sized as well as small companies often have problems financing promising long-term technology projects.

"(2) This difficulty in obtaining financing particularly hurts those technology firms which face foreign competitors which have received substantial direct or indirect financial help from their respective governments.

"(3) The Nation would benefit from a technology financing pilot program designed to assist, on an experimental basis, private-sector venture capital entities which, in turn, can select and support the most promising and valuable long-term United States technology projects.

"SEC. 302. TECHNOLOGY FINANCING PILOT PROGRAM.

"(a) ESTABLISHMENT OF PROGRAM.—(1) There is established a Department of Commerce-Small Business Administration Pilot Technology Financing Partnership Program (in this section referred to as the 'Pilot Program').

"(2) The Pilot Program shall be operated under the direction of a Department of Commerce-Small Business Administration Venture Capital Licensing Committee (in this section referred to as the 'Licensing Committee'), which shall consist of—

"(A) three Department of Commerce designees appointed by the Secretary, one of whom shall be the Under Secretary for Technology and shall serve as chair of the Licensing Committee, and the other two of whom shall be technology experts, at least one of whom shall also be a finance and investment expert; and

"(B) two Small Business Administration designees who are appointed by the Administrator of the Small Business Administration (in this section referred to as the 'Administrator') who shall be finance and investment experts.

"(3) Under the Pilot Program, for the purpose of stimulating and expanding the flow of private capital to eligible technology firms and eligible joint ventures—

"(A) the Licensing Committee may license, pursuant to joint regulations promulgated under paragraph (4), private-sector entities, to be known as 'civilian technology investment companies'; and

"(B) to the extent directed by the Secretary and the Administrator and provided in advance in appropriations Acts, and in accordance with the operating plan developed under subsection (f), the Licensing Committee may authorize the Small Business Administration to assist financially such civilian technology investment companies.

"(4) The Secretary and the Administrator, acting through the Licensing Committee, shall promulgate such regulations (in this section referred to as the 'joint regulations') as shall be necessary to carry out the Pilot Program. Such joint regulations shall reflect that the Administrator will have primary responsibility for executing the Pilot Program, using Small Business Administration personnel and the programmatic authority provided in this section, and applicable law. In accordance with the operating plan developed by the Licensing Committee under subsection (f), the Administrator may issue regulations modifying and augmenting existing Small Business Administration authority or program criteria, as necessary, to accommodate the special needs of the Pilot Program. Those Small Business Administration regulations which are modified or adopted to facilitate the Pilot Program shall also be reviewed by the Licensing Committee and, if approved by the Licensing Committee, shall become part of the joint regulations.

"(5) The Secretary shall, utilizing Department of Commerce technology personnel and the programmatic authority provided in this section and under applicable law, institute and implement a complementary information and technical assistance pilot program designed to facilitate matches between high-technology companies seeking financing and venture capitalists looking for meritorious early-stage critical technology investments.

"(6) Such funds as may be appropriated through this Act or any other Act to the Department of Commerce to implement the Pilot Program may be transferred by the Secretary to the Small Business Administration, as necessary to carry out the purposes of this section, in accordance with subsection (c)(1).

"(b) ACTIVITIES OF LICENSEES.—(1) Each civilian technology investment company licensed under this section may provide venture capital and loans to eligible technology firms and eligible joint ventures in such manner and under such terms as the licensee may fix in accordance with the joint regulations. Civilian technology

investment companies may provide venture capital and loans directly or in coinvestments with other investors. The type of financing to be provided shall be determined by the Licensing Committee, and shall include but shall not be limited to that provided by the Small Business Act or the Small Business Investment Act of 1958, or any regulation promulgated thereunder.

"(2) Each civilian technology investment company shall have authority to borrow money and to issue its dcbentures, promissory notes, securities, or other obligations under such general conditions and subject to such limitations and regulations as prescribed in the joint regulations.

"(c) ASSISTANCE TO LICENSEES.—(1) In order to encourage the formation and growth of civilian technology investment companies, the Licensing Committee is authorized, to the extent that funds are made available to the Department of Commerce in appropriations Acts, to transfer such funds as may be necessary to the Small Business Administration to purchase (or guarantee the timely payment of all principal, interest, and dividends, as scheduled, on) debentures or participating, nonvoting preferred securities issued by such companies, on such terms and conditions as are appropriate pursuant to the joint regulations to carry out the purposes of this section. The Small Business Administration is also authorized, in accordance with sections 321 and 322 of the Small Business Investment Act of 1958, and regulations promulgated thereunder, to issue and guarantee such trust certificates as are necessary and appropriate to provide funding for qualified civilian technology investment companies. Such issuance and funding shall take place in the manner and on the terms and conditions as the Licensing Committee directs and shall not be limited to the terms and conditions that the Small Business Administration utilizes for funding of small business investment companies under the Small Business Investment Act of 1958.

"(2) Guarantees and purchases of debentures and equity securities under this subsection shall be made on such terms and conditions as are necessary to ensure that the cost of the program established under this section shall not exceed 15 percent of its corresponding credit authority in any fiscal year. For the purposes of this subsection, the term 'cost' shall have the same meaning given such term in section 502(5) of the Federal Credit Reform Act of 1990, and the term 'credit authority' shall have the same meaning given such term in section 3(10) of the Congressional Budget Act of 1974.

"(d) PURPOSES AND REQUIREMENTS.—The Licensing Committee shall require that any civilian technology investment company licensed and assisted under this section shall—

"(1) focus primarily on providing patient early-stage capital, either loans or equity investments, to eligible technology firms and eligible joint ventures in the United States in order to help those firms and joint ventures finance and accelerate the development and early-stage commercialization of critical civilian technologies;

"(2) provide financial assistance to critical civilian technology projects at eligible technology firms and eligible joint ventures: Provided, however, That the Department of Commerce members of the Licensing Committee shall determine whether the products, processes, and services provided by firms assisted by a licensee in fact will assist in developing United States critical technologies;

"(3) demonstrate to the Licensing Committee credible procedures for ensuring that investments are made in critical technology projects for which eligible technology firms cannot obtain necessary financing solely through commercial capital markets; and

"(4) work with the Licensing Committee to establish methods to identify and evaluate projects to be assisted by the licensee, using, as appropriate, the existing expertise of the National Institute of Standards and Technology, and other organizations, including Regional Centers for the Transfer of Manufacturing Technology, universities, and other research institutions.

"(e) PAYMENTS.—All amounts received by the Small Business Administration from the payment of dividends, any profit allocation, the redemption of securities pursuant to this section, and any fees paid to the United States by a civilian technology investment company licensed pursuant to this section, shall be deposited in the Treasury, in accordance with the joint regulations and the requirements of the Federal Credit Reform Act of 1990.

"(f) OPERATING PLAN; EFFECTIVE DATE; AND EVALUATION.—(1) The Secretary and the Administrator, acting through the Licensing Committee, shall jointly and in consultation with State and local governments, industry, and the financial community, prepare and submit to Congress within one year after the date of enactment of this title, an operating plan and draft joint regulations to carry out this section. In preparing such a plan, the Secretary and Administrator shall consider and evaluate alternative approaches to help technology firms and joint ventures in the United States develop and commercialize critical civilian technologies. As part of their report, they shall make recommendations to Congress as they deem appropriate.

"(2) Except for the requirements set forth in subsection (a) and paragraph (1) of this subsection, the provisions of this section shall not take effect until 6 months after the date of the issuance of the report required in paragraph (1).

"(3) After appropriations are provided for the Pilot Program authorized under this section, the Licensing Committee, in consultation with industry and the financial community, shall evaluate annually the effectiveness of the Program and submit an annual report to appropriate committees of Congress on the findings resulting from such evaluation. Such report shall contain, on a confidential basis, appendices which include, but are not necessarily limited to, the type and amount of assistance provided to licensees under this section, key characteristics of such licensees, the number and size in net worth of the technology firms and joint ventures (and the participants comprising them) assisted by each licensee, the amount of assistance provided to each eligible technology firm or eligible joint venture, and the types of technology each eligible technology firm or joint venture is developing and commercializing. Such report also shall contain an analysis of the Pilot Program's impact on the Small Business Administration's Small Business Investment Company program.

"(4) Five years after appropriations have been provided for the Pilot Program authorized under this section, the General Accounting Office, in consultation with industry and the financial community, shall evaluate the effectiveness of the Program and submit a report to appropriate committees of Congress on the findings resulting from such evaluation. Such evaluation shall include an analysis of the Pilot Program's impact on the Small Business Administration's Small Business Investment Company program.

"(g) DEFINITIONS.—As used in this section, the term—

"(1) 'appropriate committees of Congress' means the Committee on Science, Technology, and Space and Committee on Small Business of the House of Representatives and the Committee on Commerce, Science, and Transportation and Committee on Small Business of the Senate;

"(2) 'critical civilian technology' means a technology not exclusively military which is identified in one or more of the biennial national critical technologies reports required under section 603 of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6683);

"(3) 'eligible joint venture' means a joint research and development venture or joint production venture, as defined in section 2 of the National Cooperative Research Act of 1984 (5 U.S.C. 4301)—

"(A) which meets the requirements of section 28(d)(9) of the National Institute of Standards and Technology Act (15 U.S.C. 278n(d)(9));

"(B) whose purpose in seeking financing is the development of products, processes, and services based on critical civilian technologies; and

"(C) which meets size standards set by the Licensing Committee, which size standards need not comply with the Small Business Act or the Small Business Investment Act of 1958, or any regulation promulgated thereunder or interpretation thereof;

"(4) 'eligible technology firm' means a company—

"(A) which meets the requirements of section 28(d)(9) of the National Institute of Standards and Technology Act (15 U.S.C. 278n(d)(9));

"(B) whose purpose in seeking financing is the development of products, processes, and services based on critical civilian technologies; and

"(C) which meets size standards set by the Administrator;

"(4) 'finance and investment expert' means an individual who has administered or participated in a venture capital or similar financing program, or has operated a venture capital company; and

"(5) 'licensee' means a civilian technology investment company licensed by the Licensing Committee pursuant to this section.".

SEC. 307. REPORTS ON FOREIGN INDUSTRIAL ESPIONAGE.

(a) IN GENERAL.—(1) In order to assist Congress in its oversight functions with respect to this Act and to improve the awareness of United States industry of foreign industrial espionage and the ability of such industry to protect against such espionage, the President shall submit to Congress a report that describes, as of the time of the report, the following:

(A) The respective policy functions and operational roles of the agencies of the executive branch of the Federal Government in identifying and countering threats to United States industry of foreign industrial espionage, including the manner in which such functions and roles are coordinated.

(B) The means by which the Federal Government communicates information on such threats, and on methods to protect against such threats, to United States industry in general and to United States companies known to be targets of foreign industrial espionage.

(C) The specific measures that are being or could be undertaken in order to improve the activities referred to in subparagraphs (A) and (B), including proposals for any modifications of law necessary to facilitate the undertaking of such activities.

(D) The threat to United States industry of foreign industrial espionage and any trends in that threat, including—

(i) the number and identity of the foreign governments conducting foreign industrial espionage;

(ii) the industrial sectors and types of information and technology targeted by such espionage; and

(iii) the methods used to conduct such espionage.

(2) The President shall submit the report required under this subsection not later than 6 months after the date of the enactment of this Act.

(b) ANNUAL UPDATE.—Not later than 1 year after the date referred to in paragraph (2) of subsection (a), and on the expiration of each year thereafter, the President shall submit to Congress a report updating the information referred to in paragraph (1)(D) of that subsection.

(c) FORM OF REPORTS.—To the maximum extent practicable, the reports referred to in subsections (a) and (b) shall be submitted in an unclassified form, but may be accompanied by a classified appendix.

(d) REPORT UNDER DEFENSE PRODUCTION ACT.—Section 721(k)(1)(B) of the Defense Production Act of 1950 (50 U.S.C. App. 2170(k)(1)(B)) is amended by inserting "or directly assisted" after "directed".

(e) DEFINITION.—For the purposes of this section, "foreign industrial espionage" means industrial espionage conducted by a foreign government or by a foreign company with direct assistance of a foreign government against a private United States company and aimed at obtaining commercial secrets.

TITLE IV—ADDITIONAL COMMERCE DEPARTMENT PROVISIONS

SEC. 401. DEPARTMENT OF COMMERCE TECHNOLOGY ADVISORY BOARD.

The Stevenson-Wydler Technology Innovation Act of 1980 (as amended by sections 211 and 213 of this Act) is further amended by inserting after section 103 (as added by section 211 of this Act) the following new section:

"SEC. 104. DEPARTMENT OF COMMERCE TECHNOLOGY ADVISORY BOARD.

"(a) ESTABLISHMENT.—There is established a Department of Commerce Technology Advisory Board (in this section referred to as the 'Advisory Board'), the purpose of which is to advise the Secretary, Under Secretary, and Director on the plans, programs, and policies of the Technology Administration, including ways in which to—

"(1) promote the development and rapid application of advanced commercial technologies, including advanced manufacturing technologies such as skill-based production technologies;

"(2) strengthen the programs of the Technology Administration; and

"(3) generally improve the global competitiveness of industries within the United States.

"(b) COMPOSITION.—The Advisory Board shall be composed of at least 17 members, appointed by the Under Secretary from among individuals who, because of their experience and accomplishments in technology development, business development, or finance are exceptionally qualified to analyze and formulate policy that would improve the global competitiveness of industries in the United States. The Under Secretary shall designate one member to serve as chairman. Membership of the Advisory Board shall be composed of—

"(1) representatives of—

"(A) United States small businesses;

"(B) United States manufacturers;

"(C) research universities and independent research institutes;

"(D) State and local government agencies involved in industrial extension;

"(E) national laboratories;

"(F) industrial, worker, and technical and professional organizations; and

"(G) financial organizations; and

"(2) other individuals that possess important insight to issues of national competitiveness.

The Under Secretary shall make an effort to ensure the appointment of socially and economically disadvantaged individuals (within the meaning of section 8(a) (5) and (6) of the Small Business Act, and including women) to the Advisory Board.

"(c) MEETINGS.—(1) The chairman shall call the first meeting of the Advisory Board not later than 90 days after the date of enactment of this section.

"(2) The Advisory Board shall meet at least once every 6 months, and at the call of the Under Secretary.

"(d) TRAVEL EXPENSES.—Members of the Advisory Board, other than full-time employees of the United States, shall be allowed travel expenses in accordance with subchapter I of chapter 57 of title 5, United Stated Code, while engaged in the business of the Advisory Board.

"(e) CONSULTATION.—In carrying out this section, the Under Secretary shall consult with other agencies, as appropriate. The Advisory Board, as appropriate, shall establish communication and coordination mechanisms with other Federal advisory committees to help ensure integrated Federal-private consideration of technology and manufacturing policies and programs.

"(f) TERMINATION.—Section 14 of the Federal Advisory Committee Act shall not apply to the Advisory Board.

"(g) SECRETARIAL DISCRETION.—Notwithstanding any other provision of this section, the Secretary shall have the discretion to decide whether to establish the Advisory Board or create a more cost-effective way to achieve the goal of closer cooperation with industry. If the Secretary exercises such discretion and establishes an alternative mechanism, the Under Secretary shall make an effort to ensure the participation of socially and economically disadvantaged individuals (within the meaning of section 8(a) (5) and (6) of the Small Business Act, and including women) in the alternative mechanism.".

SEC. 402. INTERNATIONAL STANDARDIZATION.

(a) FINDINGS.—The Congress finds that—

(1) private sector consensus standards are essential to the timely development of competitive products;

(2) Federal Government contribution of resources and more active participation in the voluntary standards process in the United States can increase the quality of United States standards, increase their compatibility with the standards of other countries, and ease access of products manufactured by United States manufacturers to foreign markets; and

(3) the Federal Government, working in cooperation with private sector organizations including trade associations, engineering societies, technical organizations, and other standards-setting bodies can effectively promote Federal Government use of United States consensus standards and, where appropriate, the adoption and Federal Government use of international standards.

(b) STANDARDS PILOT PROGRAM.—Section 104(e) of the American Technology Preeminence Act of 1991 (Public Law 102-245; 106 Stat. 10) is amended—

(1) by inserting "(1)" before "Pursuant to the";

(2) by striking "matching funds" and inserting in lieu thereof "financial contributions deemed appropriate by the Secretary"; and

(3) by adding at the end the following new paragraph:

"(2) As necessary and appropriate, the Institute shall expand the program established under section 112 of the National Institute of Standards and Technology Authorization Act for Fiscal Year 1989 (15 U.S.C. 272 note) by extending the existing program to include other countries that request assistance with standards-related activities from official representatives of the United States Government. The Institute may enter into additional contracts with non-Federal organizations representing United States companies described in section 28(d)(9)(B) of the National Institute of Standards and Technology Act (15 U.S.C. 278n(d)(9)(B)) or with United States-based professional societies and other standards-setting bodies that participate in the development of standards. Such contracts shall require cost sharing between Federal and non-Federal sources for such purposes. In awarding such contracts, the Institute shall seek to promote and support the dissemination of United States technical standards to additional foreign countries and shall seek, as the Director deems appropriate, to promote the adoption of international standards supported by United States industry, and shall seek to assist private sector developers of standards, including engineering societies which participate in the development of standards in expediting the development of domestic and other standards which enable the introduction of technologies, products, or technology-based services which are being delayed due to the lack of available standards. The Institute and such contractors shall, in carrying out the preceding sentence, cooperate with governmental bodies, private organizations (including standards setting organizations and industry), and multinational institutions that promote economic development. The organizations receiving such contracts may establish training programs to bring to the United States foreign standards experts for the purpose of receiving in-depth training in the United States standards system.".

(c) REPORT ON GLOBAL STANDARDS.—(1) Section 508(a) of the American Technology Preeminence Act of 1991 (15 U.S.C. 3701 note) is amended—

(A) by inserting "standards development and international" after "a thorough review of international";

(B) by redesignating paragraphs (1) through (5) as paragraphs (2) through (6), respectively; and

(C) by inserting before paragraph (2), as so redesignated, the following new paragraph:

"(1) Current and potential future roles of the Federal Government in the development and promulgation of domestic and global product and process standards.".

(2) The Secretary, in consultation with the Institute and the Department of Commerce Technology Advisory Board established under section 104 of the Stevenson-Wydler Technology Innovation Act of 1980 (as added by section 401 of this Act) and with, as appropriate, the active participation of the private sector, shall submit to the Congress a report describing the appropriate roles of the Department of Commerce in aid to United States companies in achieving conformity assessment and accreditation and otherwise qualifying their products in foreign markets, through the development and promulgation of domestic and global product and quality standards, and through Department of Commerce programs related to conformity assessment and accreditation procedures based upon such standards, including a discussion of the extent to which each of the policy options provided in the March 1992 Office of Technology Assessment report on global standards, contributes to meeting the goals of—

(A) increasing the international adoption of standards beneficial to United States industries; and

(B) improving the coordination of United States representation at international standards setting bodies.

SEC. 403. MALCOLM BALDRIGE AWARD AMENDMENTS.

(a) RESTRICTIONS.—Section 111(c)(3) of the Stevenson-Wydler Technology Innovation Act of 1980, as so redesignated by section 213(5) of this Act, is amended to read as follows:

"(3) No award shall be made within any category or subcategory if there are no qualifying enterprises in that category or subcategory.".

(b) CATEGORIES IN WHICH AWARD MAY BE GIVEN.—(1) Section 111(c)(1) of the Stevenson-Wydler Technology Innovation Act of 1980, as so redesignated by section 213(5) of this Act, is

amended by adding at the end the following new subparagraph:

"(D) Educational institutions.".

(2)(A) Within 2 years after the date of enactment of this Act, the Secretary shall submit to Congress a report containing—

(i) criteria for qualification for a Malcolm Baldrige National Quality Award by various classes of educational institutions;

(ii) criteria for the evaluation of applications for such awards under section 111(d)(1) of the Stevenson-Wydler Technology Innovation Act of 1980, as so redesignated by section 213(5) of this Act; and

(iii) a plan for funding awards described in clause (i).

(B) In preparing the report required under subparagraph (A), the Secretary shall consult with the National Science Foundation and other public and private entities with appropriate expertise, and shall provide for public notice and comment.

(C) The Secretary shall not accept applications for awards described in subparagraph (A)(i) until after the report required under subparagraph (A) is submitted to Congress.

SEC. 404. COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS.

Section 202(d)(2)(A) of the Stevenson-Wydler Technology Innovation Act of 1980, as so redesignated by section 213(7) of this Act, by inserting "including Federal test and evaluation facilities," after "by a Federal agency,".

SEC. 405. PROGRAM EVALUATIONS.

Section 101 of the Stevenson-Wydler Technology Innovation Act of 1980, as so redesignated by section 213(2) of this Act and as amended by this Act, is further amended by adding at the end the following new subsection:

"(g) PROGRAM EVALUATIONS.—(1) The Secretary, through the Under Secretary, shall—

"(A) provide for the conduct of research and analyses to advance knowledge of the ways in which the economic competitiveness of United States companies can be enhanced through Federal programs established under the National Competitiveness Act of 1994 or the amendments made by that Act; and

"(B) as appropriate, provide for evaluations of Federal technology programs established or expanded under the National Competitiveness Act of 1994 or the amendments made by that Act in order to judge their effectiveness and make recommendations to improve their contribution to United States competitiveness.

"(2) All executive departments and agencies shall assist the Secretary in carrying out this subsection as appropriate.

"(3) Nothing in this subsection shall authorize the release of information to, or the use of information by, the Secretary or Under Secretary in a manner inconsistent with law or any procedure established pursuant thereto.

"(4) The head of any Federal agency may detail such personnel and may provide such services, with or without reimbursement, as the Secretary may request to assist in carrying out the activities required under this subsection.".

SEC. 406. STUDY OF SEMICONDUCTOR LITHOGRAPHY TECHNOLOGIES.

Within 9 months after the date of enactment of this Act, the Critical Technologies Institute established under section 822 of the National Defense Authorization Act for Fiscal Year 1991 (42 U.S.C. 6686) shall, after consultation with the private sector and appropriate officials from other Federal agencies, submit to Congress a report on advanced lithography technologies for the production of semiconductor devices. The report shall include the Critical Technologies Institute's evaluation of the likely technical and economic advantages and disadvantages of each such technology, an analysis of current private and Government research to develop each such technology, and any recommendations the Critical Technologies Institute may have regarding future Federal support for research and development in advanced lithography.

SEC. 407. CLEARINGHOUSE ON STATE AND LOCAL INITIATIVES.

Section 105(a) of the Stevenson-Wydler Technology Innovation Act of 1980, as so redesignated by section 213(5) of this Act, is amended by striking "Office of Productivity, Technology, and Innovation" and inserting in lieu thereof "Technology Administration".

SEC. 408. WIND ENGINEERING RESEARCH PROGRAM.

(a) SHORT TITLE.—This section may be cited as the "Wind Engineering Program Act of 1994".

(b) FINDINGS.—Congress finds and declares the following:

(1) Hurricanes and tornadoes kill more Americans and destroy more property than any other natural disaster.

(2) Each year, in the United States, extreme winds cause billions of dollars of damage to homes, schools, and other buildings, roads and bridges, electrical power distribution networks, and communications networks.

(3) Research on wind and wind engineering has resulted in improved methods for making buildings and other structures less vulnerable to extreme winds, but additional research funding is needed to develop new, improved, and more cost-effective methods of wind-resistant construction.

(4) Federal funding for wind engineering research has decreased drastically over the last 20 years.

(5) Wind research has been hampered by a lack of data on near-surface wind speed and distribution during hurricanes, tornadoes, and other severe storms.

(6) Many existing methods for wind-resistant construction are inexpensive and easy to implement but often they are not applied because the construction industry and the general public are unaware of such methods.

(7) Various Federal agencies have important roles to play in wind engineering research, but at present there is little interagency cooperation in this area.

(8) Establishment of a Federal Wind Engineering Program would result in new technologies for wind-resistant construction, broader application of such technologies in construction, and ultimately decreased loss of life and property due to extreme winds.

(c) PURPOSE.—The purpose of this section is to create a Wind Engineering Program within the National Institute of Standards and Technology, which would—

(1) provide for wind engineering research;

(2) serve as a clearinghouse for information on wind engineering; and

(3) improve interagency coordination on wind engineering research between the National Institute of Standards and Technology, the National Oceanic and Atmospheric Administration, the National Science Foundation, the Federal Aviation Administration, and other appropriate agencies.

(d) ESTABLISHMENT.—Within the National Institute of Standards and Technology, there shall be established a Wind Engineering Program which shall—

(1) conduct research and development, in cooperation with the private sector and academia, on new methods for mitigating wind damage due to tornadoes, hurricanes, and other severe storms;

(2) fund construction and maintenance of wind tunnels and other research facilities needed for wind engineering research;

(3) promote the application of existing methods for, and research results on, reducing wind damage to buildings that are usually incompletely- or non-engineered, such as single family dwellings, mobile homes, light industrial buildings, and small commercial structures;

(4) transfer technology developed in wind engineering research to the private sector so that it may be applied in building codes, design practice, and construction;

(5) conduct, in conjunction with the National Oceanic and Atmospheric Administration, post-disaster research following hurricanes, tornadoes, and other severe storms to evaluate the vulnerability of different types of buildings to extreme winds;

(6) serve as a point of contact for dissemination of research information on wind engineering and work with the private sector to develop education and training programs on construction techniques, developed from research results, for reducing wind damage;

(7) work with the National Oceanic and Atmospheric Administration, the Federal Aviation Administration, and other agencies as is appropriate, on meteorology programs to collect and disseminate more data on extreme wind events; and

(8) work with the National Science Foundation to support and expand basic research on wind engineering.

SEC. 409. ENVIRONMENTALLY SENSITIVE CONSTRUCTION TECHNOLOGIES.

(a) SHORT TITLE.—This section may be cited as the "Environmentally Sensitive Construction Act of 1994".

(b) FINDINGS AND PURPOSES.—Congress finds the following:

(1) As the world economy develops, environmental concerns are becoming increasingly critical.

(2) Developing the world economy through the use of environmentally sound technologies will pay dividends for years to come.

(3) The United States should be a leader in developing environmentally sound technologies.

(4) As shelter is a basic human need, the development of environmentally sound construction techniques should be a priority area.

(5) Establishment of a Federal Environmentally Sensitive Construction Program within the Institute would result in new technologies for environmentally sensitive construction, broader application of such technologies in construction, and an improved world economy and environment.

(c) ESTABLISHMENT.—Within the Institute, there shall be established a Federal Environmentally Sensitive Construction Program which shall—

(1) conduct research and development, in cooperation with the private sector and academia, on construction materials and techniques which result in structures which pose low environmental and health risks for their occupants and minimize waste generation and other environmental problems;

(2) as appropriate and permitted by appropriations, support academic research projects in regions around the Nation to develop and demonstrate environmentally sensitive construction; and

(3) disseminate information on environmentally sensitive construction technology.

SEC. 410. AMERICAN WORK FORCE QUALITY.

(a) WORK FORCE ACTIVITIES.—In addition to existing responsibilities and authorities prescribed by law, the Secretary, through the Director and after consultation with the Secretary of Labor, shall ensure that Regional Centers for the Transfer of Manufacturing Technology and Manufacturing Outreach Centers utilize, when appropriate, their expertise and capability to assist managers and workers of manufacturers in the United States in effectively utilizing and operating advanced manufacturing technologies and modern technologies—

(1) by making available assessments of the needs of manufacturers in the United States for worker training in the effective utilization and operation of specific technologies the manufacturers have adopted or are planning to adopt;

(2) by making available to manufacturers in the United States information on commercially and publicly provided worker training services, including those provided by United States sources of technologies, in the effective utilization and operation of specific technologies the manufacturers have adopted or are planning to adopt; and

(3) by providing information to client firms and their workers to enable them effectively to utilize and operate specific technologies that the firms have adopted or plan to adopt.

(b) WORK FORCE ANALYSIS AND INFORMATION DISSEMINATION.—In addition to existing responsibilities and authorities prescribed by law, the Secretary, through the Director and in consultation with the Secretary of Labor and other appropriate Federal officials and with leaders of industry and labor, shall assist managers and other workers of manufacturers in the United States in effectively utilizing and operating advanced manufacturing technologies and modern technologies—

(1) by establishing and managing a clearinghouse for information, to be available through an appropriate entity to the Regional Centers for the Transfer of Manufacturing Technology, to the Manufacturing Outreach Centers when they are established, to other technology training entities, or directly to manufacturers, on the best available training material and services for the effective utilization and operation of specific advanced manufacturing technologies and modern technologies;

(2) by encouraging United States providers of advanced manufacturing technologies and modern technologies for manufacturers to develop training material specifically designed for the managers and other workers responsible for utilizing and operating such technologies; and

(3) by establishing as an important criterion in the assessment of advanced manufacturing technologies and modern technologies the availability of training material specifically designed for the managers and other workers responsible for utilizing and operating such technologies.

SEC. 411. SEVERABILITY.

If any provision of this Act or the amendments made by this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of this Act and the amendments made by this Act, and the application thereof to other persons or circumstances, shall not be affected thereby.

SEC. 412. USE OF DOMESTIC PRODUCTS.

(a) PROHIBITION AGAINST FRAUDULENT USE OF "MADE IN AMERICA" LABELS.—(1) A person shall not intentionally affix a label bearing the inscription of "Made in America", or any inscription with that meaning, to any product sold in or shipped to the United States, if that product is not a domestic product.

(2) A person who violates paragraph (1) shall not be eligible for any contract for a procurement carried out with amounts authorized under this Act, or under any amendment made by this Act, including any subcontract under such a contract pursuant to the debarment, suspension, and ineligibility procedures in subpart 9.4 of chapter 1 of title 48, Code of Federal Regulations, or any successor procedures thereto.

(b) COMPLIANCE WITH BUY AMERICAN ACT.—(1) Except as provided in paragraph (2), the head of each agency which conducts procurements shall ensure that such procurements are conducted in compliance with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a through 10c, popularly known as the "Buy American Act").

(2) This subsection shall apply only to procurements made for which—

(A) amounts are authorized by this Act, or by any amendment made by this Act, to be made available; and

(B) solicitations for bids are issued after the date of enactment of this Act.

(3) The Secretary, before January 1, 1995, shall report to the Congress on procurements covered under this subsection of products that are not domestic products.

(c) PURCHASE OF AMERICAN MADE EQUIPMENT AND PRODUCTS.—(1) It is the sense of Congress that any recipient of a grant under this Act, or under any amendment made by this Act, should, when practical, purchase only American made equipment and products when expending grant monies.

(2) In allocating grants under this Act, or under any amendment made by this Act, the Secretary shall provide to each recipient a notice describing the statement made in paragraph (1) by the Congress.

(d) DEFINITION.—For the purposes of this section, the term "domestic product" means a product—

(1) that is manufactured or produced in the United States; and

(2) at least 50 percent of the cost of the articles, materials, or supplies of which are mined, produced, or manufactured in the United States.

SEC. 413. PERSONNEL.

Notwithstanding any other provision of law, the personnel management demonstration project, established under section 10 of the National Bureau of Standards Authorization Act for Fiscal Year 1987 (15 U.S.C. 275 note), is extended until December 31, 1998.

TITLE V—AUTHORIZATIONS OF APPROPRIATIONS

SEC. 501. TECHNOLOGY ADMINISTRATION.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary, to carry out the activities of the Under Secretary and the Assistant Secretary of Commerce for Technology Policy, in addition to any other amounts authorized for such purposes, for the Office of the Under Secretary—

(1) $6,000,000 for fiscal year 1994;

(2) $11,300,000 for fiscal year 1995, of which $2,000,000 are authorized for program evaluations under section 101(g) of the Stevenson-Wydler Technology Innovation Act of 1980, as added by section 405 of this Act; and

(3) $14,000,000 for fiscal year 1996.

(b) NATIONAL TECHNICAL INFORMATION SERVICE FACILITIES STUDY.—As part of its modernization effort and before signing any lease for a new facility, the National Technical Information Service, in consultation with the General Services Administration, shall study and report to Congress on the feasibility of accomplishing all or part of its modernization by signing a long-term lease with an organization that agrees to supply a facility and supply and periodically upgrade modern equipment which permits the National Technical Information Service to receive, store, and manipulate in electronic form, and print, electronically-created documents and reports and to carry out the other functions assigned to the National Technical Information Service.

SEC. 502. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.

(a) INTRAMURAL SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES.—(1) There are authorized to be appropriated to the Secretary, to carry out the intramural scientific and technical research and services activities of the Institute, $240,988,000 for fiscal year 1994, $320,000,000 for fiscal year 1995, and $350,000,000 for fiscal year 1996.

(2) Of the amounts authorized under paragraph (1)—

(A) $1,000,000 for each of the fiscal years 1994, 1995, and 1996 are authorized only for the evaluation of nonenergy-related inventions;

(B) $8,054,000 for fiscal year 1994 and $8,113,000 for each of the fiscal years 1995 and 1996 are authorized only for the technical competence fund; and

(C) $5,000,000 for each of the fiscal years 1994, 1995, and 1996 are authorized only for the standards pilot project established under section 104(e) of the American Technology Preeminence Act of 1991 (Public Law 102–245; 106 Stat. 10).

(b) FACILITIES.—In addition to the amounts authorized under subsection (a), there are authorized to be appropriated to the Secretary $62,000,000 for fiscal year 1994, $110,392,000 for fiscal year 1995, and $112,000,000 for fiscal year 1996, for the renovation and upgrading of the Institute's facilities. The Institute may enter into a contract for the design work for such purposes only if Federal Government payments under the contract are limited to amounts provided in advance in appropriations Acts.

(c) EXTRAMURAL INDUSTRIAL TECHNOLOGY SERVICES.—(1) In addition to the amounts authorized under subsections (a) and (b), there are authorized to be appropriated to the Secretary, to carry out the extramural industrial technology services activities of the Institute—

(A) for the Manufacturing Extension Partnership, $40,000,000 for fiscal year 1994, $70,000,000 for fiscal year 1995, and $100,000,000 for fiscal year 1996;

(B) for the Advanced Technology Program, $200,000,000 for fiscal year 1994, $475,000,000 for fiscal year 1995, and $575,000,000 for fiscal year 1996; and

(C) for quality programs at the Institute, $2,800,000 for fiscal year 1994, $10,000,000 for fiscal year 1995, and $10,000,000 for fiscal year 1996.

(2) The Secretary shall ensure that audits are performed by outside auditors on the programs for which funds are appropriated pursuant to this subsection. The summary results of such audits shall be submitted to Congress by the end of each of the fiscal years 1994 and 1995, and not more than $2,000,000, or 2 percent of the aggregate amount made available under this subsection, whichever is greater, shall be used in each such fiscal year for performing the audits.

(d) TRANSFERS.—(1) Funds may be transferred among the line items listed in subsection (a) and among the line items listed in subsection (c) so long as—

(A) the net funds transferred to or from any line item do not exceed 10 percent of the amount authorized for that line item in such subsection;

(B) the aggregate amount authorized under subsection (a) is not changed; and

(C) the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives are notified in advance of any such transfer.

(2) The Secretary may propose transfers to or from any line item listed in subsection (a) exceeding 10 percent of the amount authorized from such line item, but such proposed transfer may not be made unless—

(A) a full and complete explanation of any such proposed transfer and the reason therefor are transmitted in writing to the Speaker of the House of Representatives, the President of the Senate, and the appropriate authorizing committees of the House of Representatives and the Senate; and

(B) 30 days have passed following the transmission of such written explanation.

(e) WIND ENGINEERING.—(1) There are authorized to be appropriated to the Institute for the purposes of section 408 of this Act, $1,000,000 for fiscal year 1994 and $3,000,000 for each of the fiscal years 1995 and 1996.

(2) Of the amounts appropriated under paragraph (1), no less than 50 percent shall be used for cooperative agreements with the National Oceanic and Atmospheric Administration, the National Science Foundation, and the Federal Aviation Administration, or other agencies, for wind engineering research, development of improved practices for structures, and the collection and dissemination of meteorological data needed for wind engineering.

(f) ENVIRONMENTALLY SENSITIVE CONSTRUCTION PROGRAM.—There are authorized to be appropriated to the Institute for the purposes of section 409, $1,000,000 for fiscal year 1994 and $3,000,000 for fiscal year 1995.

SEC. 503. ADDITIONAL ACTIVITIES OF THE TECHNOLOGY ADMINISTRATION.

In addition to the amounts authorized under sections 501 and 502, there are authorized to be appropriated to the Secretary to carry out additional duties of the Under Secretary—

(1) for the establishment and management of a technology training clearinghouse, $2,000,000 for each of the fiscal years 1994 and 1995 and $3,000,000 for fiscal year 1996;

(2) for the support of policy experiments relating to intelligent manufacturing systems, $2,000,000 for fiscal year 1995 and $4,000,000 for fiscal year 1996;

(3) for carrying out responsibilities for technology monitoring and competitiveness assessment, $10,000,000 for each of the fiscal years 1994 and 1995 and $12,000,000 for fiscal year 1996;

(4) for the National Technical Information Service revolving fund, $20,000,000 for each of the fiscal years 1995 and 1996; and

(4) for the purpose of carrying out the technology financing pilot program under section 306, $2,000,000 for fiscal year 1994 to prepare the operating plan and promulgate regulations required under that section and $50,000,000 for each of the fiscal years 1995 and 1996 to carry out the provisions of that section.

SEC. 504. NATIONAL SCIENCE FOUNDATION.

In addition to such other sums as may be authorized by other provisions of law to be appropriated to the Director of the National Science Foundation, there are authorized to be appropriated to that Director, to carry out the provisions of section 221, $50,000,000 for fiscal year 1994 and $75,000,000 for each of the fiscal years 1995 and 1996.

SEC. 505. AVAILABILITY OF APPROPRIATIONS.

Appropriations made under the authority provided in this title shall remain available for obligation, for expenditure, or for obligation and expenditure for periods specified in the Acts making such appropriations.

TITLE VI—INFORMATION TECHNOLOGY APPLICATIONS

SEC. 601. SHORT TITLE.

This title may be cited as the "Information Technology Applications Act of 1994".

SEC. 602. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds and declares the following:

(1) High-performance computing and high-speed networks have proven to be powerful tools for improving America's national security, industrial competitiveness, and research capabilities.

(2) Federal programs, such as the National High-Performance Computing Program established by Congress in 1991, have played a key role in maintaining United States leadership in high-performance computing, especially in the defense and research sectors.

(3) High-performance computing and high-speed networking have the potential to revolutionize many fields, including education, libraries, health care, and manufacturing, if adequate resources are invested in developing the technology needed to do so.

(4) The Federal Government should ensure that the technology developed under research and development programs such as the National High-Performance Computing Program can be widely applied for the benefit of all Americans, including Americans with disabilities.

(5) The Federal Government, in cooperation with computer users, private industry, and others, should support research and development projects which will provide large economic and social benefits. These projects, designed to address major National Challenges, should include the development of computing tools for teaching, digital libraries of electronic information, computer systems to improve the delivery of health care, and computer and networking technology to promote United States competitiveness. These applications should be designed and operated in ways which protect privacy and intellectual property rights.

(b) PURPOSE.—It is the purpose of this title to expand the scope of the National High-Performance Computing Program to identify and promote the development of applications of high-performance computing and high-speed networking which will provide large economic and social benefits to the Nation.

SEC. 603. INFORMATION TECHNOLOGY APPLICATIONS.

(a) FINDINGS, PURPOSE, AND DEFINITIONS OF HIGH-PERFORMANCE COMPUTING ACT.—The High-Performance Computing Act of 1991 (15 U.S.C. 5501 et seq.) is amended—

(1) in section 2, by amending paragraph (4) to read as follows:

"(4) High-capacity and high-speed computer networks would provide researchers and educators with access to computer and information resources and act as test beds for further research and development.";

(2) in section 3—

(A) by amending paragraph (1)(A) to read as follows:

"(A) accelerate the creation of a universally accessible communications network for the Nation;";

(B) in paragraph (1)(C), by striking "available for use through the Network";

(C) in paragraph (1)(G), by inserting "and National Challenges" after "Grand Challenges"; and

(D) by striking "and" at the end of paragraph (1)(I); by striking the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and by adding after paragraph (2) the following new paragraph:

"(3) promoting the widest possible application of high-performance computing and high-speed networking by—

"(A) identifying and addressing specific National Challenges, and generally expanding Federal support for research and development of high-performance computing and high-speed networking, in order to—

"(i) improve education at all levels, from preschool to adult education, including the development of new educational technologies;

"(ii) build digital libraries of electronic information accessible over computer networks;

"(iii) improve the provision of health care, including furnishing health care providers and their patients with better, more accurate, and more timely information; and

"(iv) increase the productivity of the Nation's industry, especially in the manufacturing sector; and

"(B) improving coordination of Federal efforts to deploy these technologies in cooperation with the private sector as part of an advanced national information infrastructure.";

(3) in section 4, by striking paragraph (4); by redesignating paragraph (5) as paragraph (7); and by inserting after paragraph (3) the following new paragraphs:

"(4) 'information infrastructure' means a network of communications systems and computer systems designed to exchange information among all citizens and residents of the United States;

"(5) 'National Challenge' means a technical or operational difficulty or problem which, if successfully solved, will result in an application of high-performance computing or high-speed networking that will provide large economic and social benefits to a broad segment of the Nation's populace;

"(6) 'Network Program' means the National Research and Education Network Program established under section 102; and".

(b) NATIONAL HIGH-PERFORMANCE COMPUTING PROGRAM.—Section 101 of the High-Performance Computing Act of 1991 is amended—

(1) in subsection (a)(2)—

(A) by amending subparagraphs (A) and (B) to read as follows:

"(A) foster and encourage competition and private-sector investment in networking within the telecommunications industry;

"(B) encourage—

"(i) a diversity of public and private sources for information products and services based on government information; and

"(ii) the dissemination of government information to the public on a timely, equitable, and affordable basis and in a manner that will promote the usefulness of the information to the public;"; and

(B) by striking "and" at the end of subparagraph (H); by striking the period at the end of subparagraph (I) and inserting in lieu thereof a semicolon; and by inserting after subparagraph (I) the following new subparagraphs:

"(J) provide for the development and, as appropriate, implementation of applications of high-performance computing and high-speed networking, through projects which address National Challenges in the fields of education, library science, health care, manufacturing, provision of government information, and other appropriate fields;

"(K) identify each Program agency's responsibility for addressing National Challenges in high-performance computing and high-speed networking; and

"(L) provide for the development, to the extent technologically feasible, of technology to protect privacy, security, and intellectual property rights (including copyrights).";

(2) in subsection (a)(4)(C), by inserting "development of applications technology," after "development,"; and by inserting "Program established in section 102" after "Network"; and

(3) in subsection (a)(4), by striking "and" at the end of subparagraph (D); by striking the period at the end of subparagraph (E) and inserting in lieu thereof a semicolon; and by adding at the end the following new subparagraphs:

"(F) include a summary of the achievements of Federal efforts during the preceding fiscal year to develop technologies needed for an advanced information infrastructure;

"(G) identify steps agencies are taking to develop technology to protect privacy, security, and intellectual property rights (including copyrights) for computer networks; and

"(H) provide any recommendations regarding additional action or legislation which may be required to assist in achieving the purposes of this title."; and

(4) by inserting after subsection (c) the following new subsection:

"(d) COPYRIGHT LAW.—Nothing in this Act shall be construed to modify or otherwise change any provision of title 17, United States Code.".

SEC. 604. APPLICATIONS FOR EDUCATION AND LIBRARIES.

(a) NATIONAL SCIENCE FOUNDATION ACTIVITIES.—Section 201 of the High-Performance

Computing Act of 1991 (15 U.S.C. 5521) is amended—

(1) in subsection (a), by striking "and" at the end of paragraph (3); by striking the period at the end of paragraph (4) and inserting in lieu thereof a semicolon; and by adding at the end the following new paragraphs:

"(5) the National Science Foundation and the Department of Education, in cooperation with other appropriate agencies, shall provide for the development of advanced computing and networking technology for use in education at all levels; and

"(6) the National Science Foundation, the Department of Education, and other appropriate agencies shall provide for the development and use of technologies needed for digital libraries of computerized data and information and, as appropriate, may work with private and nonprofit institutions to develop prototype digital libraries to serve as test beds for advanced computing systems, software, standards, and methods."; and

(2) in subsection (b), by striking "$305,000,000" and inserting in lieu thereof "$339,000,000"; and by striking "$354,000,000" and inserting in lieu thereof "$404,000,000".

(b) NATIONAL AERONAUTICS AND SPACE ADMINISTRATION ACTIVITIES.—(1) Section 202(a) of the High-Performance Computing Act of 1991 (15 U.S.C. 5522(a)) is amended to read as follows:

"(a) GENERAL RESPONSIBILITIES.—As part of the Program described in title I, the National Aeronautics and Space Administration shall—

"(1) conduct basic and applied research in high-performance computing, particularly in the field of computational science, with emphasis on aerospace sciences, earth and space sciences, and remote exploration and experimentation; and

"(2) provide for the development of technologies needed for digital libraries and electronic information.".

(2) Section 202(b) of the High-Performance Computing Act of 1991 (15 U.S.C. 5522(b)) is amended by striking "$134,000,000" and inserting in lieu thereof "$154,000,000"; and by striking "$151,000,000" and inserting in lieu thereof "$181,000,000".

(c) ROLE OF DEPARTMENT OF EDUCATION.—Section 206 of the High-Performance Computing Act of 1991 (15 U.S.C. 5526) is amended to read as follows:

"SEC. 206. ROLE OF THE DEPARTMENT OF EDUCATION.

"(a) GENERAL RESPONSIBILITIES.—As part of the Program described in title I—

"(1) the Secretary of Education is authorized to conduct basic and applied research in computational research with the emphasis on the coordination of activities with libraries, school facilities, and educational research groups with respect to the advancement and dissemination of computer science and the development, evaluation, and application of software capabilities; and

"(2) the Department of Education, in cooperation with the National Science Foundation and other agencies as appropriate, shall provide for the development of advanced computing and networking technology at all educational levels; the development and use of technologies needed for digital libraries of computerized data and information; and the development and implementation of training programs for teachers, students, and librarians in the use of local and national computer networks.

"(b) AUTHORIZATIONS OF APPROPRIATIONS.—From sums otherwise authorized to be appropriated to the Department of Education, there are authorized to be appropriated for the purposes of carrying out responsibilities under subsection (a) of this section, $11,900,000 for fiscal year 1994; $22,100,000 for fiscal year 1995; and $2,300,000 for fiscal year 1996.".

SEC. 605. APPLICATIONS FOR MANUFACTURING AND INFORMATION.

Section 204 of the High-Performance Computing Act of 1991 (15 U.S.C. 5524) is amended—

(1) in subsection (a)(1), by striking "and" at the end of subparagraph (B), and by inserting after subparagraph (C) the following new subparagraph:

"(D) develop, refine, test, and transfer, in coordination with other agencies when appropriate, advanced computer-integrated, electronically-networked manufacturing technologies and associated applications; and";

(2) in subsection (a), by striking the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and by adding at the end the following new paragraph:

"(3) the Secretary of Commerce and, as appropriate, other Federal officials shall, in consultation with the Superintendent of Documents, identify and support projects to develop and apply high-performance computing and high-speed networking technologies to provide improved public access to information generated by Federal, State, and local governments, including environmental monitoring information."; and

(3) in subsection (d)—

(A) in paragraph (1), by inserting "(other than Advanced Manufacturing Program activities)" after "Program" and by striking "and" at the end of the paragraph;

(B) by striking the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(C) by adding at the end the following new paragraph:

"(3) to the Secretary of Commerce to carry out Program activities under subsection (a)(3), $30,000,000 for fiscal year 1994 and $50,000,000 for fiscal year 1995.".

SEC. 606. APPLICATIONS IN ENERGY AND OTHER AREAS.

Section 203 of the High-Performance Computing Act of 1991 (15 U.S.C. 5523) is amended by adding at the end the following new subsection:

"(f) APPLICATIONS.—(1) The Secretary of Energy shall, consistent with the Program, develop, test, and apply high-performance computing and high-speed networking technologies in areas within the Department's missions, including—

"(A) energy demand management and control, including vehicle efficiency and utilization, energy efficiency in commercial and residential buildings, and industry energy use and practices;

"(B) environmental monitoring, modeling, and remediation;

"(C) manufacturing;

"(D) materials;

"(E) the generation of electricity and the production and consumption of oil, natural gas, and coal; and

"(F) other areas in which the Department's computing expertise may assist industry and others, including applications in health care, education and training, financial services, and law enforcement.

"(2) The Secretary of Energy shall provide for cooperative projects involving the Department of Energy and one or more Department of Energy laboratories and appropriate non-Federal entities in carrying out this subsection.

"(3) In carrying out projects under paragraph (2), the Secretary of Energy shall, where appropriate, seek to address the technical and other considerations critical to further development of the technologies and applications useful for a national information infrastructure.

"(4) There is authorized to be appropriated to the Secretary of Energy for purposes of this subsection, $50,000,000 for fiscal year 1994, $100,000,000 for fiscal year 1995, and $150,000,000 for fiscal year 1996.".

SEC 607. APPLICATIONS FOR HEALTH CARE; ACCESS TO NETWORKS.

The High-Performance Computing Act of 1991 (15 U.S.C. 5501 et seq.) is amended—

(1) by redesignating sections 207 and 208 as sections 209 and 210, respectively; and

(2) by adding after section 206 the following new sections:

"SEC. 207. ROLE OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.

"(a) GENERAL RESPONSIBILITIES.—As part of the Program described in title I, the Secretary of Health and Human Services shall, through the Public Health Service, the National Institutes of Health, the National Library of Medicine, and the Centers for Disease Control and Prevention, in cooperation with the National Science Foundation and other appropriate agencies, develop and support the development of interoperable technologies for applications of high-performance computing and high-speed networking in the health care sector. In developing these technologies, emphasis shall be placed on applications that can produce significant savings in national health care costs. Such technologies shall, when feasible, build on existing Federal programs for developing information technology applications in the health care sector.

"(b) AUTHORIZATION OF APPROPRIATIONS.—From sums otherwise authorized to be appropriated, there are authorized to be appropriated to the Department of Health and Human Services for the purposes of this section, $9,000,000 for fiscal year 1993, $30,000,000 for fiscal year 1994, and $50,000,000 for fiscal year 1995.

"SEC. 208. ACCESS TO NETWORKS.

"(a) CONNECTIONS PROGRAM.—The National Science Foundation, the Department of Education, Department of Commerce, particularly the National Telecommunications and Information Administration, and other appropriate agencies shall—

"(1) foster the creation of computer networks, including but not limited to high-performance computer networks, in geographical areas which will connect institutions of higher education, elementary and secondary schools, libraries and depository libraries, and Federal, State, and local governments to each other; and

"(2) provide for connection of such networks to other networks.

"(b) TRAINING.—The National Science Foundation, the Department of Education, the Department of Commerce, particularly the National Telecommunications and Information Administration, and other appropriate agencies shall provide for programs to train teachers, students, librarians, and Federal, State, and local government personnel in the use of local and national computer networks. Training programs for librarians shall be designed to provide skills and training materials needed by librarians to instruct the public in the use of hardware and software for accessing and using local and national computer networks.

"(c) REPORT.—The Director shall, within 1 year after the date of enactment of the Information Technology Applications Act of 1994, submit a report to Congress which shall include—

"(1) findings of an examination of the extent to which the education and library communities and State and local governments have access to local and national networks;

"(2) a statement of the extent to which connections to local and national networks exist for the education and library communities and State and local governments;

"(3) an assessment of the factors limiting access by schools, libraries, and State and local governments to local and national networks and an estimate of the cost of providing universal access for those institutions to those networks; and

"(4) recommendations for collaborative programs among Federal, State, and local govern-

ments and the private sector to expand connectivity to local and national computer networks for educational institutions, libraries, and Federal, State, and local governments.

"(d) AUTHORIZATION OF APPROPRIATIONS.—To carry out the purposes of this section, there are authorized to be appropriated—

"(1) to the National Science Foundation, $5,000,000 for fiscal year 1994 and $12,500,000 for fiscal year 1995; and

"(2) to the Department of Education, $5,000,000 for fiscal year 1994 and $12,500,000 for fiscal year 1995.".

SEC. 608. HIGH-PERFORMANCE COMPUTING AND APPLICATIONS ADVISORY COMMITTEE.

Section 101(b) of the High-Performance Computing Act of 1991 (15 U.S.C. 5511(b)) is amended to read as follows:

"(b) HIGH-PERFORMANCE COMPUTING AND APPLICATIONS ADVISORY COMMITTEE.—The Director shall establish an advisory committee on high-performance computing and applications consisting of non-Federal members, including representatives of the research, elementary and secondary education, higher education, and library communities, consumer and public interest groups, network providers, and the computer, telecommunications, information and publishing industries, and other groups who use networks, who are specially qualified to provide the Director with advice and information on high-performance computing and on applications of computing and networking. The Director shall consider the recommendations of the advisory committee in reviewing and revising the Program. The advisory committee shall provide the Director with an independent assessment of—

"(1) progress in implementing the Program;

"(2) the need to revise the Program;

"(3) the balance between the components of the activities undertaken pursuant to this Act;

"(4) whether the research, development, and demonstration projects undertaken pursuant to this Act are helping to maintain United States leadership in computing and networking technologies and in the application of those technologies;

"(5) whether the applications and technologies developed under the Program are successfully addressing the needs of targeted populations, including assessment of the number of users served by those applications; and

"(6) other issues identified by the Director.".

SEC. 609. NATIONAL RESEARCH AND EDUCATION NETWORK PROGRAM.

Section 102 of the High-Performance Computing Act of 1991 (15 U.S.C. 5512) is amended to read as follows:

"SEC. 102. NATIONAL RESEARCH AND EDUCATION NETWORK PROGRAM.

"(a) ESTABLISHMENT.—As part of the Program described in section 101, the National Science Foundation, the Department of Defense, the Department of Energy, the Department of Commerce, the National Aeronautics and Space Administration, the Department of Education, and other agencies participating in the Program shall, in consultation with the Superintendent of Documents, support the establishment of the National Research and Education Network Program. The Network Program shall consist of the following components:

"(1) Research and development of software and hardware for high-performance computing and high-speed networks.

"(2) Support of experimental test bed networks for—

"(A) developing and demonstrating advanced networking technologies resulting from the activities described in paragraph (1); and

"(B) providing connections and associated network services for purposes consistent with this Act.

"(3) Provision of support for researchers, educators, students, libraries, and other appropriate institutions in order to ensure their access and use of networks.

"(4) Federal networks for linking Federal agency facilities and personnel to each other and to non-Federal networks.

"(b) PROGRAM REQUIREMENTS.—The Network Program shall—

"(1) be closely coordinated with the computer hardware, computer software, telecommunications, and information industries, and network users in government, industry, and research and educational institutions;

"(2) foster and encourage competition and private sector investment in networking within the telecommunications industry;

"(3) promote and encourage research and development leading to the creation of data transmission standards, enabling the establishment of privately developed high-speed commercial networks;

"(4) provide for the appropriate application of Federal laws that provide network and information resources security, including those that protect intellectual property rights, control access to data bases, and protect national security;

"(5) enable interoperability of Federal and non-Federal computer networks, to the extent appropriate, in a way that allows autonomy for each component network;

"(6) promote the research and development of high-capacity and high-speed computing networks, including related applications; and

"(7) demonstrate, in cooperation with users and others in the private sector, how advanced computers, high-capacity and high-speed computing networks, and data bases can contribute to the national information infrastructure.

"(c) NETWORK ACCESS PLAN.—The Federal agencies participating in activities under this section shall develop a plan with specific goals for implementing the requirements of subsection (a)(3), including provision for financial assistance to educational institutions, public libraries, and other appropriate entities. This plan shall be submitted to the Congress not later than one year after the date of enactment of the Information Technology Applications Act of 1994. Each year thereafter, the Director shall report to Congress on progress in implementing subsection (a)(3).

"(d) DEPARTMENT OF DEFENSE RESPONSIBILITIES.—As part of the Program, the Department of Defense, through the Advanced Research Projects Agency, shall support research and development of advanced fiber optics technology, switches, and protocols.

"(e) INFORMATION SERVICES.—The Director shall assist the President in coordinating the activities of appropriate agencies to promote the development of information services that could be provided over computer networks consistent with the purposes of this Act. These services may include the provision of directories of the users and services on computer networks, data bases of unclassified Federal data, training of users of data bases and computer networks, and technology to support computer-based collaboration that facilitates research and education. In carrying out this section, the Director shall consult with the Superintendent of Documents in order to facilitate compatibility of information systems and eliminate unnecessary redundancy.

"(f) USE OF GRANT FUNDS.—All Federal agencies and departments are authorized to allow recipients of Federal research grants to use grant funds to pay for computer networking expenses.

"(g) USE OF PROGRAM FUNDS.—(1) Each agency in the Program, when using Program funds for the procurement of communications networking services for Program activities, shall develop, provide access to, or use communications networks through the acquisition of commercially available network services or through contracting for customized services when such acquisition cannot satisfy agency requirements. Nothing in this section shall be construed to modify or otherwise change the Federal Property and Administrative Services Act of 1949.

"(2) In using Program funds to provide grants or assistance to non-Federal entities for the support of communications networking services, the head of each agency in the Program shall provide funding only to non-Federal entities which agree to develop, provide access to, or use communications networks—

"(A) through the acquisition of commercially available communications networking services; or

"(B) if no such services are satisfactorily available, through contracting for customized services, with the determination of satisfactory availability including consideration of geographic access to and affordability of service, and timeliness and technical performance standards in providing services.

In neither subparagraph (A) or (B) may the grantee use Federal funds for purposes other than the purposes for which they are awarded.

"(3) The provisions of this subsection shall apply only to procurements, grants, or agreements for assistance entered into by Program agencies for Program activities after the date of enactment of the Information Technology Applications Act of 1994.".

SEC. 610. SUPPORT FOR COMPUTER EDUCATION PROGRAMS.

(a) EDUCATION PROJECT.—The Administrator of the National Aeronautics and Space Administration (hereafter in this section referred to as the 'Administrator') shall establish a Computer Technologies for K–12 Education Project (hereafter in this section referred to as the 'Project') to test and demonstrate educational applications of advanced computer technologies, including but not limited to high-performance computing technologies, in public school systems providing precollege education. The Project shall award, on a competitive basis, grants to plan, deploy, manage, and operate advanced educational applications of computer technologies in K–12 public school systems in the United States in response to proposals requested by the Administrator. The Administrator shall ensure that non-Federal funds committed to support such proposals shall amount to not less than 30 percent of the Federal grant from the Project.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the National Aeronautics and Space Administration $8,000,000 for each of the fiscal years 1994 and 1995, to carry out the provisions of paragraph (1). No funds shall be awarded under the Project other than through the competitive process established by the Administrator pursuant to this section.

SEC. 611. SUPPORT FOR STATE-BASED DIGITAL LIBRARIES.

(a) PROGRAM TO SUPPORT DIGITAL LIBRARIES.—The National Science Foundation, in consultation with the Department of Education, the Department of Commerce, the Advanced Research Projects Agency, the Library of Congress, the Superintendent of Documents, and other appropriate agencies, is authorized to initiate a competitive, merit-based program to support the efforts of States and, as appropriate, libraries to develop electronic libraries. In carrying out this section, the National Science Foundation shall consult with the Superintendent of Documents in order to facilitate compatibility of Federal information systems and eliminate unnecessary redundancy. These libraries shall provide delivery of and access to a variety of databases, computer programs, and interactive multimedia

presentations, including educational materials, research information, statistics and reports developed by Federal, State, and local governments, and other information and informational services which can be carried over computer networks.

(b) AUTHORIZATION OF APPROPRIATIONS.—To carry out the provisions of this section, there are authorized to the Director of the National Science Foundation $10,000,000 for fiscal year 1994, and $25,000,000 for fiscal year 1995.

(c) COPYRIGHT LAW.—Nothing in this section shall be construed to modify or otherwise change any provision of title 17, United States Code.

SEC. 612. SUPPORT FOR COMPUTING ACTIVITIES AT TRIBAL COLLEGES.

The Director of the National Science Foundation shall design and implement a pilot program to provide financial assistance, through competitive selection processes, to States in which are located two or more tribally-controlled community colleges. The objective of the pilot program shall be to institute interactive telecommunications systems among such tribally controlled community colleges in such States, so as to assist the tribal community in education, job training, and other appropriate activities.

SEC. 613. DEPARTMENT OF EDUCATION SUPPORT FOR COMPUTER EDUCATION PROGRAMS.

(a) EDUCATION PROJECT.—In addition to the general responsibilities set forth in section 206 of the High-Performance Computing Act of 1991 (15 U.S.C. 5526), the Department of Education, in cooperation as appropriate with other Federal agencies, shall establish a project to test and demonstrate educational applications of advanced computer technologies, including but not limited to high-performance computing and networking technologies, in school systems providing precollege education. This project shall award, on a competitive basis, grants to plan, deploy, manage, and operate advanced educational applications of computer technologies in response to proposals requested by the Secretary of Education. The Secretary of Education shall ensure that non-Federal funds committed to such proposals shall amount to not less than 30 percent of the Federal grant.

(b) AUTHORIZATION OF APPROPRIATIONS.—From sums otherwise authorized to be appropriated to the Department of Education, there are authorized to be appropriated to carry out the provisions of this section, $8,000,000 for each of the fiscal years 1994 and 1995. No funds shall be awarded under the provisions of subsection (a) other than through the competitive process established by the Secretary of Education pursuant to this section.

TITLE VII—FASTENER QUALITY ACT AMENDMENTS

SEC. 701. FASTENER QUALITY ACT AMENDMENTS.

(a) TECHNICAL AMENDMENTS.—(1) Section 3 of the Fastener Quality Act (15 U.S.C. 5402) is amended—

(A) in paragraph (8), by striking "Standard" and inserting in lieu thereof "Standards"; and

(B) in paragraph (14), by striking "which defines or describes" and all that follows through "of any fastener".

(2) Section 5(b)(1) of the Fastener Quality Act (15 U.S.C. 5404(b)(1)) is amended by striking "section 6; unless" and inserting in lieu thereof "section 6, unless".

(3) Section 7(c)(2) of the Fastener Quality Act (15 U.S.C. 5406(c)(2)) is amended by inserting "to the same" before "extent".

(b) CLARIFYING AMENDMENTS.—(1) Section 5(a)(1)(B) of the Fastener Quality Act (15 U.S.C. 5404(a)(1)(B)) is amended by striking "subsections (b) and (c)" and inserting in lieu thereof "subsections (b), (c), and (d)".

(2) Section 5(a)(2)(A)(i) of the Fastener Quality Act (15 U.S.C. 5404(a)(2)(A)(i)) is amended by striking "subsections (b) and (c)" and inserting in lieu thereof "subsections (b), (c), and (d)".

(3) Section 5(c)(4) of the Fastener Quality Act (15 U.S.C. 5404(c)(4)) is amended by inserting "except as provided in subsection (d)," before "state".

(4) Section 5 of the Fastener Quality Act (15 U.S.C. 5404) is amended by adding at the end the following new subsection:

"(d) ALTERNATIVE PROCEDURE FOR CHEMICAL CHARACTERISTICS.—Notwithstanding the requirements of subsections (b) and (c), a manufacturer shall be deemed to have demonstrated, for purposes of subsection (a)(1), that the chemical characteristics of a lot conform to the standards and specifications to which the manufacturer represents such lot has been manufactured if the following requirements are met:

"(1) The coil or heat number of metal from which such lot was fabricated has been inspected and tested with respect to its chemical characteristics by a laboratory accredited in accordance with the procedures and conditions specified by the Secretary under section 6.

"(2) Such laboratory has provided to the manufacturer, either directly or through the metal manufacturer, a written inspection and testing report, which shall be in a form prescribed by the Secretary by regulation, listing the chemical characteristics of such coil or heat number.

"(3) The report described in paragraph (2) indicates that the chemical characteristics of such coil or heat number conform to those required by the standards and specifications to which the manufacturer represents such lot has been manufactured.

"(4) The manufacturer demonstrates that such lot has been fabricated from the coil or heat number of metal to which the report described in paragraphs (2) and (3) relates.

In prescribing the form of report required by subsection (c), the Secretary shall provide for an alternative to the statement required by subsection (c)(4), insofar as such statement pertains to chemical characteristics, for cases in which a manufacturer elects to use the procedure permitted by this subsection.".

(c) SALE OF FASTENERS SUBSEQUENT TO MANUFACTURE.—Section 7 of the Fastener Quality Act (15 U.S.C. 5406) is amended—

(1) in subsection (e)(1)—

(A) by striking "or any person who purchases any quantity of fasteners for resale at wholesale" and inserting in lieu thereof ", importer, or private label distributor"; and

(B) by striking "or such person" and inserting in lieu thereof ", importer, or private label distributor";

(2) by adding at the end of subsection (e) the following new paragraph:

"(3) Notwithstanding paragraph (1), fasteners may be sold to an end user in commingled lots if—

"(A) any packaging of such fastener includes a conspicuous disclaimer message indicating that the fasteners are manufactured and tested in compliance with this Act but have been commingled with like items from different lots; and

"(B) the person selling such fasteners has a written statement from the end user purchasing such fasteners granting permission to the seller to provide commingled lots. A written statement described in subparagraph (B) shall be kept on file for at least 10 years for any later review or audit."; and

(3) by amending subsection (f) to read as follows:

"(f) SUBSEQUENT PURCHASER.—It shall be unlawful for any person to sell fasteners, of any quantity, to any end user who requests lot traceability, unless the container of fasteners sold is conspicuously marked with the number of the lot from which such fasteners were taken.".

TITLE VIII—PRIVATE CARRIAGE OF URGENT LETTERS

SEC. 801. PRIVATE CARRIAGE OF URGENT LETTERS.

It is the sense of the Congress that the United States Postal Service, in the administration of chapter 6 of title 39, United States Code, shall suspend its audits by the Postal Inspection Service of private businesses or individuals who use private express for the private carriage of any letter which such business or individual determines is urgent, until the Congress receives and considers a report by the General Accounting Office regarding the potential financial impact on the Postal Service of permanently suspending enforcement of chapter 6, of title 39, United States Code.

TITLE IX—REGULATORY FLEXIBILITY ANALYSIS

SEC. 901. DEFINITIONS.

Section 601 of title 5, United States Code is amended—

(1) in paragraph (5) by striking out "and" at the end thereof;

(2) in paragraph (6) by striking out the period and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following new paragraph:

"(7) the term 'impact' means effects of a proposed or final rule which an agency can anticipate at the time of publication, and includes those effects which are directly and indirectly imposed by the proposed or final rule and are beneficial and negative.".

SAC. 902. INITIAL REGULATORY FLEXIBILITY ANALYSIS.

Section 603 of title 5, United States Code, is amended—

(1) in subsection (a)—

(A) in the first sentence by inserting "as defined under section 601(2)" after "any proposed rule"; and

(B) in the second sentence by striking out "the impact" and inserting thereof "both the direct and indirect impacts";

(2) in subsection (b)(3) by striking out "apply" and inserting in lieu thereof "directly apply and an estimate of the number of small entities to which the rule will indirectly apply"; and

(3) in subsection (c) in the first sentence by inserting before the period "either directly or indirectly effected".

SEC. 903. FINAL REGULATORY FLEXIBILITY ANALYSIS.

Section 604(a) of title 5, United States Code, is amended in the first sentence by striking out "under section 553 of this title, after being required by that section or any other law to publish a general notice of proposed rulemaking" and inserting in lieu thereof "as defined under section 610(2)".

SEC. 904. JUDICIAL REVIEW.

Section 611(b) of title 5, United States Code, is repealed.

TITLE X—COUNTER INTELLIGENCE

SEC. 1001. SHORT TITLE.

This title may be cited as the "Counterintelligence Improvements Act of 1994".

SEC. 1002. AMENDMENT TO THE NATIONAL SECURITY ACT OF 1947.

The National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended by inserting at the end thereof the following new title:

"TITLE VIII—ACCESS TO TOP SECRET INFORMATION

"ELIGIBILITY FOR ACCESS TO TOP SECRET INFORMATION

"SEC. 801. (a) The President and Vice President, Members of the Congress, Justices of the Supreme Court and judges of other courts of the United States established pursuant to Article III of the Constitution, shall, by virtue of their elected or appointed positions, be entitled to access to Top Secret information needed for the performance of their governmental functions without regard to the other provisions of this title.

"(b) Among employees of the United States Government, access to Top Secret information shall be limited to employees;

"(1) who have been granted access to such information pursuant to this title;

"(2) who are citizens of the United States who require routine access to such information for the performance of official governmental functions; and

"(3) who have been determined to be trustworthy based upon a background investigation and appropriate reinvestigations and have otherwise satisfied the requirements of section 802, below.

"(c) Access to Top Secret information by persons other than those identified in subsections (a) and (b) shall be permitted only in accordance with the regulations issued by the President pursuant to section 802 below.

IMPLEMENTING REGULATIONS

"Sec. 802. The President shall, within 180 days of enactment of this title, issue regulations to implement this title which shall be binding upon all departments, agencies, and offices of the Executive branch. These regulations shall, at a minimum provide that—

(A) no employee of the United States Government shall be given access to Top Secret information owned, originated or possessed by United States, after the effective date of this title, by any department, agency, or entity of the United States Government unless such person has been subject to an appropriate background investigation and has—

"(1) provided consent to the investigative agency responsible for conducting the security investigation of such person, during the initial background investigation and for such times as access to such information is maintained, and for 5 years thereafter, permitting access to—

(a) financial records concerning the subject pursuant to section 1104 of the Right to Financial Privacy Act of 1978;

"(b) consumer reports concerning the subject pursuant to section 1681b of the Consumer Credit Protection Act; and

"(c) records maintained by commercial entities within the United States pertaining to any travel by the subject outside the United States: Provided, That—

"(i) no information may be requested by an authorized investigative agency pursuant to this section for any purpose other than making a security determination;

"(ii) where the person concerned no longer has access to Top Secret information, no information may be requested by an authorized investigative agency pursuant to this section unless such agency has reasonable grounds to believe, based upon specific and articulable facts available to it, that such person may pose a threat to the continued security of the information to which he or she had previously had access; and

"(iii) any information obtained by an authorized investigative agency pursuant to this section shall not be disseminated to any other department, agency, or entity for any purpose other than for making a security determination, or for foreign counterintelligence or law enforcement purposes;

"(2) agreed, during the period of his or her access, to report to the department, agency, or entity granting such access in accordance with applicable regulations, any travel to foreign countries which has not been authorized as part of the subject's official duties;

"(3) agreed to report to the Federal Bureau of Investigation, or to appropriate investigative authorities of the department, agency, or entity concerned, any unauthorized contacts with persons known to be foreign nationals or persons representing foreign nationals, where an effort to acquire classified information is made by the foreign national, or where such contacts appear intended for this purpose. For purposes of this subsection, the term 'unauthorized contacts' does not include contacts made within the context of an authorized diplomatic relationship. Failure by the employee to comply with any of the requirements of this subsection shall constitute grounds for denial or termination of access to the Top Secret information concerned.

"(B) all employees granted access to Top Secret information pursuant to this subsection shall also be subject to—

"(1) additional background investigations by appropriate governmental authorities during the period of access at no less frequent interval than every 5 years, except that any failure to satisfy this requirement that is not solely attributable to the subject of the investigation shall not result in a loss or denial of access; and

"(2) investigation by appropriate governmental authority at any time during the period of access to ascertain whether such persons continue to meet the requirements for access.

"(C) access to Top Secret information by categories of persons who do not meet the requirements of subsections (A) and (B) of this section may be permitted only where the President, or officials designated by the President for this purpose, determine that such access is essential to protect or further the national security interests of the United States.

"(D) a single office within the Executive branch shall be designated to monitor the implementation and operation of this title within the Executive branch. This office shall submit an annual report to the President and appropriate committees of the Congress, describing the operation of this title and recommending needed improvements. A copy of the regulations implementing this title shall be provided to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives thirty days prior to their effective date.

"WAIVERS FOR INDIVIDUAL CASES

"SEC. 803. In extraordinary circumstances, when essential to protect or further the national security interests of the United States, the President (or officials designated by the President for this purpose) may waive the provisions of this title, or the provisions of the regulations issued pursuant to section 802, above, in individual cases involving persons who are citizens of the United States or are persons admitted into the United States for permanent residence: Provided, That all such waivers shall be made a matter of record and reported to the office designated pursuant to section 802(D), above, and shall be available for review by the Select Committee on Intelligence of the Senate and the Permanent Select Committee of the House of Representatives.

"DEFINITIONS

"SEC. 804. For purposes of this title—

"(a) the term 'national security' refers to the national defense and foreign relations of the United States;

"(b) the phrases 'information classified in the interest of national security' or 'classified information' means any information originated by or on behalf of the United States Government, the unauthorized disclosure of which would cause damage to the national security, which has been marked and is controlled pursuant to the Executive Order 12356 of April 2, 1982, or successor orders, or the Atomic Energy Act of 1954;

"(c) the term 'Top Secret information' means information classified in the interests of national security, the unauthorized disclosure of which would cause exceptionally grave damage to the national security;

"(d) the term 'employee' includes any person who receives a salary or compensation of any kind from the United States Government, is a contractor of the United States Government, is an unpaid consultant of the United States Government, or otherwise acts for or on behalf of the United States Government, but does not include the President or Vice President of the United States, Members of the Congress of the United States, Justices of the Supreme Court or judges of other federal courts established pursuant to Article III of the Constitution; and

"(e) the term "authorized investigative agency" means an agency authorized by law or regulation to conduct investigations of persons who are proposed for access to Top Secret information to ascertain whether such persons satisfy the criteria for obtaining and retaining access to such information.

"EFFECTIVE DATE

"SEC. 805. This title shall take effect 180 days after the date of its enactment.".

SEC. 1003. PROTECTION OF CRYPTOGRAPHIC INFORMATION.

The National Security Act of 1947 (50 U.S.C. 401 et seq.), as amended by section 1002, is further amended by inserting at the end the following new title:

"TITLE IX—PROTECTION OF CRYPTOGRAPHIC INFORMATION

"SEC. 901. (a) REQUIREMENTS FOR ACCESS TO CRYPTOGRAPHIC INFORMATION.—(1) Any employee of a department or agency within the Executive branch who is granted access to classified cryptographic information or routine, recurring access to any space in which classified cryptographic key is produced or processed, or is assigned responsibilities as a custodian of classified cryptographic key, shall, as a condition of receiving such access, or being assigned such responsibilities, and at a minimum:

"(A) meet the requirements applicable to persons having access to Top Secret information, as defined in subsection 804(c) of this Act, (as added by section 1002 of the Counterintelligence Improvements Act of 1994); and

"(B) be subject to periodic polygraph examinations conducted by appropriate governmental authorities, limited in scope to questions of a counterintelligence nature, during the period of access.

"(2) Failure to submit to an examination required under paragraph (1) shall be grounds for removal from access to cryptographic information or spaces.

"(3) No person shall be removed from access to cryptographic information or spaces based solely upon the interpretation of the results produced by a polygraph instrument, measuring physiological resources, unless, after further investigation, the head of the department or agency concerned determines the risk to the national security in permitting such access to be so potentially grave that access must nonetheless be denied.

"(b) DEFINITIONS.—For purposes of this section—

"(1) the term 'classified cryptographic information' means any information classified by the United States Government pursuant to law or

Executive order concerning the details of (A) the nature, preparation, or use of any code, cipher, or cryptographic system of the United States; or (B) the design, construction, use, maintenance, or repair of any cryptographic equipment; Provided, however, That the term does not include information concerning the use of cryptographic systems or equipment required for personal or office use;

"(2) the phrase 'custodian of classified cryptographic key' means positions that require access to classified cryptographic key beyond that required to use or operate cryptographic equipment for personal or office use, future editions of classified cryptographic key, or classified cryptographic key used for multiple devices;

"(3) the term 'classified cryptographic key' means any information (usually a sequence of random binary digits), in any form, classified by the United States Government pursuant to law or Executive order that is used to set up and periodically change the operations performed by any cryptographic equipment;

"(4) the term 'cryptographic equipment' means any device, apparatus or appliance used, or prepared, or planned for use by the United States for the purpose of authenticating communications or disguising or concealing the contents, significance, or meanings of communications;

"(5) the term 'employee' includes any person who receives a salary or compensation of any kind from a department or agency of the Executive branch, or is a contractor or unpaid consultant of such department or agency;

"(6) the term 'head of a department or agency' refers to the highest official who exercises supervisory control over the employee concerned, and does not include any intermediate supervisory officials who may otherwise qualify as heads of agencies within departments; and

"(7) the phrase 'questions of a counterintelligence nature' means questions specified to the subject in advance of a polygraph examination solely to ascertain whether the subject is engaged in, or planning, espionage against the United States on behalf of a foreign government or knows persons who are so engaged.

"SEC. 902. IMPLEMENTING REGULATIONS.—The President shall, within 180 days of the date of enactment of this title, promulgate regulations to implement the provisions of this title. The President shall provide copies of such regulations to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.".

SEC. 1004. AMENDMENT TO RIGHT TO FINANCIAL PRIVACY ACT.

Section 1104 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3404) is amended by adding at the end thereof the following new subsection:

"(d)(1) Notwithstanding the provisions of subsection (a), a customer who is the subject of a personnel security investigation conducted by an authorized investigative agency of the U.S. Government as a condition of being granted or maintaining access to Top Secret information, as defined by section 804(c) of the National Security Act of 1947 (as added by section 1002 of the Counterintelligence Improvements Act of 1994), may authorize nonrevokable disclosure of all financial records maintained by financial institutions for the period of the customer's access to such information and for up to 5 years after access to such information has been terminated, by the investigative agency responsible for the conduct of such investigation, for an authorized security purpose.

"(2) Such authority shall be contained in a signed and dated statement of the customer which identifies the financial records which are authorized to be disclosed. Such statement may also authorize the disclosure of financial records of accounts opened during the period covered by the consent agreement which are not identifiable at the time such consent is provided. A copy of such statement shall be provided by the investigative agency concerned to the financial institution from which disclosure is sought, together with the certification required pursuant to section 1103(b) (12 U.S.C. 3403(b)).

"(3) The rights of the customer established by subsection (c), above, shall pertain to any disclosures made pursuant to this subsection.

"(4) On an annual basis, the office designated by President pursuant to section 802(D) of the National Security Act of 1947 (as added by section 1002 of the Counterintelligence Improvements Act of 1994), shall fully inform the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate concerning the number of requests for financial records made pursuant to this section.".

SEC. 1005. NEW CRIMINAL OFFENSE FOR THE POSSESSION OF ESPIONAGE DEVICES.

(a) IN GENERAL.—Chapter 37 of title 18, United States Code, is amended by inserting at the end thereof the following new section:

"POSSESSION OF ESPIONAGE DEVICES

"SEC. 799a. Whoever knowingly maintains possession of any electronic, mechanical, or other device or equipment the design and capability of which renders it primarily useful for the purpose of surreptitiously collecting or communicating information, with the intent of utilizing such device or equipment to undertake actions which would violate section 793, 794, 794a (as added by section 1006 of the Counterintelligence Improvements Act of 1994), or 798 of this title, or section 783(b) of title 50, United States Code, shall be fined not more than $10,000 or imprisoned not more than 5 years, or both.".

(b) AMENDMENTS TO TABLE OF SECTIONS.—The table of sections for chapter 37 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"799a. Possession of espionage devices.".

SEC. 1006. NEW OFFENSE FOR SALE OR TRANSFER TO FOREIGN GOVERNMENTS DOCUMENTS AND OTHER MATERIALS DESIGNATED AS TOP SECRET.

(a) IN GENERAL.—Chapter 37 of title 18, United States Code, is amended by inserting after section 794 the following new section:

"SALE OR TRANSFER OF DOCUMENTS OR MATERIALS MARKED AS 'TOP SECRET'

"SEC. 794a. (a)(1) No person shall knowingly sell or otherwise transfer for any valuable consideration to any person whom he knows or has reason to believe to be an agent or representative of a foreign government—

"(A) any document, writing, code book, sketch, photograph, map, model, instrument, equipment, electronic storage media, or other material, or portion thereof, knowing that it is marked or otherwise designated in any manner, pursuant to applicable law and Executive order, as 'Top Secret', or

"(B) any such document, writing, code book, sketch, photograph, map, model, instrument, equipment, electronic storage media, or other material, or portion thereof, which has had such marking or designation removed without authority and the person making the sale or transfer is aware of such removal.

"(2) Paragraph (1) shall not be deemed to be violated by a person who makes such transfer pursuant to applicable law or executive branch authority.

"(b) In any prosecution under this section, whether or not the information or material in question has been properly marked or designated as "TOP SECRET" pursuant to applicable law or Executive order shall not be an element of the offense: Provided, however, That it shall be a defense to any prosecution under this section that the information or document in question has been officially released to the public by an authorized representative of the United States prior to the sale or transfer in question.

"(c) Violation of this section shall be punishable by imprisonment for a maximum of 15 years.".

(b) AMENDMENTS TO TABLE OF SECTIONS.—The table of sections for chapter 37 of title 18, United States Code, is amended by inserting after the item relating to section 794 the following new item:

"794a. Sale or transfer of documents or materials marked as 'Top Secret'."

SEC. 1007. LESSER CRIMINAL OFFENSE FOR THE REMOVAL OF TOP SECRET DOCUMENTS BY GOVERNMENT EMPLOYEES AND CONTRACTORS.

(a) IN GENERAL.—Chapter 93 of title 18, United States Code, is amended by inserting at the end thereof the following new section:

"REMOVAL AND RETENTION OF 'TOP SECRET' DOCUMENTS OR MATERIAL

"SEC. 1924. Whoever, being an officer, employee, contractor or consultant, of the United States, and having, by virtue of his office, employment, position, or contract, becomes possessed of documents or materials classified at the level of 'Top Secret' pursuant to applicable law or Executive order, knowingly removes such documents or materials without authority and retains such documents or materials at an unauthorized location shall be fined not more than $1,000, or imprisoned for not more than one year, or both.".

(b) AMENDMENT TO TABLE OF SECTIONS.—The table of sections for chapter 93 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"1924. Removal of 'Top Secret' documents or material."

SEC. 1008. JURISDICTION OF UNITED STATES COURTS TO TRY CASES INVOLVING ESPIONAGE OUTSIDE THE UNITED STATES.

(a) Chapter 211 of title 18 of the United States Code is amended by adding a new section 3239 as follows:

"§3239. Jurisdiction for espionage and related offenses

"The trial for any offense involving a violation of—

"(a) section 793, 794, 794a (as added by section 1006 of the Counterintelligence Improvements Act of 1994), 798, 798a (as added by section 1005 of the Counterintelligence Improvements Act of 1994), or subsection 1030(a)(1) of this title;

"(b) section 601 of the National Security Act of 1947 as added by the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421); or

"(c) subsections 4(b) or 4(c) of the Subversive Activities Control Act of 1950 (U.S.C. 783(b) or 783(c));

begun or committed upon the high seas or elsewhere out of the jurisdiction of any particular state or district, may be prosecuted in the District of Columbia, or in the Eastern District of Virginia, or in any other district authorized by law.".

(b) The chapter analysis for chapter 211 of title 18 of the United States Code is amended by striking out

"[3239. Repealed.]"

and inserting in lieu thereof:

"3239. Jurisdiction for espionage and related offenses."

SEC. 1009. EXPANSION OF EXISTING STATUTE REGARDING FORFEITURE OF COLLATERAL PROFITS OF CRIME TO ADDITIONAL ESPIONAGE OFFENSES.

Section 3681 of title 18, United States Code, is amended—

(1) in subsection (a), by striking out "section 794 of this title" and inserting in lieu thereof "sections 793, 794, 794a (as added by section 1006 of the Counterintelligence Improvements Act of 1994), 798, and 799a (as added by section 1005 of the Counterintelligence Improvements Act of 1994) of this title and section 783 of title 50, United States Code"; and

(2) by adding at the end thereof the following new subsection:

"(e) For purposes of this section, convictions pursuant to military courts-martial for offenses comparable to violations of sections 793, 794, 794a (as added by section 1006 of the Counterintelligence Improvements Act of 1994), 798, and 799a (as added by section 1005 of the Counterintelligence Improvements Act of 1994) of this title, or a violation of section 783 of title 50, or convictions by foreign courts for offenses which, if perpetrated within the United States, would constitute offenses under sections 793, 794, 794a (as added by section 1006 of the Counterintelligence Improvements Act of 1994), 798, and 799a (as added by section 1005 of the Counterintelligence Improvements Act of 1994) of this title, or a violation of section 783 of title 50 shall be considered as convictions for which actions may be ordered pursuant to this section.".

SEC. 1010. DENIAL OF ANNUITIES OR RETIRED PAY TO PERSONS CONVICTED OF ESPIONAGE IN FOREIGN COURTS INVOLVING UNITED STATES INFORMATION.

Section 8312 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) For purposes of subsections (b)(1) and (c)(1), an offense within the meaning of such subsections is established if the Attorney General certifies to the agency employing or formerly employing the person concerned—

"(i) that an individual subject to this chapter has been convicted by an impartial court of appropriate jurisdiction within a foreign country in circumstances in which the conduct violates the provisions of law enumerated in subsections (b)(1) and (c)(1), or would violate such provisions, had such conduct taken place within the United States, and that such conviction is not being appealed or that final action has been taken on such appeal;

"(2) that such conviction was obtained in accordance with procedures that provided the defendant due process rights comparable to such rights provided by the United States Constitution, and such conviction was based upon evidence which would have been admissible in the courts of the United States; and

"(3) that such conviction occurred after the date of enactment of this subsection:

Provided, That any certification made pursuant to this paragraph shall be subject to review by the United States Court of Claims based upon the application of the individual concerned, or his or her attorney, alleging that any of the conditions set forth in subsections (1), (2), (3), herein, as certified by the Attorney General, have not been satisfied in his or her particular circumstances. Should the court determine that any of these conditions has not been satisfied in such case, the court shall order any annuity or retirement benefit to which the person concerned is entitled to be restored and shall order that any payments which may have been previously denied or withheld to be paid by the department or agency concerned.

SEC. 1011. AUTHORIZING THE FBI TO OBTAIN CONSUMER REPORTS ON PERSONS BELIEVED TO BE AGENTS OF FOREIGN POWERS.

Section 608 of the Consumer Credit Protection Act (15 U.S.C. 1681f) is amended—

(1) by inserting "(a)" before "Notwithstanding"; and

(2) by inserting at the end thereof the following new subsections:

"(b) Notwithstanding the provisions of section 604, a consumer reporting agency shall, upon request, furnish a consumer report to the Federal Bureau of Investigation, if the Director of the Federal Bureau of Investigation, or the Director's designee, certifies in writing to the consumer reporting agency that such records are sought in connection with an authorized foreign counterintelligence investigation and that there are specific and articulable facts giving reason to believe that the person to whom the requested consumer report relates is an agent of a foreign power, as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).

"(c) Notwithstanding the provisions of section 604, a consumer reporting agency shall furnish identifying information respecting any consumer, limited to name, address, former addresses, places of employment, or former places of employment, to a representative of the Federal Bureau of Investigation when presented with a written request signed by the Director of the Federal Bureau of Investigation, or the Director's designee, stating that the information is necessary to the conduct of an authorized foreign counterintelligence investigation.

"(d) No consumer reporting agency, or officer, employee, or agent of such institution shall disclose to any person that the Federal Bureau of Investigation has sought or obtained a consumer report or identifying information respecting any consumer under this section.

"(e) On an annual basis the Director of the Federal Bureau of Investigation shall fully inform the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate concerning all requests made under subsections (b) and (c).".

SEC. 1012. TO PROVIDE FOR REWARDS FOR INFORMATION CONCERNING ESPIONAGE.

(a) IN GENERAL.—Chapter 204 of title 18, United States Code, is amended—

*(1) by inserting at the end of the chapter heading "**AND ESPIONAGE**";*

(2) in section 3071, by inserting "(a)" immediately before "With respect to";

(3) in section 3071, adding at the end thereof the following new subsection:

"(b) With respect to acts of espionage involving or directed at United States information classified in the interest of national security, the Attorney General may reward any individual who furnishes information—

"(1) leading to the arrest or conviction, in any country, of any individual or individuals for commission of an act of espionage against the United States;

"(2) leading to the arrest or conviction, in any country, of any individual or individuals for conspiring or attempting to commit an act of espionage against the United States; or

"(3) leading to the prevention or frustration of an act of espionage against the United States.".

(b) AMOUNT OF REWARDS.—Section 3072 of title 18, United States Code, is amended by striking out "$500,000" and inserting in lieu thereof "$1,000,000".

(c) DEFINITIONS.—Section 3077 of title 18, United States Code, is amended by inserting at the end thereof the following new paragraphs:

"(8) 'act of espionage' means an activity that is a violation of sections 794, 794a (as added by section 1006 of the Counterintelligence Improvements Act of 1994), 798, or 799a (as added by section 1005 of the Counterintelligence Improvements Act of 1994) of this title or section 783 of title 50, United States Code.

"(9) 'United States information classified in the interests of national security' means information originated, owned, or possessed by the United States Government concerning the national defense and foreign relations of the United States that has been determined pursuant to law or Executive order to require protection against unauthorized disclosure and that has been so designated.".

SEC. 1013. TO PROVIDE A COURT ORDER PROCESS FOR PHYSICAL SEARCHES UNDERTAKEN FOR FOREIGN INTELLIGENCE PURPOSES.

The Foreign Intelligence Surveillance Act of 1978 is amended by inserting at the end thereof the following new title:

"TITLE IV—PHYSICAL SEARCHES WITHIN THE UNITED STATES FOR FOREIGN INTELLIGENCE PURPOSES

"AUTHORIZATION OF PHYSICAL SEARCHES FOR FOREIGN INTELLIGENCE PURPOSES

"SEC. 401. (a) Applications for a court order under this title are authorized if the President has, in writing, empowered the Attorney General to approve applications to the Foreign Intelligence Surveillance Court, and a judge of that court to whom application is made may, notwithstanding any other law, grant an order, in conformity with section 403, approving a physical search in the United States, for the purpose of collecting foreign intelligence information of—

"(1) the property, information or material of a foreign power as defined in section 101(a)(1), (2), and (3) of this Act, or

"(2) the premises, property, information or material of an agent of a foreign power or a foreign power as defined in section 101(a)(4), (5), and (6) of this Act.

"(b) The Foreign Intelligence Surveillance Court shall have jurisdiction to hear applications for and grant orders approving a physical search for the purpose of obtaining foreign intelligence information anywhere within the United States under the procedures set forth in this title, except that no judge shall hear the same application which has been denied previously by another judge. If any judge denies an application for an order authorizing a physical search under this title, such judge shall provide immediately for the record a written statement of each reason for his decision and, on motion of the United States, the record shall be transmitted, under seal, to the Court of Review.

"(c) The Court of Review shall have jurisdiction to review the denial of any application made under this title. If such court determines that the application was properly denied, the Court shall immediately provide for the record a written statement of each reason for its decision and, on petition of the United States for a writ of certiorari, the record shall be transmitted under seal to the Supreme Court, which shall have jurisdiction to review such decision.

"(d) Judicial proceedings under this title shall be concluded as expeditiously as possible. The record of proceedings under this title, including applications made and orders granted, shall be maintained under security measures established by the Chief Justice of the United States in consultation with the Attorney General and the Director of Central Intelligence.

"APPLICATION FOR AN ORDER

"SEC. 402. (a) Each application for an order approving a physical search under this title shall be made by a Federal officer in writing upon oath or affirmation to a judge of the Foreign Intelligence Surveillance Court. Each application shall require the approval of the Attorney General based upon the Attorney General's finding that it satisfied the criteria and requirements for such application as set forth in this title. It shall include—

"(1) the identity, if known, or a description of the target of the search;

"(2) the authority conferred on the Attorney General by the President of the United States and the approval of the Attorney General to make the application;

"(3) the identity of the Federal officer making the application and a detailed description of the premises or property to be searched and of the information, material, or property to be seized, reproduced, or altered;

"(4) a statement of the facts and circumstances relied upon by the applicant to justify the applicant's belief that—

"(A) the target of the physical search is a foreign power or an agent of a foreign power;

"(B) the premises or property to be searched contains foreign intelligence information;

"(C) the premises or property to be searched is owned, used, possessed by, or is in transit to or from a foreign power or an agent of a foreign power;

"(5) a statement of the proposed minimization procedures;

"(6) a statement of the manner in which the physical search is to be conducted;

"(7) a statement of the facts concerning all previous applications that have been made to any judge under this title involving any of the persons, premises, or property specified in the application, and the action taken on each previous applications;

"(8) a statement of the facts concerning any search described in section 406(b), below, which involves any of the persons, premises, or property specified in the application; and

"(9) a statement that the purpose of the physical search is to obtain foreign intelligence information.

"(b) The judge may require the applicant to furnish such other information as may be necessary to make the determinations required by section 403.

"ISSUANCE OF AN ORDER

"SEC. 403. (a) Upon an application made pursuant to section 402, the judge shall enter an ex parte order as requested or as modified approving the physical search if the judge finds that—

"(1) the President has authorized the Attorney General to approve applications for physical searches for foreign intelligence purposes;

"(2) the application has been made by a Federal officer and approved by the Attorney General;

"(3) on the basis of the facts submitted by the applicant there is probable cause to believe that—

"(A) the target of the physical search is a foreign power or an agent of a foreign power: Provided, That no United States person may be considered an agent of a foreign power solely upon the basis of activities protected by the first amendment to the Constitution of the United States;

"(B) the premises or property to be searched are owned, used, possessed by, or is in transit to or from an agent of a foreign power or a foreign power; and

"(C) physical search of such premises or property can reasonably be expected to yield foreign intelligence information which cannot reasonably be obtained by normal investigative means; and

"(4) the proposed minimization procedures meet the definition of minimization contained in this title; and

"(5) the application which has been filed contains all statements required by section 402.

"(b) An order approving a physical search under this section shall—

"(1) specify—

"(A) the Federal officer or officers authorized to conduct the physical search and the identity, if known, or a description of the target of the physical search;

"(B) the premises or property to be searched and the information, material, or property to be seized, altered, or reproduced;

"(C) the type of foreign intelligence information sought to be acquired; and

"(D) a statement of the manner in which the physical search is to be conducted and, whenever more than one physical search is authorized under the order, the authorized scope of each search and what minimization procedures shall apply to the information acquired by each search;

"(2) direct—

"(A) that the minimization procedures be followed;

"(B) that, upon the request of the applicant, a specified landlord, custodian, or other specified person furnish the applicant forthwith all information, facilities, or assistance necessary to accomplish the physical search in such a manner as will protect its secrecy and produce a minimum of interference with the activities of the landlord, custodian, or other person; and that such landlord, custodian or other person maintain under security procedures approved by the Attorney General and the Director of Central Intelligence any records concerning the search or the aid furnished that such person wishes to retain;

"(C) that the physical search be undertaken within 30 days of the date of the order, or, if the physical search is of the property, information or material of a foreign power as defined in section 101(a)(1), (2), or (3) of this Act, that such search be undertaken within one year of the order; and

"(D) that the federal officer conducting the physical search promptly report to the court the circumstances and results of the physical search.

"(c) At any time after a physical search has been carried out, the judge to whom the return has been made may assess compliance with the minimization procedures by reviewing the circumstances under which information concerning United States persons was acquired, retained, or disseminated.

"(d) Application made and orders granted under this title shall be retained for a period of at least ten years from the date of the application.

"(e) Not more than 60 days after a physical search of the residence of a United States person authorized by this title, or such a search in the circumstances described in section 406(b), has been conducted, the Attorney General shall provide the United States person with an inventory which shall include—

"(1) existence or not of a court order authorizing the physical search and the date of the order;

"(2) the date of the physical search and an identification of the premises or property searched; and

"(3) a list of any information, material, or property seized, altered, or reproduced.

"(f) On an ex parte showing of good cause by the Attorney General to a judge of the Foreign Intelligence Surveillance Court the provision of the inventory required by subsection (e) may be postponed for a period not to exceed 90 days. At the end of such period the provision of the inventory may, upon a similar showing, be postponed indefinitely. The denial of a request for such postponements may be reviewed as provided in section 401.

"USE OF INFORMATION

"SEC. 404. (a) Information acquired from a physical search conducted pursuant to this title concerning any United States person may be used and disclosed by Federal officers and employees without the consent of the United States person only in accordance with the minimization procedures required by this title. No information acquired from a physical search pursuant to this title may be used or disclosed by Federal officers or employees except for lawful purposes.

"(b) No information acquired pursuant to this title shall be disclosed for law enforcement purposes unless such disclosure is accompanied by a statement that such information, or any information derived therefrom, may only be used in a criminal proceeding with the advance authorization of the Attorney General.

"(c) Whenever the United States intends to enter into evidence or otherwise use or disclose in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, against an aggrieved person, any information obtained or derived from a physical search of the premises or property of that aggrieved person pursuant to the authority of this title, the United States shall, prior to the trial, hearing, or the other proceeding or at a reasonable time prior to an effort to so disclose or so use that information or submit it in evidence, notify the aggrieved person and the court or other authority in which the information is to be disclosed or used that the United States intends to so disclose or so use such information.

"(d) Whenever any State or political subdivision thereof intends to enter into evidence or otherwise use of disclose in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of a State or a political subdivision thereof against an aggrieved person any information obtained or derived from a physical search of the premises or property of that aggrieved person pursuant to the authority of this title, the State or political subdivision thereof shall notify the aggrieved person, the court or other authority in which the information is to be disclosed or used, and the Attorney General that the State or political subdivision thereof intends to so disclose or so use such information.

"(e) Any person against whom evidence obtained or derived from a physical search to which he is an aggrieved person is to be, or has been, introduced or otherwise used or disclosed in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, a State, or a political subdivision thereof, may move to suppress the evidence obtained or derived from such search on the grounds that—

"(1) the information was unlawfully acquired; or

"(2) the physical search was not made in conformity with an order of authorization or approval.

Such a motion shall be made before the trial, hearing, or other proceeding unless there was no opportunity to make such a motion or the person was not aware of the grounds of the motion.

"(f) Whenever a court of other authority is notified pursuant to subsection (c) or (d), or whenever a motion is made pursuant to subsection (e), or whenever any motion or request is made by an aggrieved person pursuant to any other statute or rule of the United States or any State before any court or other authority of the United States or any State to discover or obtain applications or orders or other materials relating to a physical search authorized by this title or to discover, obtain, or suppress evidence or information obtained or derived from a physical search authorized by this title, the United States district court or, where the motion is made before another authority, the United States district court in the same district as the authority shall, notwithstanding any other law, if the Attorney General files an affidavit under oath that disclosure or an adversary hearing would harm the national security of the United States, review in camera and ex parte the application, order, and such other materials relating to the physical search as may be necessary to determine whether the physical search of the aggrieved person was lawfully authorized and

conducted. In making this determination, the court may disclose to the aggrieved person, under appropriate security procedures and protective orders, portions of the application, order, or other materials relating to the physical search only where such disclosure is necessary to make an accurate determination of the legality of the physical search.

"(g) If the United States district court pursuant to subsection (f) determines that the physical search was not lawfully authorized or conducted, it shall, in accordance with the requirements of law, suppress the evidence which was unlawfully obtained or derived from the physical search of the aggrieved person or otherwise grant the motion of the aggrieved person. If the court determines that the physical search was lawfully authorized or conducted, it shall deny the motion of the aggrieved person except to the extent that due process requires discovery or disclosure.

"(h) Orders granting motions or requests under subsection (g), decisions under this section that a physical search was not lawfully authorized or conducted, and orders of the United States district court requiring review or granting disclosure of applications, orders or other materials relating to the physical search shall be final orders and binding upon all courts of the United States and the several States except a United States court of appeals and the Supreme Court.

"(i) The provisions of this section regarding the use or disclosure of information obtained or derived from a physical search shall apply to information obtained or derived from a search conducted without a court order to obtain foreign intelligence information which is not a physical search as defined in this title solely because the existence of exigent circumstances would not require a warrant for law enforcement purposes.

"OVERSIGHT

"SEC. 405. (a) On a semiannual basis the Attorney General shall fully inform the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence concerning all physical searches conducted pursuant to this title, and all other searches, except those reported under section 108 of this Act, conducted in the United States for foreign intelligence purposes. On an annual basis the Attorney General shall also provide to those committees a report setting forth with respect to the preceding calendar year—

"(1) the total number of applications made for orders approving physical searches under this title; and

"(2) the total number of such orders either granted, modified, or denied.

"(b) Whenever a search is conducted without a court order to obtain foreign intelligence information which is not a physical search as defined in this title solely because the existence of exigent circumstances would not require a warrant for law enforcement purposes, a full report of such search, including a description of the exigent circumstances, shall be maintained by the Attorney General. Each such report shall be transmitted to the Foreign Intelligence Surveillance Court promptly after the search is conducted.

"AUTHORITY FOR INTELLIGENCE SEARCHES

"SEC. 406. (a) The procedures contained in this title shall be the exclusive means by which a physical search, as defined in this title, may be conducted in the United States for foreign intelligence purposes, and an order issued under this title authorizing a physical search shall constitute a search warrant authorized by law for purposes of any other law.

"(b) Searches conducted in the United States to collect foreign intelligence information, other than physical searches as defined in this title and electronic surveillance as defined in this Act, and physical searches conducted in the United States without a court order to collect foreign intelligence information may be conducted only pursuant to regulations issued by the Attorney General. Such regulations, and any changes thereto, shall be provided to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives at least 14 days prior to the taking effect. Any regulations issued by the Attorney General regarding such searches which were in effect as of June 1, 1990, shall be deemed to be regulations required by this subsection.

"PENALTIES

"SEC. 407. (a) OFFENSE.—A person is guilty of an offense if he intentionally—

"(1) under color of law for the purpose of obtaining foreign intelligence information, engages in physical search within the United States except as authorized by statute; or

"(2) discloses or uses information obtained under color of law by physical search within the United States, knowing or having reason to know that the information was obtained through physical search not authorized by statute, for the purpose of obtaining intelligence information.

"(b) DEFENSE.—It is a defense to a prosecution under subsection (a) that the defendant was a law enforcement or investigative officer engaged in the course of his official duties and the physical search was authorized by and conducted pursuant to a search warrant or court order of a court of competent jurisdiction.

"(c) PENALTY.—An offense described in this section is punishable by a fine of not more than $10,000 or imprisonment for not more than five years, or both.

"(d) JURISDICTION.—There is Federal jurisdiction over an offense under this section if the person committing the offense was an officer or employee of the United States at the time the offense was committed.

"CIVIL LIABILITY

"SEC. 408. CIVIL ACTION.—An aggrieved person, other than a foreign power or an agent of a foreign power, as defined in section 101 (a) or (b)(1)(A), respectively, of this Act, whose premises, property, information, or material has been subjected to a physical search within the United States or about whom information obtained by such a physical search has been disclosed or used in violation of section 407 shall have a cause of action against any person who committed such violation and shall be entitled to recover—

"(a) actual damages;

"(b) punitive damages; and

"(c) reasonable attorney's fees and other investigative and litigation costs reasonably incurred.

"DEFINITIONS

"SEC. 409. As used in this title:

"(a) The terms 'foreign power,' 'agent of a foreign power,' 'international terrorism,' 'sabotage,' 'foreign intelligence information,' 'Attorney General,' 'United States person,' 'United States',' 'person,' and 'State' shall have the same meaning as in Section 101 of this Act.

"(b) 'Physical search' means any physical intrusion into premises or property (including examination of the interior of property by technical means) or any seizure, reproduction or alteration of information, material or property, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes, but does not include 'electronic surveillance' as defined in subsection 101(f) of this Act.

"(c) 'Minimization procedures' with respect to physical search, means—

"(1) specific procedures, which shall be adopted by the Attorney General, that are reasonably designed in light of the purposes and technique of the particular physical search, to minimize the acquisition and retention, and prohibit the dissemination, of non-publicly available information concerning unconsenting United States persons consistent with the need of the United States persons consistent with the need of the United States to obtain, produce, and disseminate foreign intelligence information;

"(2) procedures that require that non-publicly available information, which is not foreign intelligence information, as defined in subsection 101(e)(1) of this Act, shall not be disseminated in a manner that identifies any United States person, without such person's consent, unless such person's identity is necessary to understand such foreign intelligence information or assess its importance; and

"(3) notwithstanding paragraphs (1) and (2), procedures that allow for the retention and dissemination of information that is evidence of a crime which has been, is being, or is about to be committed and that is to be retained or disseminated for law enforcement purposes."

"(d) 'Aggrieved person' means a person whose premises, property, information, or material is the target of physical search or any other person whose premises, property, information, or material was subject to physical search.

"(e) 'Foreign Intelligence Surveillance Court' means the court established by section 103(a) of this Act.

"(f) 'Court of Review' means the court established by section 103(b) of this Act.

"EFFECTIVE DATE

"SEC. 410. The provisions of this title shall become effective 90 days after the date of enactment of this title, except that any physical search approved by the Attorney General to gather foreign intelligence information shall not be deemed unlawful for failure to follow the procedures of this title, if that search is conducted within 180 days following the date of enactment of this title pursuant to regulations issued by the Attorney General, which are in the possession of the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives prior to the date of enactment.".

TITLE XI—LOCAL EMPOWERMENT AND FLEXIBILITY

SEC. 1101. SHORT TITLE.

This title may be cited as the "Local Empowerment and Flexibility Act of 1994".

SEC. 1102. FINDINGS.

The Congress finds that—

(1) historically, Federal social service programs have addressed the Nation's social problems by providing categorical assistance with detailed requirements relating to the use of funds;

(2) while the assistance described in paragraph (1) has been directed at critical problems, some program requirements may inadvertently impede the effective delivery of social services;

(3) the Nation's local governments and private, nonprofit organizations are dealing with increasingly complex social problems which require the delivery of many kinds of social services;

(4) the Nation's communities are diverse, and different social needs are present in different communities;

(5) it is more important than ever to provide programs that—

(A) promote local delivery of social services to meet the full range of needs of individuals and families;

(B) respond flexibly to the diverse needs of the Nation's communities;

(C) reduce the barriers between programs that impede local governments' ability to effectively deliver social services; and

(D) empower local governments and private, nonprofit organizations to be innovative in creating programs that meet the unique needs of the people in their communities while continuing to address national social service goals; and

(6) many communities have innovative planning and community involvement strategies for social services, but Federal, State, and local regulations often hamper full implementation of local plans.

SEC. 1103. PURPOSES.

The purposes of this title are to—

(1) enable more efficient use of Federal, State, and local resources;

(2) place less emphasis in Federal social service programs on measuring resources and procedures and more emphasis on achieving Federal, State, and local social services goals;

(3) enable local governments and private, nonprofit organizations to adapt programs of Federal assistance to the particular needs of low income citizens and the operating practices of recipients, by—

(A) drawing upon appropriations available from more than one Federal program; and

(B) integrating programs and program funds across existing Federal assistance categories; and

(4) enable local governments and private, nonprofit organizations to work together and build stronger cooperative partnerships to address critical social service problems.

SEC. 1104. DEFINITIONS.

For purposes of this Act—

(1) the term "approved local flexibility plan" means a local flexibility plan that combines funds from Federal, State, local government or private sources to address the social service needs of a community (or any part of such a plan) that is approved by the Community Enterprise Board under section 1106;

(2) the term "community advisory committee" means such a committee established by a local government under section 1110;

(3) the term "Community Enterprise Board" means the board established by the President that is composed of the—

(A) Vice President;

(B) Assistant to the President for Domestic Policy;

(C) Assistant to the President for Economic Policy;

(D) Secretary of the Treasury;

(E) Attorney General;

(F) Secretary of the Interior;

(G) Secretary of Agriculture;

(H) Secretary of Commerce;

(I) Secretary of Labor;

(J) Secretary of Health and Human Services;

(K) Secretary of Housing and Urban Development;

(L) Secretary of Transportation;

(M) Secretary of Education;

(N) Administrator of the Environmental Protection Agency;

(O) Director of National Drug Control Policy;

(P) Administrator of the Small Business Administration;

(Q) Director of the Office of Management and Budget; and

(R) Chair of the Council of Economic Advisers.

(4) the term "covered Federal assistance program" means an eligible Federal assistance program that is included in a local flexibility plan of a local government;

(5) the term "eligible Federal assistance program"—

(A) means a Federal program under which assistance is available, directly or indirectly, to a local government or a qualified organization to carry out a program for—

(i) economic development;

(ii) employment training;

(iii) health;

(iv) housing;

(v) nutrition;

(vi) other social services; or

(vii) rural development; and

(B) does not include a Federal program under which assistance is provided by the Federal Government directly to a beneficiary of that assistance or to a State as a direct payment to an individual;

(6) the term "eligible local government" means a local government that is eligible to receive assistance under 1 or more covered Federal programs;

(7) the term "local flexibility plan" means a comprehensive plan for the integration and administration by a local government of assistance provided by the Federal Government under 2 or more eligible Federal assistance programs;

(8) the term "local government" means a subdivision of a State that is a unit of general local government (as defined under section 6501 of title 31, United States Code);

(9) the term "low income" means having an income that is not greater than 200 percent of the Federal poverty income level;

(10) the term "priority funding" means giving higher priority (including by the assignment of extra points, if applicable) to applications for Federal assistance submitted by a local government having an approved local flexibility program, by—

(A) a person located in the jurisdiction of such a government; or

(B) a qualified organization eligible for assistance under a covered Federal assistance program included in such a plan;

(11) the term "qualified organization" means a private, nonprofit organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of the Internal Revenue Code of 1986; and

(12) the term "State" means the 50 States, the District of Columbia, Puerto Rico, American Samoa, Guam, and the Virgin Islands.

SEC. 1105. DEMONSTRATION PROGRAM.

The Community Enterprise Board shall—

(1) establish and administer a local flexibility demonstration program by approving local flexibility plans in accordance with the provisions of this title;

(2) no later than 180 days after the date of the enactment of this Act, select no more than 30 local governments from no more than 6 States to participate in such program, of which—

(A) 3 States shall each have a population of 3,500,000 or more as determined under the most recent decennial census; and

(B) 3 States shall each have a population of 3,500,000 or less as determined under the most recent decennial census.

SEC. 1106. PROVISION OF FEDERAL ASSISTANCE IN ACCORDANCE WITH APPROVED LOCAL FLEXIBILITY PLAN.

(a) PAYMENTS TO LOCAL GOVERNMENTS.—Notwithstanding any other provision of law, amounts available to a local government or a qualified organization under a covered Federal assistance program included in an approved local flexibility plan shall be provided to and used by the local government or organization in accordance with the approved local flexibility plan.

(b) ELIGIBILITY FOR BENEFITS.—An individual or family that is eligible for benefits or services under a covered Federal assistance program included in an approved local flexibility plan may receive those benefits only in accordance with the approved local flexibility plan.

SEC. 1107. APPLICATION FOR APPROVAL OF LOCAL FLEXIBILITY PLAN.

(a) IN GENERAL.—A local government may submit to the Community Enterprise Board in accordance with this section an application for approval of a local flexibility plan.

(b) CONTENTS OF APPLICATION.—An application submitted under this section shall include—

(1) a proposed local flexibility plan that complies with subsection (c);

(2) certification by the chief executive of the local government, and such additional assurances as may be required by the Community Enterprise Board, that—

(A) the local government has the ability and authority to implement the proposed plan, directly or through contractual or other arrangements, throughout the geographic area in which the proposed plan is intended to apply;

(B) amounts are available from non-Federal sources to pay the non-Federal share of all covered Federal assistance programs included in the proposed plan; and

(C) low income individuals and families that reside in that geographic area participated in the development of the proposed plan;

(3) any comments on the proposed plan submitted under subsection (d) by the Governor of the State in which the local government is located;

(4) public comments on the plan including the transcript of at least 1 public hearing and comments of the appropriate community advisory committee established under section 1110; and

(5) other relevant information the Community Enterprise Board may require to approve the proposed plan.

(c) CONTENTS OF PLAN.—A local flexibility plan submitted by a local government under this section shall include—

(1) the geographic area to which the plan applies and the rationale for defining the area;

(2) the particular groups of individuals, by age, service needs, economic circumstances, or other defining factors, who shall receive services and benefits under the plan;

(3)(A) specific goals and measurable performance criteria, a description of how the plan is expected to attain those goals and criteria;

(B) a description of how performance shall be measured; and

(C) a system for the comprehensive evaluation of the impact of the plan on participants, the community, and program costs;

(4) the eligible Federal assistance programs to be included in the plan as covered Federal assistance programs and the specific benefits that shall be provided under the plan under such programs, including—

(A) criteria for determining eligibility for benefits under the plan;

(B) the services available;

(C) the amounts and form (such as cash, in-kind contributions, or financial instruments) of nonservice benefits; and

(D) any other descriptive information the Community Enterprise Board considers necessary to approve the plan;

(5) except for the requirements under section 1109(b)(3), any Federal statutory or regulatory requirement applicable under a covered Federal assistance program included in the plan, the waiver of which is necessary to implement the plan;

(6) fiscal control and related accountability procedures applicable under the plan;

(7) a description of the sources of all non-Federal funds that are required to carry out covered Federal assistance programs included in the plan;

(8) written consent from each qualified organization for which consent is required under section 1107(b)(2); and

(9) other relevant information the Community Enterprise Board may require to approve the plan.

(d) PROCEDURE FOR APPLYING.—(1) To apply for approval of a local flexibility plan, a local government shall submit an application in accordance with this section to the Governor of

the State in which the local government is located.

(2) A Governor who receives an application from a local government under paragraph (1) may, by no later than 30 days after the date of that receipt—

(A) prepare comments on the proposed local flexibility plan included in the application;

(B) describe any State laws which are necessary to waive for successful implementation of a local plan; and

(C) submit the application and comments to the Community Enterprise Board.

(3) If a Governor fails to act within 30 days after receiving an application under paragraph (2), the applicable local government may submit the application to the Community Enterprise Board.

SEC. 1108. REVIEW AND APPROVAL OF LOCAL FLEXIBILITY PLANS.

(a) REVIEW OF APPLICATIONS.—Upon receipt of an application for approval of a local flexibility plan under this title, the Community Enterprise Board shall—

(1) approve or disapprove all or part of the plan within 45 days after receipt of the application;

(2) notify the applicant in writing of that approval or disapproval by not later than 15 days after the date of that approval or disapproval; and

(3) in the case of any disapproval of a plan, include a written justification of the reasons for disapproval in the notice of disapproval sent to the applicant.

(b) APPROVAL.—(1) The Community Enterprise Board may approve a local flexibility plan for which an application is submitted under this title, or any part of such a plan, if a majority of members of the Board determines that—

(A) the plan or part shall improve the effectiveness and efficiency of providing benefits under covered Federal programs included in the plan by reducing administrative inflexibility, duplication, and unnecessary expenditures;

(B) the applicant local government has adequately considered, and the plan or part of the plan appropriately addresses, any effect that administration of each covered Federal program under the plan or part of the plan shall have on administration of the other covered Federal programs under that plan or part of the plan;

(C) the applicant local government has or is developing data bases, planning, and evaluation processes that are adequate for implementing the plan or part of the plan;

(D) the plan shall more effectively achieve Federal assistance goals at the local level and shall better meet the needs of local citizens;

(E) implementation of the plan or part of the plan shall adequately achieve the purposes of this title and of each covered Federal assistance program under the plan or part of the plan;

(F) the plan and the application for approval of the plan comply with the requirements of this title;

(G) the plan or part of the plan is adequate to ensure that individuals and families that receive benefits under covered Federal assistance programs included in the plan or part shall continue to receive benefits that meet the needs intended to be met under the program;

(H) the qualitative level of those benefits shall not be reduced for any individual or family; and

(I) the local government has—

(i) waived the corresponding local laws necessary for implementation of the plan; and

(ii) sought any necessary waivers from the State.

(2) The Community Enterprise Board may not approve any part of a local flexibility plan if—

(A) implementation of that part would result in any increase in the total amount of obligations or outlays of discretionary appropriations or direct spending under covered Federal assistance programs included in that part, over the amounts of such obligations and outlays that would occur under those programs without implementation of the part; or

(B) in the case of a plan or part that applies to assistance to a qualified organization under an eligible Federal assistance program, the qualified organization does not consent in writing to the receipt of that assistance in accordance with the plan.

(3) The Community Enterprise Board shall disapprove a part of a local flexibility plan if a majority of the Board disapproves that part of the plan based on a failure of the part to comply with paragraph (1).

(4) In approving any part of a local flexibility plan, the Community Enterprise Board shall specify the period during which the part is effective. An approved local flexibility plan shall not be effective after the date of the termination of effectiveness of this title under section 1113(a).

(5) Disapproval by the Community Enterprise Board of any part of a local flexibility plan submitted by a local government under this title shall not affect the eligibility of a local government, a qualified organization, or any individual for benefits under any Federal program.

(c) MEMORANDA OF UNDERSTANDING.—(1) The Community Enterprise Board may not approve a part of a local flexibility plan unless each local government and each qualified organization that would receive assistance under the plan enters into a memorandum of understanding under this subsection with the Community Enterprise Board.

(2) A memorandum of understanding under this subsection shall specify all understandings that have been reached by the Community Enterprise Board, the local government, and each qualified organization that is subject to a local flexibility plan, regarding the approval and implementation of all parts of a local flexibility plan that are the subject of the memorandum, including understandings with respect to—

(A) all requirements under covered Federal assistance programs that are to be waived by the Community Enterprise Board under section 1109(b);

(B)(i) the total amount of Federal funds that shall be provided as benefits under or used to administer covered Federal assistance programs included in those parts; or

(ii) a mechanism for determining that amount, including specification of the total amount of Federal funds that shall be provided or used under each covered Federal assistance program included in those parts;

(C) the sources of all non-Federal funds that shall be provided as benefits under or used to administer those parts;

(D) measurable performance criteria that shall be used during the term of those parts to determine the extent to which the goals and performance levels of the parts are achieved; and

(E) the data to be collected to make that determination.

(d) LIMITATION ON CONFIDENTIALITY REQUIREMENTS.—The Community Enterprise Board may not, as a condition of approval of any part of a local flexibility plan or with respect to the implementation of any part of an approved local flexibility plan, establish any confidentiality requirement that would—

(1) impede the exchange of information needed for the design or provision of benefits under the parts; or

(2) conflict with law.

SEC. 1109. IMPLEMENTATION OF APPROVED LOCAL FLEXIBILITY PLANS; WAIVER OF REQUIREMENTS.

(a) PAYMENTS AND ADMINISTRATION IN ACCORDANCE WITH PLAN.—Notwithstanding any other law, any benefit that is provided under a covered Federal assistance program included in an approved local flexibility plan shall be paid and administered in the manner specified in the approved local flexibility plan.

(b) WAIVER OF REQUIREMENTS.—(1) Notwithstanding any other law and subject to paragraphs (2) and (3), the Community Enterprise Board may waive any requirement applicable under Federal law to the administration of, or provision of benefits under, any covered Federal assistance program included in an approved local flexibility plan, if that waiver is—

(A) reasonably necessary for the implementation of the plan; and

(B) approved by a majority of members of the Community Enterprise Board.

(2) The Community Enterprise Board may not waive a requirement under this subsection unless the Board finds that waiver of the requirement shall not result in a qualitative reduction in services or benefits for any individual or family that is eligible for benefits under a covered Federal assistance program.

(3) The Community Enterprise Board may not waive any requirement under this subsection—

(A) that enforces any constitutional or statutory right of an individual, including any right under—

(i) title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.);

(ii) section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.);

(iii) title IX of the Education Amendments of 1972 (86 Stat. 373 et seq.);

(iv) the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.); or

(v) the Americans with Disabilities Act of 1990;

(B) for payment of a non-Federal share of funding of an activity under a covered Federal assistance program; or

(C) for grants received on a maintenance of effort basis.

(c) SPECIAL ASSISTANCE.—To the extent permitted by law, the head of each Federal agency shall seek to provide special assistance to a local government or qualified organization to support implementation of an approved local flexibility plan, including expedited processing, priority funding, and technical assistance.

(d) EVALUATION AND TERMINATION.—(1) A local government, in accordance with regulations issued by the Community Enterprise Board, shall—

(A) submit such reports on and cooperate in such audits of the implementation of its approved local flexibility plan; and

(B) periodically evaluate the effect implementation of the plan has had on—

(i) individuals who receive benefits under the plan;

(ii) communities in which those individuals live; and

(iii) costs of administering covered Federal assistance programs included in the plan.

(2) No later than 90 days after the end of the 1-year period beginning on the date of the approval by the Community Enterprise Board of an approved local flexibility plan of a local government, and annually thereafter, the local government shall submit to the Community Enterprise Board a report on the principal activities and achievements under the plan during the period covered by the report, comparing those achievements to the goals and performance criteria included in the plan under section 1107(c)(3).

(3)(A) If the Community Enterprise Board, after consultation with the head of each Federal agency responsible for administering a covered Federal assistance program included in an approved local flexibility plan of a local government, determines—

(i) that the goals and performance criteria included in the plan under section 1107(c)(3) have not been met; and

(ii) after considering any experiences gained in implementation of the plan, that those goals and criteria are sound;

the Community Enterprise Board may terminate the effectiveness of the plan.

(B) In terminating the effectiveness of an approved local flexibility plan under this paragraph, the Community Enterprise Board shall allow a reasonable period of time for appropriate Federal, State, and local agencies and qualified organizations to resume administration of Federal programs that are covered Federal assistance programs included in the plan.

(e) FINAL REPORT; EXTENSION OF PLANS.—(1) No later than 45 days after the end of the effective period of an approved local flexibility plan of a local government, or at any time that the local government determines that the plan has demonstrated its worth, the local government shall submit to the Community Enterprise Board a final report on its implementation of the plan, including a full evaluation of the successes and shortcomings of the plan and the effects of that implementation on individuals who receive benefits under those programs.

(2) The Community Enterprise Board may extend the effective period of an approved local flexibility plan for such period as may be appropriate, based on the report of a local government under paragraph (1).

SEC. 1110. COMMUNITY ADVISORY COMMITTEES.

(a) ESTABLISHMENT.—A local government that applies for approval of a local flexibility plan under this title shall establish a community advisory committee in accordance with this section.

(b) FUNCTIONS.—A community advisory committee shall advise a local government in the development and implementation of its local flexibility plan, including advice with respect to—

(1) conducting public hearings;

(2) representing the interest of low income individuals and families; and

(3) reviewing and commenting on all community policies, programs, and actions under the plan which affect low income individuals and families, with the purpose of ensuring maximum coordination and responsiveness of the plan in providing benefits under the plan to those individuals and families.

(c) MEMBERSHIP.—The membership of a community advisory committee shall—

(1) consist of—

(A) low income individuals, who shall—

(i) comprise at least one-third of the membership; and

(ii) include minority individuals who are participants or who qualify to participate in eligible Federal assistance programs;

(B) representatives of low income individuals and families;

(C) persons with leadership experience in the private and voluntary sectors;

(D) local elected officials;

(E) representatives of participating qualified organizations; and

(F) the general public; and

(2) include individuals and representatives of community organizations who shall help to enhance the leadership role of the local government in developing a local flexibility plan.

(d) OPPORTUNITY FOR REVIEW AND COMMENT BY COMMITTEE.—Before submitting an application for approval of a final proposed local flexibility plan, a local government shall submit the final proposed plan for review and comment by a community advisory committee established by the local government.

(e) COMMITTEE REVIEW OF REPORTS.—Before submitting annual or final reports on an approved assistance plan, a local government or private nonprofit organization shall submit the report for review and comment to the community advisory committee.

SEC. 1111. TECHNICAL AND OTHER ASSISTANCE.

(a) TECHNICAL ASSISTANCE.—(1) The Community Enterprise Board may provide, or direct that the head of a Federal agency provide, technical assistance to a local government or qualified organization in developing information necessary for the design or implementation of a local flexibility plan.

(2) Assistance may be provided under this subsection if a local government makes a request that includes, in accordance with requirements established by the Community Enterprise Board—

(A) a description of the local flexibility plan the local government proposes to develop;

(B) a description of the groups of individuals to whom benefits shall be provided under covered Federal assistance programs included in the plan; and

(C) such assurances as the Community Enterprise Board may require that—

(i) in the development of the application to be submitted under this title for approval of the plan, the local government shall provide adequate opportunities to participate to—

(I) low income individuals and families that shall receive benefits under covered Federal assistance programs included in the plan; and

(II) governmental agencies that administer those programs; and

(ii) the plan shall be developed after considering fully—

(I) needs expressed by those individuals and families;

(II) community priorities; and

(III) available governmental resources in the geographic area to which the plan shall apply.

(b) DETAILS TO BOARD.—At the request of the Chairman of the Community Enterprise Board and with the approval of an agency head who is a member of the Board, agency staff may be detailed to the Community Enterprise Board on a nonreimbursable basis.

SEC. 1112. COMMUNITY ENTERPRISE BOARD.

(a) FUNCTIONS.—The Community Enterprise Board shall—

(1) receive, review, and approve or disapprove local flexibility plans for which approval is sought under this title;

(2) upon request from an applicant for such approval, direct the head of an agency that administers a covered Federal assistance program under which substantial Federal assistance would be provided under the plan to provide technical assistance to the applicant;

(3) monitor the progress of development and implementation of local flexibility plans;

(4) perform such other functions as are assigned to the Community Enterprise Board by this title; and

(5) issue regulations to implement this title within 180 days after the date of its enactment.

(b) REPORTS.—No less than 18 months after the date of the enactment of this Act, and annually thereafter, the Community Enterprise Board shall submit a report on the 5 Federal regulations that are most frequently waived by the Community Enterprise Board for local governments with approved local flexibility plans to the President and the Congress. The President shall review the report and determine whether to amend or terminate such Federal regulations.

SEC. 1113. TERMINATION AND REPEAL; REPORT.

(a) TERMINATION AND REPEAL.—This title is repealed on the date that is 5 years after the date of the enactment of this Act.

(b) REPORT.—No later than 4 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Congress, a report that—

(1) describes the extent to which local governments have established and implemented approved local flexibility plans;

(2) evaluates the effectiveness of covered Federal assistance programs included in approved local flexibility plans; and

(3) includes recommendations with respect to continuing local flexibility.

TITLE XII—HERO ACT

SEC. 1201. SHORT TITLE.

This title may be cited as the "Heroic Efforts to Rescue Others Act" (HERO Act).

SEC. 1202. FINDINGS.

Congress finds that—

(1) existing Occupational Safety and Health Administration regulations require the issuance of a citation to an employer in a circumstance in which an employee of such employer has voluntarily acted in a heroic manner to rescue individuals from imminent harm during work hours;

(2) application of such regulations to employers in such circumstance causes hardships to those employers who are responsible for employees who perform heroic acts to save individuals from imminent harm;

(3) strict application of such regulations in such circumstance penalizes employers as a result of the time lost and legal fees incurred to defend against such citations; and

(4) in order to save employers the cost of unnecessary enforcement an exemption from the issuance of a citation to an employer under certain situations related to such circumstance is appropriate.

SEC. 1203. CITATIONS.

Section 9 of the Occupational Safety and Health Act (29 U.S.C. 658) is amended by adding at the end the following new subsection:

"(d)(1) No citation may be issued under this section for a rescue activity by an employer's employee of an individual in imminent harm unless—

"(A)(i) such employee is designated or assigned by the employee's employer with responsibility to perform or assist in rescue operations; and

"(ii) the employer fails to provide protection of the safety and health of such employee, including failing to provide appropriate training and rescue equipment;

"(B)(i) such employee is directed by the employee's employer to perform rescue activities in the course of carrying out the employee's job duties; and

"(ii) the employer fails to provide protection of the safety and health of such employee, including failing to provide appropriate training and rescue equipment; or

"(C)(i) such employee—

"(I) is employed in a workplace that requires such employee to carry out duties that are directly related to a workplace operation where the likelihood of life-threatening accidents is foreseeable, such as a workplace operation where employees are located in confined spaces or trenches, handle hazardous waste, respond to emergency situations, perform excavations, or perform construction over water;

"(II) has not been designated or assigned to perform or assist in rescue operations; and

"(III) voluntarily elects to rescue such an individual; and

"(ii) the employer has failed to instruct employees not designated or assigned to perform or assist in rescue operations—

"(I) of the arrangements for rescue;

"(II) not to attempt rescue; and

"(III) of the hazards of attempting rescue without adequate training or equipment.

"(2) For purposes of this subsection, the term 'imminent harm' means the existence of any condition or practice that could reasonably be expected to cause death or serious physical harm before such condition or practice can be abated.".

TITLE XIII—MISCELLANEOUS PROVISIONS

SEC. 1301. ECONOMIC AND EMPLOYMENT IMPACT ACT.

(a) SHORT TITLE.—This section may be cited as the "Economic and Employment Impact Act".

(b) FINDINGS AND PURPOSES.—

(1) FINDINGS.—The Congress finds that—

(A) compliance with Federal regulations is estimated to cost the private sector and State and local governments as much as $850,000,000,000 a year;

(B) excessive Federal regulation and mandates increase the cost of doing business and thus hinder economic growth and employment opportunities;

(C) State and local governments are forced to absorb the cost of unfunded Federal mandates; and

(D) in addition to budget and deficit estimates, Congress and the executive branch decision makers need to be aware of regulatory cost impacts of proposed Federal actions on the private sector and State, local, and tribal governments.

(2) PURPOSES.—The purposes of this section are—

(A) to ensure that the people of United States are fully apprised of the impact of Federal legislative and regulatory activity on economic growth and employment;

(B) to require both the Congress and the executive branch to acknowledge and to take responsibility for the fiscal and economic effects of legislative and regulatory actions and activities;

(C) to provide a means to ensure that congressional and executive branch action are focused on enhancing economic growth and providing increased job opportunities for the people of United States; and

(D) to protect against congressional or executive branch actions which hinder economic growth or eliminate jobs for the people of United States.

(c) ECONOMIC AND EMPLOYMENT IMPACT STATEMENTS FOR LEGISLATION.—

(1) PREPARATION.—The Director of the Congressional Budget Office (referred to as the "Director") shall prepare an economic and employment impact statement, as described in paragraph (2), to accompany each bill or joint resolution reported by any committee (except the Committee on Appropriations) of the House of Representatives or the Senate or considered on the floor of either House.

(2) CONTENTS.—The economic and employment impact statement required by paragraph (1) shall include the following:

(A) An estimate of the numbers of individuals and businesses who would be regulated by the bill or joint resolution and a determination of the groups and classes of such individuals and businesses;

(B) A determination of the economic impact of such regulation on individuals, consumers, and businesses affected.

(C)(i) An estimate of the costs which would be incurred by the private sector in carrying out or complying with such bill or joint resolution in the fiscal year in which it is to become effective, and in each of the 4 fiscal years following such fiscal year, together with the basis for each such estimate.

(ii) Estimates required by this subparagraph shall include specific data on costs imposed on groups and classes of individuals and businesses, including small business and consumers, and employment impacts on those individuals and businesses.

(D) An estimate of the costs that would be incurred by State and local governments, which shall include—

(i) the estimates required by section 403 of the Congressional Budget Act of 1974; and

(ii) an evaluation of the extent of the costs of the Federal mandates arising from such bill or joint resolution in comparison with funding assistance provided by the Federal Government to address the costs of complying with such mandates.

(3) REPORT NOT AVAILABLE.—If compliance with the requirements of paragraph (1) is impracticable, the Director shall submit a statement setting forth the reasons for noncompliance.

(4) STATEMENT TO ACCOMPANY COMMITTEE REPORTS.—The economic and employment impact statement required by this subsection shall accompany each bill or joint resolution reported or otherwise considered on the floor of either House. Such statement shall be printed in the committee report upon timely submission to the committee. If not timely filed or otherwise unavailable for publication in the committee report, the economic and regulatory statement shall be published in the Congressional Record not less than 2 calendar days prior to any floor consideration of a bill or joint resolution subject to the provisions of this subsection by either House.

(5) COMMITTEE STATEMENTS OPTIONAL.—Nothing in this subsection shall be construed to modify or otherwise affect the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, regarding preparation of an evaluation of regulatory impact.

(d) ECONOMIC AND EMPLOYMENT IMPACT STATEMENT FOR EXECUTIVE BRANCH REGULATIONS.—

(1) PREPARATION.—Each Federal department or executive branch agency shall prepare an economic and employment impact statement, as described in paragraph (2), to accompany regulatory actions.

(2) CONTENTS.—The economic and employment impact statement required by paragraph (1) shall include the following:

(A) An estimate of the numbers of individuals and businesses who would be regulated by the regulatory action and a determination of the groups and classes of such individuals and businesses.

(B) A determination of the economic impact of such regulation on individuals, consumers, and businesses affected.

(C)(i) An estimate of the costs which would be incurred by the private sector in carrying out or complying with such regulatory action in the fiscal year in which it is to become effective and in each of the 4 fiscal years following such fiscal year, together with the basis for each such estimate;

(ii) The estimate required by this subparagraph shall include specific data on costs on groups and classes of individuals and businesses, including small business and consumers, and employment impacts on those individuals and businesses.

(D) An estimate of the costs that would be incurred by State and local governments, which shall include—

(i) an estimate of cost which would be incurred by State and local governments in carrying out or complying with the regulatory action in the fiscal year in which it is to become effective and in each of the 4 fiscal years following such fiscal year, together with the basis for such estimate;

(ii) a comparison of the estimates of costs described in clause (i), with any available estimates of costs made by any Federal or State agency;

(iii) if the agency determines that the regulatory action is likely to result in annual cost to State and local governments of $200,000,000 or more, or is likely to have exceptional fiscal consequences for a geographic region or a particular level of government, a statement by the agency detailing such results or consequences; and

(iv) an evaluation of the extent of the costs of the Federal mandates arising from the regulatory action in comparison with funding assistance provided by the Federal Government to address the costs of complying with such mandates.

(4) REPORT NOT AVAILABLE.—If compliance with the requirements of paragraph (1) is impracticable, the agency or department shall submit a statement setting forth the reasons for noncompliance.

(5) STATEMENT TO ACCOMPANY FEDERAL REGULATORY ACTIONS.—The economic and employment impact statement with respect to a regulatory action required by this subsection shall be published in the Federal Register together with the publication of such regulatory action. If the regulatory action is not published in the Federal Register, the economic and employment impact statement shall be made available to the public in a timely manner.

(6) DEFINITION OF "REGULATORY ACTION".—For purposes of this subsection, the term "regulatory action" means any substantive action by a Federal agency (required to be or customarily published in the Federal Register) that promulgates or is expected to lead to the promulgation of a final rule or regulation, including notices of inquiry, advance notices of proposed rulemaking, notices of proposed rulemaking, interim final rules, and final rules and regulations.

(e) PROVISION FOR NATIONAL SECURITY EMERGENCY WAIVER.—

(1) CONGRESSIONAL ECONOMIC IMPACT STATEMENTS.—The Congress may waive the requirements of subsection (c) at any time in which a declaration of war is in effect, or in response to a national security emergency at the request of the President.

(2) EXECUTIVE REGULATIONS ECONOMIC IMPACT STATEMENTS.—The President may waive the requirements of subsection (d) at any time in which a declaration of war is in effect, or in response to a national security emergency as determined by the President in consultation with Congress.

(f) EFFECTIVE DATE.—This section shall take effect 30 days after the date enactment of this Act.

SEC. 1302. URBAN UNIVERSITY BUSINESS INITIATIVE GRANTS.

(a) URBAN UNIVERSITY BUSINESS INITIATIVE GRANTS.—

(1) AUTHORIZATION.—The Secretary of Commerce (hereafter in this section referred to as the "Secretary") is authorized to make grants to eligible institutions in accordance with this section.

(2) APPLICATION.—

(A) IN GENERAL.—An eligible institution seeking assistance under this section shall submit to the Secretary an application at such time, in such form, and containing or accompanied by such information and assurances as the Secretary may require by regulation.

(B) CONTENTS.—Except as provided in subparagraph (C), each application submitted pursuant to subparagraph (A) shall include—

(i) a description of the activities and services for which assistance is sought;

(ii) evidence of coordination with any small business development centers in existence in the community; and

(iii) documentation of the formation of a consortium that includes, in addition to eligible institutions, one or more of the following entities:

(I) A nonprofit organization.

(II) A business or other employer.

(C) WAIVER.—The Secretary may waive the requirements of subparagraph (B)(iii) for any applicant who can demonstrate to the satisfaction of the Secretary that the applicant has devised an integrated and coordinated plan that otherwise meets the requirements of this section.

(3) SELECTION PROCEDURES.—Not later than 120 days after the date of enactment of this section, the Secretary shall, by regulation, develop a formal procedure for the submission of appli-

cations under this section and shall publish in the Federal Register an announcement of that procedure and the availability of funds under this section.

(b) AUTHORIZED ACTIVITIES.—

(1) IN GENERAL.—Funds provided under this section shall be used to design and implement programs to assist businesses, especially those in lower income urban communities, to become more productive and able to compete in the global marketplace.

(2) SPECIFIC AUTHORIZED ACTIVITIES.—Activities conducted with funds made available under this section may include research on, or planning and implementation of technology transfer, technical training, the delivery of services, or technical assistance in—

(A) business development;

(B) business creation;

(C) business expansion; and

(D) human resource management.

(c) PEER REVIEW PANEL.—

(1) ESTABLISHMENT.—Not later than 90 days after the date on which the Secretary publishes the announcement in the Federal Register in accordance with subsection (a)(3), the Secretary shall appoint a peer review panel (hereafter in this section referred to as the "panel").

(2) MEMBERSHIP.—In appointing the panel under paragraph (1), the Secretary shall consult with officials of other Federal agencies and with non-Federal organizations in order to ensure that—

(A) the panel membership is geographically balanced; and

(B) the panel is composed of representatives from public and private institutions of higher education, labor, business, and nonprofit organizations having expertise in business development in lower income urban communities.

(3) DUTIES.—The panel shall—

(A) review applications submitted under this section; and

(B) make recommendations to the Secretary concerning the selection of grant recipients.

(d) DISBURSEMENT OF FUNDS.—

(1) LIMITATION ON AMOUNT.—The Secretary shall not provide assistance under this section to any recipient which exceeds $400,000 during any 1-year period.

(2) EQUITABLE GEOGRAPHIC DISTRIBUTION.—The Secretary shall award grants under this section in a manner that achieves equitable geographic distribution of such grants.

(e) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) LOWER INCOME URBAN COMMUNITY.—The term "lower income urban community" means an urban area in which the percent of residents living below the Federal poverty level is not less than 115 percent of the statewide average.

(2) URBAN AREA.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term "urban area" means a primary metropolitan statistical area of the United States Department of Commerce, Bureau of the Census.

(B) EXCEPTION.—With respect to a State that does not contain an urban area, as defined in subparagraph (A), the Secretary shall designate 1 area in the State as an urban area for purposes of this section.

(3) ELIGIBLE INSTITUTION.—

(A) INSTITUTION OR CONSORTIUM.—The term "eligible institution" means a nonprofit institution of higher education that meets the requirements of subparagraph (B), or a consortium of such institutions, any 1 of which meets the requirements of subparagraph (B).

(B) REQUIREMENTS.—An institution meets the requirements of this subparagraph if the institution—

(i) is located in an urban area;

(ii) draws a substantial portion of its undergraduate students from the urban area in which such institution is located, or from contiguous areas;

(iii) carries out programs to make postsecondary educational opportunities more accessible to residents of such urban area, or contiguous areas;

(iv) has the present capacity to provide resources responsive to the needs and priorities of such urban area and contiguous areas;

(v) offers a range of professional, technical, or graduate programs sufficient to sustain the capacity of such institution to provide such resources;

(vi) has demonstrated and sustained a sense of responsibility to such urban area and contiguous areas and the people of such areas; and

(vii) has a school of business accredited by the American Assembly of Collegiate Schools of Business (or similar organization) with faculty experienced in conducting research on issues of immediate concern to small and emerging businesses.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $10,000,000, for fiscal year 1995; and

(2) such sums as may be necessary, for fiscal years 1996, 1997, 1998, and 1999.

SEC. 1303. PROHIBITION ON SOLICITATION OF CAMPAIGN CONTRIBUTIONS BY PERSONS AWARDING CONTRACTS.

(a) IN GENERAL.—Chapter 29 of title 18, United States Code, is amended by adding at the end the following new section:

"§610. Solicitation of political contributions by persons awarding contracts

"Any person who awards any contract or grant under any provision of, or any amendment made by, the National Competitiveness Act of 1994 who, during the 5-year period beginning on the date the contract or grant is awarded, knowingly solicits a political contribution (within the meaning of section 7322(3) of title 5, United States Code) from any person who was awarded such contract or grant (or any owner, officer, employee, or agent thereof) shall be imprisoned for 1 year or fined not more than $10,000, or both.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 29 of title 18, United States Code, is amended by adding at the end the following new item:

"610. Solicitation of political contributions by persons awarding contracts.".

MESSAGES FROM THE HOUSE

At 4:40 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced the House has passed the following bill, without amendment:

S. 1926. An act to amend the Food and Stamp Act of 1977 to modify the requirements relating to monthly reporting and staggered issuance of coupons for households residing on Indian reservations, to ensure adequate access to retail food stores by food stamp households, and to maintain the integrity of the Food Stamp Program, and for other purposes.

At 8:10 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, with amendment, in which it requests the concurrence of the Senate:

S. 1913. An Act to extend certain compliance dates for pesticide safety training and labeling requirements.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

At 10:09 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolling bill and joint resolutions:

S. 1926. An Act to amend the Food Stamp Act of 1977 to modify the requirements relating to monthly reporting and staggered issuance of coupons for households residing on Indian reservations, to ensure adequate access to retail food stores by food stamp households, and to maintain the integrity of the food stamp program, and for other purposes.

S.J. Res. 162. Joint Resolution designating March 25, 1994, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy."

S.J. Res. 163. Joint Resolution to proclaim March 20, 1994, as "National Agriculture Day."

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-2352. A communication from the Director of the Joint Staff, Department of Defense, transmitting, pursuant to law, notice of a delay relative to the report on readiness and capabilities; to the Committee on Armed Services.

EC-2353. A communication from the Director of Administration and Management, Department of Defense, transmitting, pursuant to law, the report entitled "Extraordinary Contractual Actions to Facilitate the National Defense"; to the Committee on Armed Services.

EC-2354. A communication from the Director of Defense Research and Engineering, Department of Defense, transmitting, pursuant to law, a report entitled "Survey of Laboratories and Implementation of the Federal Defense Laboratory Diversification Program"; to the Committee on Armed Services.

EC-2355. A communication from the Comptroller of the Currency, transmitting, pursuant to law, the report on consumer complaints for calendar year 1993; to the Committee on Commerce, Science, and Transportation.

EC-2356. A communication from the Secretary of Transportation, transmitting, a draft of proposed legislation entitled "Maritime Administration Authorization Act for fiscal year 1995"; to the Committee on Commerce, Science, and Transportation.

EC-2357. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report on motor vehicle titling, registration, and salvage; to the Committee on Commerce, Science, and Transportation.

EC-2358. A communication from the Secretary of Transportation, transmitting, a draft of proposed legislation entitled "Coast Guard Authorization Act of 1994"; to the Committee on Commerce, Science, and Transportation.

EC-2359. A communication from the Secretary of Transportation, transmitting, a draft of proposed legislation entitled "Amtrak Investment Act of 1994"; to the Com-

mittee on Commerce, Science, and Transportation.

EC-2360. A communication from the Secretary of Energy, transmitting, pursuant to law, the report on the Clean Coal Technology Program; to the Committee on Energy and Natural Resources.

EC-2361. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report on nursing facility staffing requirements; to the Committee on Finance.

EC-2362. A communication from the General Counsel of the Department of Treasury, transmitting, a draft of proposed legislation to provide for a U.S. contribution to the Interest Subsidy Account of the successor (ESAF II) to the Enhanced Structural Adjustment Facility of the International Monetary Fund; to the Committee on Foreign Relations.

EC-2363. 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.

EC-2364. A communication from the Chairman of the National Transportation Safety Board, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1993; to the Committee on Governmental Affairs.

EC-2365. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1993; to the Committee on Governmental Affairs.

EC-2366. A communication from the Solicitor of the U.S. Commission on Civil Rights, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1993; to the Committee on Governmental Affairs.

EC-2367. A communication from the Board of Directors of the African Development Foundation, transmitting, pursuant to law, the annual report under the Inspector General Act for fiscal year 1993; to the Committee on Governmental Affairs.

EC-2368. A communication from the Chairman and Acting General Counsel of the National Labor Relations Board, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1993; to the Committee on Governmental Affairs.

EC-2369. A communication from the Executive Director of the Interstate Commission on the Potomac River Basin, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1993; to the Committee on Governmental Affairs.

EC-2370. A communication from the Chairman of the Merit Systems Protection Board, transmitting, pursuant to law, the annual report for fiscal year 1993; to the Committee on Governmental Affairs.

EC-2371. A communication from the District of Columbia Auditor, transmitting, pursuant to law, the report entitled "Review of the Department of Public and Assisted Housing's Response to Selected Audit Recommendations"; to the Committee on Governmental Affairs.

EC-2372. A communication from the Chairman of the Board of the National Credit Union Administration, transmitting, pursuant to law, the report of pay and salary structures; to the Committee on Governmental Affairs.

EC-2373. A communication from the Chairman of the Office of Federal Procurement Policy (Cost Accounting Standards Board), Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the annual report for calendar year 1993; to the Committee on Governmental Affairs.

EC-2374. A communication from the Director (Government Relations), Girl Scouts of the U.S.A., transmitting, pursuant to law, the report of the work and activities of the Girl Scouts for fiscal year 1993; to the Committee on the Judiciary.

EC-2375. A communication from the Senior Attorney (Copyright Office), Library of Congress, transmitting, pursuant to law, the annual report under the Freedom of Information Act for calendar year 1993; to the Committee on the Judiciary.

EC-2376. A communication from the Chairman of the U.S. Nuclear Regulatory Commission, transmitting, pursuant to law, the annual report under the Freedom of Information Act for calendar year 1993; to the Committee on the Judiciary.

EC-2377. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report on programs for runaway and homeless youth for fiscal year 1992; to the Committee on Labor and Human Resources.

EC-2378. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report on the Child Abuse and Neglect Challenge Grant Program for fiscal year 1990; to the Committee on Labor and Human Resources.

EC-2379. A communication from the Secretary of Health and Human Services, transmitting, a draft of proposed legislation entitled "Low-Income Home Energy Assistant Amendments of 1994"; to the Committee on Labor and Human Resources.

EC-2380. A communication from the Secretary of Labor, transmitting, pursuant to law, the interim report on the National Wage Record Database Design Project; to the Committee on Labor and Human Resources.

EC-2381. A communication from the Board Members of the Railroad Retirement Board, transmitting, pursuant to law, the report of a determination relative to the ability to pay benefits in each of the next five years; to the Committee on Labor and Human Resources.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. NUNN, from the Committee on Armed Services:

The following named officer for appointment to the grade of admiral while assigned to a position of importance and responsibility under title 10, United States Code, Section 601:

To be admiral

Vice Adm. Leighton W. Smith, Jr., U.S. Navy, 418-48-0558.

(The above nomination was reported with the recommendation that he be confirmed.)

Mr. NUNN. Mr. President, from the Committee on Armed Services, I report favorably the attached listing of nominations.

Those identified with a single asterisk (*) are to be placed on the Executive Calendar. Those identified with a double asterisk (**) are to lie on the Secretary's desk for the information of any Senator since these names have already appeared in the CONGRESSIONAL RECORD November 24, 1993, January 31, February 2, 4, 9, 22, and March 7, 1994, and to save the expense of printing again.

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

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of November 24, 1993, January 31, February 2, 4, 9, 22, and March 7, 1994, at the end of the Senate proceedings.)

*Rear Adm. (lower half) Douglas Matthew Moore, USNR, to be rear admiral (Reference No. 299).

**In the Army there are 1,564 promotions to the grade of major (list begins with Lawrence J. Abrams) (Reference No. 1001).

*Brig. Gen. Bobby G. Hollingsworth, USMCR, to be major general (Reference No. 1010).

*In the Marine Corps there are 15 promotions to the grade of brigadier general (list begins with Gary S. McKissock) (Reference No. 1011).

*Rear Adm. John B. LaPlante, USN, to be vice admiral (Reference No. 1013).

*Rear Adm. George R. Sterner, USN, to be vice admiral (Reference No. 1014).

*In the Marine Corps Reserve there are 2 promotions to the grade of brigadier general (list begins with Kevin B. Kuklok) (Reference No. 1064).

*In the Navy there are 6 promotions to the grade of rear admiral (lower half) (list begins with William Robert Rowley) (Reference No. 1067).

**In the Army there are 44 promotions to the grade of major (list begins with Gerald K. Bebber) (Reference No. 1082).

*In the Naval Reserve there are 13 promotions to the grade of rear admiral (lower half) (list begins with William Henry Butler) (Reference No. 1097).

**In the Air Force there are 719 promotions to the grade of colonel and below (list begins with Lawrence W. Bandoni) (Reference No. 1100).

*Vice Adm. Robert K.U. Kihune, USN, to be placed on the retired list in the grade of vice admiral (Reference No. 1116).

*Vice Adm. Stephen F. Loftus, USN, to be placed on the retired list in the grade of vice admiral (Reference No. 1117).

*Brigadier General George G. Kundahl, USAR, to be major general (Reference No. 1131).

**In the Air Force there are 18 promotions to the grade of colonel and below (list begins with Francis J. Leurquin) (Reference No. 1132).

**In the Air Force there are 44 appointments to the grade of captain (list begins with Christopher S. Allen) (Reference No. 1133).

**In the Army there are 10 promotions to the grade of lieutenant colonel and below (list begins with Cynthia A. Bernard) (Reference No. 1134).

**In the Army there are 1,111 appointments to the grade of captain and below (list begins with Derek G. Abrams) (Reference No. 1135).

*Rear Adm. Harold E. Grant, USN, to be Judge Advocate General of the Navy and to be rear admiral (Reference No. 1142).

*Capt. Carlson M. Legrand, USN, to be Deputy Judge Advocate General of the Navy and to be rear admiral (Reference No. 1143).

*Capt. Anderson Byron Holderby, Jr., USN, to be rear admiral (lower half) (Reference No. 1152).

**In the Marine Corps there are 3 promotions to the grade of lieutenant colonel (list begins with Arthur V. Gorman, Jr.) (Reference No. 1153).

**In the Marine Corps there are 2 promotions to the grade of major (list begins with Stephen J. Gorzynski) (Reference No. 1154).

**In the Air Force Reserve there are 76 appointments to the grade of lieutenant colonel (list begins with Philip M. Ellis) (Reference No. 1155).

**In the Navy there are 556 appointments to the grade of commander and below (list begins with Amy J. Anderson) (Reference No. 1156).

**In the Air Force there are 2,541 promotions to the grade of major (list begins with Rudy C. Abeyta) (Reference No. 1157).

*Vice Adm. Kenneth C. Malley, USN, to be placed on the retired list in the grade of vice admiral (Reference No. 1161).

*In the Naval Reserve there are 3 promotions to the grade of rear admiral (list begins with James Raymond Fowler) (Reference No. 1170).

*Maj. Gen. Wesley K. Clark, USA, to be a Senior Member of the Military Staff Committee of the United Nations and to be lieutenant general (Reference No. 1179).

*In the Navy there are 5 promotions to the grade of rear admiral (list begins with Richard Arnold Nelson) (Reference No. 1181).

**In the Air Force Reserve there are 20 promotions to the grade of lieutenant colonel (list begins with Russell K. Ameter) (Reference No. 1185).

**In the Naval Reserve there are 317 promotions to the grade of captain (list begins with Ronald Eugene Adams) (Reference No. 1186).

Total—7,081.

By Mr. BIDEN, from the Committee on the Judiciary:

Deval L. Patrick, of Massachusetts, to be an Assistant Attorney General.

Jamie S. Gorelick, of Maryland, to be Deputy Attorney General.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Rosemary Barkett, of Florida, to be United States Circuit Judge for the Eleventh Circuit.

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 Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROCKEFELLER, from the Committee on Veterans' Affairs, with an amendment in the nature of a substitute:

S. 1512. A bill to amend title 38, United States Code, to require the establishment in the Department of Veterans' Affairs of mental illness research, education, and clinical centers, and for other purposes (Rept. No. 103-237).

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. EXON (for himself and Mr. HARKIN):

S. 1942. A bill to authorize appropriations for the local rail freight assistance program; to the Committee on Commerce, Science, and Transportation.

By Mrs. KASSEBAUM (for herself, Mr. KERREY, Mr. DURENBERGER, and Mr. CHAFEE):

S. 1943. A bill to consolidate Federal employment training programs and create a new process and structure for funding the programs, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. KOHL:

S. 1944. A bill to increase and extend criminal and other penalties for health care fraud and abuse, and for other purposes; read the first time.

By Mr. HOLLINGS (by request):

S. 1945. A bill to authorize appropriations for fiscal year 1995 for certain maritime programs of the Department of Transportation, to amend the Merchant Marine Act, 1936, as amended, to revitalize the United States-flag merchant marine, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. INOUYE:

S. 1946. A bill to provide for the repurchase of land taken by eminent domain, by Native American organizations, and for other purposes; to the Committee on Governmental Affairs.

By Mr. KOHL:

S. 1947. A bill to increase criminal penalties for health care fraud, and for other purposes; to the Committee on the Judiciary.

By Mr. DECONCINI (for himself, Mr. WARNER, Mr. GRAHAM, Mr. MURKOWSKI, Mr. D'AMATO, Mr. KERREY, Mr. GORTON, Mr. BRYAN, Mr. CHAFEE, Mr. JOHNSTON, Mr. BOREN, and Mr. BAUCUS):

S. 1948. A bill to amend the National Security Act of 1947 to improve the counterintelligence and security posture of the United States intelligence community and to enhance the investigative authority of the Federal Bureau of Investigation in counterintelligence matters, and for other purposes; to the Select Committee on Intelligence.

By Mr. LAUTENBERG (for himself, Mr. FAIRCLOTH, Mr. LIEBERMAN, and Mr. REID):

S. 1949. A bill entitled the "Mercury-Containing and Rechargeable Battery Management Act"; to the Committee on Environment and Public Works.

By Mrs. KASSEBAUM (for herself and Mr. HATCH):

S. 1950. A bill to amend the Occupational Safety and Health Act of 1970 to make needed revisions in regulations and programs, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. MOYNIHAN (for himself, Mr. MITCHELL, Mr. BRADLEY, Mr. BREAUX, Mr. DASCHLE, Mr. PRYOR, Mr. RIEGLE, Mr. ROCKEFELLER, Mrs. BOXER, Mr. FORD, Ms. MOSELEY-BRAUN, and Mr. DODD):

S. 1951. A bill to establish a comprehensive system of reemployment services, training and income support for permanently laid off workers, to facilitate the establishment of one-stop career centers to serve as a common point of access to employment, education and training information and services, to develop an effective national labor market information system, and for other purposes; read the first time.

By Mr. JOHNSTON (for himself, Mr. MOYNIHAN, Mr. BREAUX, Mr. PELL, Mr. STEVENS, Mr. THURMOND, Mr. WARNER, Mr. GORTON, Mr. SHELBY, Mr. HOLLINGS, Mr. DECONCINI, Mr. BOND, Mr. CONRAD, and Mr. REID):

S. 1952. A bill to authorize the minting of coins to commemorate the 175th anniversary of the founding of the United States Botanic Garden; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. EXON:

S.J. Res. 173. A joint resolution proposing an amendment to the Constitution relating to the election of the President and the Vice President of the United States; to the Committee on the Judiciary.

By Mr. BIDEN (for himself, Mr. HATCH, Mr. CRAIG, Mr. DOMENICI, Mr. PRYOR, Mr. WOFFORD, Mr. GRAHAM, Mr. BRADLEY, Mr. LAUTENBERG, Mr. MACK, and Mr. ROBB):

S.J. Res. 174. A joint resolution designating April 24 through April 30, 1994 as "National Crime Victims' Rights Week"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. EXON (for himself and Mr. HARKIN):

S. 1942. A bill to authorize appropriations for the Local Rail Freight Assistance Program; to the Committee on Commerce, Science, and Transportation.

LOCAL RAIL FREIGHT ASSISTANCE REAUTHORIZATION ACT OF 1994

Mr. EXON. Mr. President, I am pleased to introduce a bill to reauthorize the Local Rail Freight Assistance [LRFA] Program. This program is one of America's key programs for investment in rail infrastructure. This legislation reauthorizes the program for 3 years at its current authorized level.

LRFA provides much needed assistance to America's rural communities to assure that they maintain much needed rail service and that they remain linked into America's rail network. One only needs to look at the floods of last summer to see how important the LRFA Program is. When the Congress enacted disaster relief legislation last year, it was through the LRFA Program that the Nation helped get America's short lines and

regional rails back on track. Without this help, shippers, railroads, workers, and communities would have been financially devastated.

In this era of deficit reduction, no program should escape intense security, the LRFA included. This program stands up very well. It provides jobs, investment, and productivity improvement. It is absolutely critical to rail service in rural America and helps stitch small town America into the Nation's transportation fabric.

As chairman of the Senate Surface Transportation Subcommittee, I want to look at ways to improve this program, to get more infrastructure for every dollar of Federal investment and to also look at direct and guaranteed loan options.

Mr. President, over the years the Congress has consistently supported this much needed program. I encourage my colleagues to join me in support of this important reauthorization legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1942

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 "Local Rail Freight Assistance Reauthorization Act of 1994".

SEC. 2. LOCAL RAIL FREIGHT ASSISTANCE PROGRAM.

Section 5(q) of the Department of Transportation Act (49 App. U.S.C. 1654(q)) is amended—

(1) by inserting "There are authorized to be appropriated to the Secretary for the purposes of this section not to exceed $30,000,000 for each of the fiscal years 1995, 1996, and 1997." immediately after the second sentence; and

(2) by striking "any period after September 30, 1994" and inserting in lieu thereof "any period after September 30, 1997".

By Mrs. KASSEBAUM (for herself, Mr. KERREY, Mr. DURENBERGER and Mr. CHAFEE):

S. 1943. A bill to consolidate Federal employment training programs and create a new process and structure for funding the programs, and for other purposes; to the Committee on Labor and Human Resources.

JOB TRAINING CONSOLIDATION ACT OF 1994

Mrs. KASSEBAUM. Mr. President, today I am introducing legislation on behalf of myself and Senators KERREY of Nebraska, CHAFEE, and DURENBERGER, which is designed to revamp our current Federal job training system. From the viewpoint of both the taxpayer and the trainee, there can be little doubt that a comprehensive overhaul is long overdue.

What began as a few limited programs in the late sixties has exploded today into a confusing maze of 154 separate programs, costing almost $25 billion a year. Those programs are hamstrung by duplication, waste, and conflicting regulations that too often leave program trainees no better off than when they started. It is a system with more than 60 separate programs targeted at the economically disadvantaged, with, for example, 34 literacy programs aimed at reaching the same group. It is a system with six different standards for defining income eligibility levels, five for defining family or household income, and five for defining what is included in income. It is a system which lacks any effective means for determining whether or not programs actually work.

A report recently released by the General Accounting Office indicated that fewer than half of the 62 job training programs selected for study even bothered to check to see if participants obtained jobs after training. I think this is one of the real problems, Mr. President—being able to analyze what sort of effect these training programs have had and how we can be more useful by following through with the data to understand what is occurring.

During the past decade, only seven of those programs were evaluated to find out whether trainees would have achieved the same outcomes without Federal assistance.

It is little wonder that the news media has already supplied examples of failure and lack of cost effectiveness in these programs. Although anecdotal in nature, the following examples offer some graphic illustrations of the broader problems in Federal jobs training efforts: In suburban Seattle, a woman told a reporter she was enrolled in her eighth Federal job training program. She said the previous seven programs offered no more help than a phone book and a few job leads. She hoped this program would finally give her the skills she needed to pull herself out of poverty, off Government assistance, and into a good job.

In Los Angeles, one private sector job training initiative has managed to put together a fairly successful effort, but is able to do so only by patching together a mind-boggling array of funding sources. These sources include a special farm worker grant, several different programs for the disadvantaged within JTPA, the Jobs Program for Welfare Recipients, the Youth Fair Chance Program, Pell grants, and student loans, not to mention various local and State employment programs.

A recent New York Times article told the story of a private placement firm that charged States $5,500 for each welfare recipient placed in a job. While the program had some successes, the company has paid nearly $1 million, 60 percent of that in Federal matching funds, for people who never found permanent work.

Mr. President, I think the message is loud and clear: The time for half-measures for reforming the Federal job training system has passed. The current system is an obvious waste of scarce Federal resources and, more importantly, is really not providing the type of assistance and support that is needed.

I believe there is general acknowledgment that we must act now to reform the system. The administration has spoken to this need, as have many of my colleagues, and I look forward to working with them in this endeavor. In fact, the administration is proposing legislation which attempts to bring together some half-dozen programs serving dislocated workers.

The legislation that is being introduced today, the Job Training Consolidation Act, takes a different approach. Specifically, this legislation differs from the administration's in three important respects:

First, its focus is not limited to just the dislocated worker programs, but rather encompasses all Federal job training efforts.

Second, it does not call for additional new funding and does not create new categories for entitlement spending.

Third, it offers, immediately, the opportunity for States and localities to combine resources to tailor programs to meet current needs in a way that the States themselves believe is necessary to meet the particular concerns of a community or the State as a whole.

The Job Training Consolidation Act would provide both the mechanism and the strategy for overhauling the entire system. The goal is a single coherent approach to employment training to assist all jobs seekers in entering the work force, gaining basic skills, or retraining for new jobs.

To achieve this goal, the legislation takes two important steps.

First, it establishes a public-private partnership at the Federal level to move toward consolidating all existing programs following a 2-year transition period.

Second, broad waivers would be granted immediately to the States to allow maximum flexibility for coordination of the largest programs to meet local needs, such as immediate help for the jobless.

This legislation would transfer responsibility for job training to the States and, in turn, to local communities to implement programs geared to those needs. In addition, the bill requires the involvement of employers at all stages of the process.

Ultimately, an integrated system would be created that would assure job seekers information about all available employment and training services no matter where they first applied for help.

I believe we must take bold steps to reform our existing training programs,

not merely add new ones in the name of reform. The bill would consolidate almost 60 programs contained in a dozen statutes without additional spending, new entitlements, tax increases, or additional layers of bureaucracy. In fact, the consolidation effort would probably result in cost savings that could be used to serve more clients more effectively. I think it will enhance the ability of all those seeking jobs to obtain better assistance in obtaining the skills they need to get a job, a good job, a job that will provide stability to an individual or a family.

I look forward to working with my colleagues in achieving this goal. I am particularly pleased to see on the floor a cosponsor in this effort who has spoken eloquently in the past on the need to provide truly inventive, creative initiatives that address the problems of Government and, more importantly, of people as they related to Government.

Mr. President, I ask unanimous consent that the text of the bill and additional material be printed in the RECORD.

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

S. 1943

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Job Training Consolidation Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Definitions.
TITLE I—USE OF FEDERAL FUNDS FOR STATE EMPLOYMENT TRAINING ACTIVITIES
Sec. 101. Formula assistance.
Sec. 102. Discretionary assistance.
Sec. 103. Trade adjustment assistance services.
Sec. 104. Employment training activities.
Sec. 105. Reports.
TITLE II—DEVELOPMENT OF STATE EMPLOYMENT TRAINING SYSTEMS
Subtitle A—Commission on Employment and Training
Sec. 201. Establishment of Commission.
Sec. 202. Powers of the Commission.
Sec. 203. Commission personnel matters.
Sec. 204. Termination of the Commission.
Sec. 205. Authorization of appropriations.
Subtitle B—Consolidation of Employment Training Programs
Sec. 211. Repeals of employment training programs.
Sec. 212. Study and report.
Sec. 213. Congressional consideration of proposed Commission reforms.

SEC. 2. FINDINGS.

Congress finds that—

(1) according to the General Accounting Office—

(A) there are currently 154 Federal employment training programs; and

(B) these programs cost nearly $25,000,000,000 annually and are administered by 14 different Federal agencies;

(2) these programs target individual populations such as economically disadvantaged persons, dislocated workers, youth, and persons with disabilities;

(3) many of these programs provide similar services, such as counseling, assessment, and literacy skills enhancement, resulting in overlapping services, wasted funds, and confusion on the part of local service providers and individuals seeking assistance;

(4) the Federal agencies administering these programs fail to collect enough performance data to know whether the programs are working effectively;

(5) the additional cost of administering overlapping employment training programs at the Federal, State, and local levels diverts scarce resources that could be better used to assist all persons in entering the work force, gaining basic skills, or retraining for new jobs;

(6) the conflicting eligibility requirements, and annual budgeting or operating cycles, of employment training programs create barriers to coordination of the programs that may restrict access to services and result in inefficient use of resources;

(7) despite more than 30 years of federally funded employment training programs, the Federal Government has no single, coherent policy guiding its employment training efforts;

(8) the Federal Government has failed to adequately maximize the effectiveness of the substantial public and private sector resources of the United States for training and work-related education; and

(9) the Federal Government lacks a national labor market information system, which is needed to provide current data on jobs and skills in demand in different regions of the country.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) COVERED ACT.—The term "covered Act" means an Act described in paragraph (3).

(2) COVERED ACTIVITY.—The term "covered activity" means an activity authorized to be carried out under a covered provision.

(3) COVERED PROVISION.—The term "covered provision" means a provision of—

(A) the Job Training Partnership Act (29 U.S.C. 1501 et seq.);

(B) the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.);

(C) part B of title III of the Adult Education Act (20 U.S.C. 1203 et seq.);

(D) part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.);

(E) section 235 or 236, or paragraph (1) or (2) of section 250(d), of the Trade Act of 1974 (19 U.S.C. 2295, 2296, or 2331(d));

(F) the Wagner-Peyser Act (29 U.S.C. 49 et seq.);

(G) title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.);

(H) section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4));

(I) the Refugee Education Assistance Act of 1980 (8 U.S.C. 1522 note);

(J) section 204 of the Immigration Reform and Control Act of 1986 (8 U.S.C. 1255a note);

(K) title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11421 et seq.); and

(L) title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.).

(4) LOCAL ENTITY.—The term "local entity" includes public and private entities.

TITLE I—USE OF FEDERAL FUNDS FOR STATE EMPLOYMENT TRAINING ACTIVITIES

SEC. 101. FORMULA ASSISTANCE.

(a) USE OF FUNDS.—Notwithstanding any other provision of Federal law, a State that receives State formula assistance for a covered activity for a fiscal year may use the assistance to carry out activities as described in section 104 for the fiscal year. Notwithstanding any other provision of Federal law, a local entity that receives local formula assistance for a covered activity for a fiscal year may use the assistance to carry out activities as described in section 104 for the fiscal year.

(b) REQUIREMENTS.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, a State may use such State formula assistance, and a local entity may use such local formula assistance, to carry out activities as described in section 104, without regard to the requirements of any covered Act.

(2) REMAINING PROGRAM REQUIREMENTS.—

(A) ALLOCATION AND ENFORCEMENT.—Any head of a Federal agency that allocates State formula assistance, and any State that allocates local formula assistance, for a covered activity—

(i) shall allocate such assistance in accordance with allocation requirements that are specified in the covered Acts and that relate to the covered activity, including provisions relating to minimum or maximum allocations; and

(ii)(I) if the State or local entity uses such assistance to carry out the covered activity, shall exercise the enforcement and oversight authorities that are specified in the covered Acts and that relate to the covered activity; and

(II) if the State or local entity does not use such assistance to carry out the covered activity, shall exercise such authorities solely for the purpose of ensuring that the assistance is used to carry out activities as described in section 104, and in accordance with the applicable requirements of this title.

(B) ADMINISTRATIVE EXPENSE LIMITS.—Each State that receives State formula assistance, and each local entity that receives local formula assistance, for a covered activity—

(i) shall comply with any limits on administrative expenses that are specified in the covered Acts and that relate to the covered activity; and

(ii) for any fiscal year, may not use a greater percentage of the State formula assistance or local formula assistance to pay for the administrative expenses of activities carried out under section 104 than the State or entity used to pay for such administrative expenses relating to the covered activity for fiscal year 1994.

(C) CONDITIONAL BENEFITS.—Any State that receives State formula assistance to carry out a covered activity described in a covered provision specified in subparagraph (D) or (H) of section 3(3) and that uses the assistance to carry out activities as described in section 104 shall carry out an activity that is appropriate for persons who would otherwise be eligible to participate in the covered activity. Any person in the State who would otherwise be required to participate in the covered activity in order to obtain Federal assistance under a covered Act shall be eligible to receive the assistance by participating in such appropriate activity.

(D) AVAILABILITY OF APPROPRIATIONS.—Nothing in this section shall affect the period for which any appropriation under a covered Act remains available.

(c) DEFINITIONS.—As used in this section:

(1) LOCAL FORMULA ASSISTANCE.—The term "local formula assistance" means assistance made available by a State to a local entity under—

(A)(i) subsections (a)(2) and (b) of section 202 of the Job Training Partnership Act (29 U.S.C. 1602);

(ii) section 252(b) of such Act (29 U.S.C. 1631(b)) in accordance with subsections (a)(2) and (b) of section 262 of such Act (29 U.S.C. 1642);

(iii) subsections (a)(2) and (b) of section 262 of such Act (29 U.S.C. 1642); or

(iv) subsections (a)(1), (b), and (d) of section 302 of such Act (29 U.S.C. 1652);

(B)(i) section 102(a)(1), and section 231(a) or 232 of the Carl D. Perkins Vocational Education Act (20 U.S.C. 2312(a)(1), and 2341(a) or 2341a); or

(ii) section 353(b) of such Act (20 U.S.C. 2395b(b)); or

(C) section 722(g)(3)(B) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11432(g)(3)(B).

(2) STATE FORMULA ASSISTANCE.—The term "State formula assistance" means assistance made available by an agency of the Federal Government to a State under—

(A)(i) subsections (a)(2) and (c) of section 202 of the Job Training Partnership Act (29 U.S.C. 1602);

(ii) subsections (a)(2) and (c) of section 262 of such Act (29 U.S.C. 1642);

(iii) subsections (a)(1), (b), and (c)(1) of section 302 of such Act (29 U.S.C. 1652); or

(iv) sections 502(d) and 503 of such Act (29 U.S.C. 1791a(d));

(B)(i) section 101(a)(2) of the Carl D. Perkins Vocational Education Act (20 U.S.C. 2311(a)(2)) (other than assistance made available under section 231(a) or 232 of such Act (20 U.S.C. 2341(a) or 2341a) to local educational agencies or other local entities within the State);

(ii) section 112(f) of such Act (20 U.S.C. 2322(f)); or

(iii) section 343(b)(1) of such Act (20 U.S.C. 2394a(b)(1));

(C) section 313(b) of the Adult Education Act (20 U.S.C. 1201b(b)) (other than assistance reserved to carry out part D of title III of such Act (20 U.S.C. 1213 et seq.));

(D) subsection (k) or (l) of section 403 of the Social Security Act (42 U.S.C. 603);

(E) section 6(b)(1) of the Wagner-Peyser Act (29 U.S.C. 49e(b)(1));

(F)(i) subsection (a) or (b) of section 110 of the Rehabilitation Act of 1973 (29 U.S.C. 730) (less any amount reserved under subsection (d) of such section);

(ii) section 112(e) of such Act (29 U.S.C. 732(e)); or

(iii) section 124 of such Act (29 U.S.C. 744);

(G) section 16(h)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2025(h)(1)) (other than funds made available under subparagraph (B) of such section);

(H)(i) section 201(b) of the Refugee Education Assistance Act of 1980 (8 U.S.C. 1522 note);

(ii) section 301(b) of such Act (8 U.S.C. 1522 note); or

(iii) section 401(b) of such Act (8 U.S.C. 1522 note);

(I) section 204(b) of the Immigration Reform and Control Act of 1986 (8 U.S.C. 1255a note);

(J)(i) section 722(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11432(b)) (other than funds made available under section 722(g)(3)(B) of such Act); or

(ii) section 752(a) of such Act (42 U.S.C. 11462(a)); or

(K) section 506(a)(3) of the Older Americans Act of 1965 (42 U.S.C. 3056d(a)(3)).

SEC. 102. DISCRETIONARY ASSISTANCE.

(a) IN GENERAL.—

(1) PRIOR ASSISTANCE.—Notwithstanding any other provision of Federal law, a State or local entity that received, prior to the date of enactment of this Act, discretionary assistance for a covered activity for a fiscal year may use the assistance to carry out activities as described in section 104 for the fiscal year.

(2) FUTURE ASSISTANCE.—Notwithstanding any other provision of Federal law, a State or local entity that is eligible to apply for discretionary assistance for a covered activity for a fiscal year may apply, as described in subsection (c), for the assistance to carry out activities as described in section 104 for the fiscal year.

(b) USE OF FUNDS.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, a State or local entity that receives discretionary assistance prior to the date of enactment of this Act or on approval of an application submitted under subsection (c) may use the discretionary assistance to carry out activities as described in section 104, without regard to the requirements of any covered Act.

(2) REMAINING PROGRAM REQUIREMENTS.—A State or local entity that uses discretionary assistance to carry out such activities shall use the assistance in accordance with the requirements of subparagraphs (A), (B), and (D) of section 101(b)(2), which shall apply to such assistance in the same manner and to the same extent as the requirements apply to State formula assistance or local formula assistance, as appropriate, used under section 101.

(c) ADDITIONAL INFORMATION IN APPLICATION.—A State or local entity seeking to use discretionary assistance as described in subsection (a)(2) shall include in the application (under the covered provision involved) of the State or local entity for the assistance (in lieu of any information otherwise required to be submitted)—

(1) a description of the funds the State or local entity proposes to use to carry out activities as described in section 104;

(2) a description of the activities to be carried out with such funds;

(3) a description of the specific outcomes expected of participants in the activities; and

(4) such other information as the head of the agency with responsibility for evaluating the application may require.

(d) EVALUATION OF APPLICATION.—In evaluating an application described in subsection (c), the agency with responsibility for evaluating the application shall evaluate the application by determining the likelihood that the State or local entity submitting the application will be able to carry out activities as described in section 104. In evaluating applications for discretionary assistance, the agency shall not give preference to applications proposing covered activities over applications proposing activities described in section 104.

(e) DEFINITION.—As used in this section, the term "discretionary assistance" means assistance that—

(1) is not State formula assistance or local formula assistance, as defined in section 101(c);

(2) is not Federal assistance available to provide services described in section 235 or 236, or paragraph (1) or (2) of section 250(d), of the Trade Act of 1974 (19 U.S.C. 2295, 2296, or 2331(d)); and

(3) is made available by an agency of the Federal Government, or by a State, to a State or local entity to enable the State or local entity to carry out an activity under a covered provision.

SEC. 103. TRADE ADJUSTMENT ASSISTANCE SERVICES.

(a) USE OF ASSISTANCE.—

(1) IN GENERAL.—Notwithstanding any other provision of Federal law, if the Secretary of Labor initiates efforts under section 235 of the Trade Act of 1974 (19 U.S.C. 2295) to secure services described in such section 235 (including services that are provided under section 250(d)(1) of such Act (19 U.S.C. 2331(d)(1))) for a worker, or if the Secretary makes a determination under section 236(a) of the Trade Act of 1974 (19 U.S.C. 2296(a)) that entitles a worker to payments described in such section for services (including services for which payment is provided under section 250(d)(2) of such Act), the Secretary shall notify the State in which the worker is located.

(2) ACTIVITIES.—A State that receives such notification may apply under subsection (c) for the Federal assistance that would otherwise have been expended to provide services described in paragraph (1) to the worker, to enable the State to carry out activities as described in section 104 for the fiscal year. If the State has received such assistance in advance, the State may apply under subsection (c) to use such assistance to enable the State to carry out activities as described in section 104 for the fiscal year.

(b) REQUIREMENTS.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, a State that receives such Federal assistance and receives approval of an application submitted under subsection (c) may use the assistance to carry out activities as described in section 104, without regard to the requirements of any covered Act.

(2) REMAINING PROGRAM REQUIREMENTS.—A State that uses such Federal assistance to carry out such activities shall use the assistance in accordance with the requirements of subparagraphs (A)(ii), (B), and (D) of section 101(b)(2), which shall apply to such assistance in the same manner and to the same extent as the requirements apply to State formula assistance or local formula assistance, as appropriate, used under section 101.

(3) CONDITIONAL BENEFITS.—Any State that receives Federal assistance that would otherwise have been expended to provide services described in subsection (a)(1) to a worker, and that uses the assistance to carry out activities as described in section 104, shall carry out eligible alternative activities that are appropriate for the worker. If the worker would otherwise be required to receive such services in order to obtain Federal funds under another provision of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2291 et seq.), the worker shall be eligible to receive the funds by participating in such eligible alternative activities.

(c) ADDITIONAL INFORMATION IN APPLICATION.—A State seeking to use Federal assistance that would otherwise have been expended to provide services described in subsection (a)(1) to a worker shall submit an application to the Secretary of Labor, at such time and in such manner as the Secretary may require, that contains—

(1) a description of the Federal assistance the State proposes to use to carry out activities as described in section 104;

(2) a description of the activities to be carried out with such assistance;

(3) a description of the specific outcomes expected of participants in the activities; and

(4) such other information as the Secretary of Labor may require.

(d) EVALUATION OF APPLICATION.—In evaluating an application described in subsection (c), the Secretary of Labor shall evaluate the application by determining the likelihood that the State submitting the application will be able to carry out activities as described in section 104. In evaluating applications for such Federal assistance, the Secretary of Labor shall not give preference to applications proposing covered activities over applications proposing activities described in section 104.

SEC. 104. EMPLOYMENT TRAINING ACTIVITIES.

A State or local entity that receives State formula assistance or local formula assistance as described in section 101(a), receives discretionary assistance as described in section 102(b), or receives Federal assistance as described in section 103(b), may—

(1) use the assistance to carry out activities to develop a comprehensive statewide employment training system that—

(A) is primarily designed and implemented by communities to serve local labor markets in the State involved;

(B) requires the participation and involvement of private sector employers in all phases of the planning, development, and implementation of the system, including—

(i) determining the skills to be developed by each employment training program carried out through the system; and

(ii) designing the training to be provided by each such program;

(C) assures that State and local training efforts are linked to available employment opportunities;

(D) includes standards for determining the effectiveness of such programs; and

(E) is an integrated system that assures that individuals seeking employment in the State will receive information about all available employment training services provided in the State, regardless of where the individuals initially enter the system; or

(2) may use the assistance that would otherwise have been used to carry out 2 or more covered activities—

(A) to address the high priority needs of unemployed persons in the State or community involved for employment training services;

(B) to improve efficiencies in the delivery of the covered activities; or

(C) in the case of overlapping or duplicative activities—

(i) by combining the covered activities and funding the combined activities; or

(ii) by eliminating one of the covered activities and increasing the funding to the remaining covered activity.

SEC. 105. REPORTS.

(a) STATE REPORTS.—

(1) PREPARATION.—A State that receives State formula assistance as described in section 101(a), receives discretionary assistance as described in section 102(b), or receives Federal assistance as described in section 103(b), and that uses the assistance to carry out activities as described in section 104 shall annually prepare a report containing—

(A) information on the amount and origin of such assistance;

(B) information on the activities carried out with such assistance;

(C) information regarding the populations to be served with such assistance, such as economically disadvantaged persons, dislocated workers, youth, and individuals with disabilities;

(D) a summary of the reports received by the State under subsection (b); and

(E) such other information as the Secretaries, in consultation with the Commission, may require.

(2) SUBMISSION.—The State shall submit the report described in paragraph (1)—

(A) with respect to the activities carried out during the year beginning on the date of enactment of this Act, to the Chairperson of the Commission, the Committee on Education and Labor of the House of Representatives, and the Committee on Labor and Human Resources of the Senate, not later than 60 days after the end of such year; and

(B) with respect to the activities carried out during the subsequent year, to the committees specified in subparagraph (A), not later than 60 days after the end of such year.

(b) LOCAL ENTITY REPORTS.—

(1) PREPARATION.—A local entity that receives local formula assistance as described in section 101(a), or that receives discretionary assistance as described in section 102(b), and uses the assistance to carry out activities as described in section 104 shall annually prepare a report containing—

(A) information on the amount and origin of such assistance;

(B) information on the activities carried out with such assistance;

(C) information regarding the populations to be served with such assistance, such as economically disadvantaged persons, dislocated workers, youth, and individuals with disabilities; and

(D) such other information as the State that allocated the assistance may require.

(2) SUBMISSION.—The local entity shall submit the report described in paragraph (1)—

(A) with respect to the activities carried out during the year beginning on the date of enactment of this Act, to the State not later than 30 days after the end of such year; and

(B) with respect to the activities carried out during the subsequent year, to the State not later than 30 days after the end of such subsequent year.

TITLE II—DEVELOPMENT OF STATE EMPLOYMENT TRAINING SYSTEMS

Subtitle A—Commission on Employment and Training

SEC. 201. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the Commission on Employment and Training (referred to in this Act as the "Commission").

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 7 members, including—

(A) 4 members, appointed by the President;

(B) the Secretary of Labor;

(C) the Secretary of Education; and

(D) the Secretary of Commerce.

(2) QUALIFICATIONS.—In appointing the 4 members of the Commission described in paragraph (1)(A), the President shall appoint members from among persons representing private sector businesses, and shall select the 4 members so as to ensure representation of both small and large businesses.

(3) CONSULTATION.—In selecting individuals for nominations for appointments to the Commission under paragraph (1)(A), the President shall consult with—

(A) the Speaker of the House of Representatives concerning the appointment of 1 member;

(B) the Majority Leader of the Senate concerning the appointment of 1 member;

(C) the Minority Leader of the House of Representatives concerning the appointment of 1 member; and

(D) the Minority Leader of the Senate concerning the appointment of the remaining member.

(4) DATE.—The President shall appoint the 4 members of the Commission not later than 60 days after the date of enactment of this Act.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect the powers of the Commission, but shall be filled in the same manner as the original appointment.

(d) FUNCTIONS.—The Commission shall carry out the functions described in section 212.

(e) MEETINGS.—

(1) FREQUENCY.—The Commission shall meet not less often than 4 times per year.

(2) OPEN MEETINGS.—Each meeting of the Commission shall be open to the public.

(3) VOTING.—For purposes of all votes of the Commission, the 4 members described in subsection (b)(1)(A) shall each have 1 vote, and the remaining 3 members shall collectively have a fifth vote. Such 3 members shall determine how such fifth vote shall be cast, by a majority vote among as many of the 3 members as are in attendance.

(4) CABINET OFFICIALS.—Each person holding a position described in section 5312 of title 5, United States Code, may attend and present information at any meeting of the Commission.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) CHAIRPERSON.—The Commission shall elect a Chairperson from among the members described in subsection (b)(1)(A).

SEC. 202. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this Act.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal agency such information as the Commission considers necessary to carry out the provisions of this Act. Upon request of the Chairperson of the Commission, the head of such agency shall furnish such information to the Commission.

(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other agencies of the Federal Government.

(d) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 203. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—

(1) MEMBER.—Each member of the Commission who is not the Chairperson of the Commission and who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(2) CHAIRPERSON.—The Chairperson of the Commission shall be paid for each day referred to in paragraph (1) at a rate equal to

the daily equivalent of the annual rate of basic pay prescribed for level III of the Executive Schedule under section 5314 of title 5, United States Code.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) DIRECTOR OF STAFF.—

(1) APPOINTMENT.—The Commission may, without regard to the civil service laws and regulations, appoint and terminate an individual who has not served as an employee of the Department of Labor, the Department of Education, or the Department of Commerce during the 1-year period preceding the date of such appointment, to serve as the Director of the Commission.

(2) COMPENSATION.—The Director shall be paid at the rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(d) STAFF.—

(1) IN GENERAL.—The Director, with the approval of the Commission, may, without regard to the civil service laws and regulations, appoint and terminate such personnel as may be necessary to enable the Commission to perform its duties. Not less than 50 percent of such personnel shall be appointed from individuals who were employed in the private sector immediately prior to appointment as personnel of the Commission.

(2) COMPENSATION.—The Director, with the approval of the Commission, may fix the compensation of the personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the personnel may not exceed the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(e) DETAIL OF GOVERNMENT EMPLOYEES.—

(1) IN GENERAL.—Upon request of the Director, with the approval of the Commission, the head of any Federal agency may detail any of the personnel of that agency to the Commission to assist the Commission in carrying out its duties under this part. Such detail shall be without interruption or loss of civil service status or privilege.

(2) LIMITATIONS.—Not more than 50 percent of the personnel employed by or detailed to the Commission may be on detail from any agency of the Federal Government. No officer or employee of any of such an agency may prepare, or approve or disapprove, the report described in section 212, except by casting a vote as provided in section 201(e)(3).

(f) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of such title.

SEC. 204. TERMINATION OF THE COMMISSION.

The Commission shall terminate 90 days after the date on which the Commission submits the report of the Commission under section 212(b).

SEC. 205. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated $15,000,000 for fiscal year 1995 to carry out the functions of the Commission.

(b) AVAILABILITY.—Any sums appropriated under the authorization contained in this section shall remain available, without fiscal year limitation, until expended.

Subtitle B—Consolidation of Employment Training Programs

SEC. 211. REPEALS OF EMPLOYMENT TRAINING PROGRAMS.

(a) IN GENERAL.—The following provisions are repealed:

(1) The Job Training Partnership Act (29 U.S.C. 1501 et seq.).

(2) The Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.).

(3) Part B of title III of the Adult Education Act (20 U.S.C. 1203 et seq.).

(4) Part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.).

(5) Sections 235 and 236 of the Trade Act of 1974 (19 U.S.C. 2295 and 2296), and paragraphs (1) and (2) of section 250(d) of such Act (19 U.S.C. 2331(d)).

(6) The Wagner-Peyser Act (29 U.S.C. 49 et seq.).

(7) Title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.).

(8) Section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4)).

(9) The Refugee Education Assistance Act of 1980 (8 U.S.C. 1522 note).

(10) Section 204 of the Immigration Reform and Control Act of 1986 (8 U.S.C. 1255a note).

(11) Title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11421 et seq.).

(12) Title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.).

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 250(d) of the Trade Act of 1974 (as amended by subsection (a)(5)) is amended by redesignating paragraphs (3), (4), and (5) as paragraphs (1), (2), and (3), respectively.

(c) EFFECTIVE DATE.—The repeals made by subsection (a), and the amendments made by subsection (b), shall take effect 29 months after the date of enactment of this Act.

SEC. 212. STUDY AND REPORT.

(a) STUDY.—The Commission shall, in consultation with the appropriate agencies of the Federal Government, the appropriate committees of the Congress, the Director of the Office of Management and Budget, and States and local entities, conduct a study to—

(1) develop a single, coherent national policy, to guide federally funded employment training efforts, that would assist individuals in entering the work force, gaining skills, adding to skills, or retraining for new jobs;

(2)(A)(i) review the programs and activities that are being carried out under the provisions described in section 211(a);

(ii) review the reports submitted under section 105(a)(2)(A) concerning activities described in section 104 that are carried out under title I, especially activities related to efforts to develop comprehensive statewide employment systems; and

(iii) review all other Federal employment training programs; and

(B) examine strategies for consolidating or eliminating the programs and activities described in subparagraph (A) to create a single, comprehensive employment training system that—

(i) gives the States maximum flexibility in carrying out employment training programs through the system;

(ii) leads to a single, integrated approach to employment training that assures that individuals seeking employment in a State will receive information about all available employment training services provided through the system, regardless of where the individuals initially enter the system; and

(iii) leads to a single, integrated approach to job training that requires the participation and involvement of private sector employers in the planning, development and implementation of locally established employment training initiatives;

(3) examine strategies for encouraging participation by private sector employers in local employment training programs that link local training efforts to available employment opportunities;

(4) determine the best administrative structure for such a system, and the agency that will conduct Federal oversight of the system;

(5) examine strategies for implementing a national online labor market information system to provide States and units of general local government with—

(A) descriptions of job duties, training and education requirements, working conditions, and characteristics of occupations;

(B) current supply and demand statistics on various job skills;

(C) information on geographic locations where specific jobs and job skills are in greatest demand; and

(D) information on the best practices used by other States in providing the most effective employment services and training to workers; and

(6) determine appropriate standards—

(A) for the Federal Government to measure the overall effectiveness of employment training programs;

(B) for the States to provide the most effective employment services; and

(C) that specify a common terminology for programs and services carried out under the system, in order to facilitate access to such services among States and localities.

(b) REPORT.—Not later than 26 months after the date of enactment of this Act, the Commission shall—

(1) prepare and submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report containing the findings of the Commission, and recommendations for proposed reforms, based on the study described in subsection (a); and

(2) submit to the Congress a draft of a joint resolution containing provisions to—

(A) consolidate or eliminate the programs and activities described in subsection (a)(2)(A) to create the national employment training system described in subsection (a)(2)(B);

(B) implement strategies described in subsection (a)(3);

(C) establish or designate the agency, and establish the structure, described in subsection (a)(4);

(D) establish the system described in subsection (a)(5); and

(E) implement the standards described in subsection (a)(6).

(c) MODIFICATION.—Notwithstanding any other provision of this Act and to the extent the Commission determines it is appropriate and fiscally responsible, the Commission may include in the joint resolution a provision to reduce the period between the date of the enactment of this Act and the effective date provided in section 211(c).

(d) PROHIBITION ON ADDITIONAL ENTITLEMENTS.—

(1) PROHIBITION.—The Commission may not submit a joint resolution under subsection

(b) that establishes an additional right for any person to bring an action to obtain services under the programs established in such resolution.

(2) RELATIONSHIP TO EXISTING ENTITLEMENTS.—The Commission shall not be prohibited from submitting such a resolution—

(A) that maintains the right of a person to receive Federal assistance by participating in such services, if the person is required under Federal law other than the resolution to participate in a covered activity described in section 101(b)(2)(C) or 103(b)(3) to receive the assistance; or

(B) that does not maintain such right.

SEC. 213. CONGRESSIONAL CONSIDERATION OF PROPOSED COMMISSION REFORMS.

(a) EXPEDITED PROCEDURE.—

(1) CONTENTS OF RESOLUTION.—For the purposes of this section, the term "joint resolution" means the joint resolution described in section 212.

(2) REFERRAL TO COMMITTEE.—A joint resolution introduced in the House of Representatives shall be referred to the Committee on Education and Labor of the House of Representatives. A joint resolution introduced in the Senate shall be referred to the Committee on Labor and Human Resources of the Senate. Such a joint resolution may not be reported before the 15th day after the introduction of the joint resolution.

(3) DISCHARGE OF COMMITTEE.—If a committee to which a joint resolution is referred has not reported such joint resolution (or an identical joint resolution) at the end of 30 days after the introduction of the joint resolution, such committee shall be deemed to be discharged from further consideration of such joint resolution and such joint resolution shall be placed on the appropriate calendar of the House involved.

(4) MOTION TO PROCEED.—When a committee to which a joint resolution is referred has reported, or has been deemed to be discharged (under paragraph (3)) from further consideration of, a joint resolution, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to, and notwithstanding the provisions of Rule XXII of the Standing Rules of the Senate) for any Member of the respective House to move to proceed to the consideration of the joint resolution, and all points of order against the joint resolution (and against consideration of the joint resolution) are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the joint resolution shall remain the unfinished business of the respective House until disposed of.

(5) FLOOR CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.—

(A) GENERAL DEBATE.—General debate on a joint resolution in the House of Representatives shall be limited to not more than 10 hours, which shall be divided equally between the majority and minority parties. A motion further to limit debate is not debatable. A motion to recommit the joint resolution is not in order, and it is not in order to move to reconsider the vote by which the joint resolution is agreed to or disagreed to.

(B) CONSIDERATION.—Consideration of any joint resolution by the House of Representatives shall be in the Committee of the Whole, and the resolution shall be considered for amendment under the 5-minute rule in accordance with the applicable provisions of rule XXIII of the Rules of the House of Representatives. After the Committee rises and reports the resolution back to the House, the previous question shall be considered as ordered on the resolution and any amendments thereto to final passage without intervening motion.

(C) CONFERENCE REPORT.—Debate in the House of Representatives on the conference report on any joint resolution shall be limited to not more than 5 hours, which shall be divided equally between the majority and minority parties. A motion further to limit debate is not debatable. A motion to recommit the conference report is not in order, and it is not in order to move to reconsider the vote by which the conference report is agreed to or disagreed to.

(D) RULES OF THE HOUSE OF REPRESENTATIVES.—Appeals from decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to any joint resolution shall be decided without debate.

(6) DEBATE IN THE SENATE.—

(A) GENERAL DEBATE.—Debate in the Senate on any joint resolution, and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to not more than 50 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(B) AMENDMENTS.—Debate in the Senate on any amendment to a joint resolution shall be limited to 2 hours, to be equally divided between, and controlled by, the mover and the manager of the joint resolution, and debate on any amendment to an amendment, debatable motion, or appeal shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the joint resolution, except that in the event the manager of the joint resolution is in favor of any such amendment, motion, or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. No amendment that is not relevant to the provisions of such joint resolution shall be received. Such leaders, or either of them, may, from the time under their control on the passage of the joint resolution, allot additional time to any Senator during the consideration of any amendment, debatable motion, or appeal. Immediately following the conclusion of the debate on a joint resolution, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate, the vote on final passage of the joint resolution shall occur.

(C) MOTIONS.—A motion to further limit debate is not debatable. A motion to recommit (except a motion to recommit with instructions to report back within a specified number of days, not to exceed 3) is not in order. Debate on any such motion to recommit shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the joint resolution.

(D) CONFERENCE REPORT.—

(i) MOTION TO PROCEED.—A motion to proceed to the consideration of the conference report on any joint resolution may be made even though a previous motion to the same effect has been disagreed to.

(ii) AMENDMENTS.—During the consideration in the Senate of the conference report (or a message between Houses) on any joint resolution and all amendments in disagreement, and all amendments thereto, and debatable motions and appeals in connection therewith, debate shall be limited to 10 hours, to be equally divided between, and controlled by, the majority leader and minority leader or their designees. Debate on any debatable motion or appeal related to the conference report (or a message between Houses) shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the conference report (or a message between Houses).

(iii) AMENDMENTS IN DISAGREEMENT.—In any case in which there are amendments in disagreement, time on each amendment shall be limited to 30 minutes, to be equally divided between, and controlled by, the manager of the conference report and the minority leader or his designee. No amendment that is not relevant to the provisions of such amendments shall be received.

(7) COORDINATION WITH ACTION BY OTHER HOUSE.—If, before the passage by one House of a joint resolution of that House, that House receives from the other House a joint resolution, then the following procedures shall apply:

(A) The joint resolution of the other House shall not be referred to a committee.

(B) With respect to a joint resolution of the House receiving the joint resolution—

(i) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

(ii) the vote on final passage shall be on the joint resolution of the other House.

(8) TIME LIMIT FOR ACTING.—The vote on passage of the joint resolution in each House shall occur on or before the date that is 29 months after the date of enactment of this Act.

(9) COMPUTATION OF DAYS.—For purposes of this subsection, in computing a number of days in either House, there shall be excluded any day on which the House is not in session.

(b) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such this section is deemed to be a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a joint resolution, and this section supersedes other rules only to the extent that this section is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

REMARKS BY SENATOR NANCY LANDON KASSEBAUM ON THE JOB TRAINING CONSOLIDATION ACT OF 1994

The Problem: According to the General Accounting Office, the federal government currently oversees 154 job training programs, administered by 14 different federal agencies, for a total cost of almost $25 billion. This patchwork system is fragmented, duplicative, ineffective, and confusing to job-seekers and training-providers alike. For example, there are 34 separate literacy programs for the disadvantaged alone. Conflicting eligibility and income requirements add to the barriers states face in providing assistance to job-seekers.

The Objective: The Job Training Consolidation Act of 1994 will take the existing job training system and "wipe the slate clean."

The bill is more far-reaching than the administration's Reemployment Act of 1994, in that it provides a framework for overhauling the entire system rather than dealing only with the handful of programs serving dislocated workers. The goal is a single, coherent approach to employment training—to assist all job-seekers in entering the work force, gaining basic skills, or retraining for new jobs.

The Legislation: The approach will be twofold. First, a mechanism will be established at the federal level to consolidate existing programs in order to develop a single system of employment and training. Second, broad waivers will be granted immediately to allow maximum flexibility for coordination of programs at the state and local levels, with the active involvement of the private sector.

Specifically, this legislation will create a public-private partnership charged with developing a national policy and goals for a new comprehensive system. The partnership will oversee the consolidation and dismantling of existing programs, while laying the groundwork for comprehensive reform. Such reform will include:

Shifting primary responsibility to the states, and in turn to local communities, for design and implementation of job training systems geared to serve local labor markets.

Requiring the involvement of employers in the choice and design of the types of skills and training needed in each local job training program.

Creating an integrated system that assures job-seekers will receive information about all available employment and training services—no matter where they first apply for help.

Eliminating ineffective and duplicative programs.

Providing new standards for determining program effectiveness.

In addition, a national on-line labor market information system will be created to disseminate job market information as well as best practices for providing the most effective training services.

Finally, the legislation will grant to the states broad waivers for the 12 largest federal job training programs, to allow consolidation to begin immediately at the state and local levels. The waivers will be in effect during the two-year transition period leading to final implementation of comprehensive reform.

Mr. KERREY. Mr. President, let me, first of all, commend the distinguished Senator from Kansas [Mrs. KASSEBAUM].

There are two things I call to the attention of my colleagues about this legislation that I believe are extremely important. Indeed, it is constantly mentioned by the American people that they want action in both of these areas.

The first is they look to Washington, DC, and they see a lot of waste. They see a lot of duplication of effort. I suspect most of our colleagues this week were visited by mayors who came to town talking about unfunded mandates and the difficulty of getting Federal programs to work.

This piece of legislation deals with that head on. There are 154 job training programs, as the distinguished Senator from Kansas has just said, that are administered by 14 different Federal agencies. Not only is the total cost of this effort, approximately $25 billion, but having these efforts in all these different agencies, 14 different agencies, makes it difficult for States and localities to do the very important work of job training, which is the second thing about this legislation that I call to the attention of my colleagues.

This week the President invited the G-7 leaders to come to Detroit to talk about what do we do as industrial countries to increase the number of high-paying jobs in America and the rest of the industrial world. It is a tremendous challenge. It is not an easy challenge for us to meet. But the simplest way, in my judgment, to discover what it is we need to do is, to find those high-paying jobs and ask yourself what do these individuals have that are different from people who are earning less money.

Mr. President, every single time that you find yourself in that situation, the answer to that question is they have higher skills because they had training that enabled them to do exactly what that job requires.

That is a difficulty that we have today, Mr. President, with the current division of responsibility between 14 different agencies, and the lack of flexibility that States have and that localities have in being able to tailor the effort for the particular requirement of the job.

We have had example after example. I have talked to Nebraska people who are involved with job training, the Nebraska members of the Chamber of Commerce, the people who are involved in job service, people who are involved in the Job Training Partnership Act. Over and over what they say is they will find themselves in a situation that they know what they need to do, they know exactly what it is that needs to be done, but the Federal regulations do not allow them to do it. They find themselves increasingly frustrated with the task at hand.

Mr. President, all of us who have been involved in politics have occasionally had to answer the question, well, why do you do it? What is there in this effort of giving speeches on the floor and raising money for reelection campaigns and all the travel and separation from family that occurs as a consequence of this work? Why would anybody want to get involved with politics?

I see in the gallery some young people who are here visiting Washington who may themselves be asking that very question.

Mr. President, in my 9 years of being involved as a political representative, first as Governor and now as Senator, the most satisfying moment occurs when I know that as a consequence of Government's effort some individuals have increased their skills and can improve their capacity to do something. As a result of that effort, they now find themselves not just with a job, but a job that provides them with some sense of dignity, some sense of purpose.

Mr. President, I got out of high school in 1961 in Lincoln, NE. In 1961 you could graduate from high school and you could get a job in Lincoln working for Goodyear, working for Burlington Northern, working for Cushman, working for Western Electric, working at AT&T at a manufacturing job. There were lots of jobs out there, Mr. President. And in 1961 the rule was you could go get a job, get married, support a family on that wage, you did a couple of years in the service, and when you got back from the service your work was waiting for you there, and you expected to be there for 40 or 45 years. All that was really required in 1961 was a willingness to work hard. A strong back was about all that it took in 1961.

Well, today that is not the case. There are not very many high-paying, low-skill jobs left in America. And so this job training effort is extremely important and may be one of the most important things that we are doing with taxpayer dollars. It may be one of the most important, one of the most satisfying things we can do with our taxes is to help individuals increase their skills so they are able to get the high-paying job.

Mr. President, I am proud to be an original cosponsor of this legislation. I think it is extremely important both from the standpoint of reducing waste, making this Government operate better, showing the taxpayers we are vigilant to make certain their money is being well spent.

I also believe it is extremely important because job training is the answer to the question of how do we create high-paying jobs in America. The answer is that we have to have site-specific training. We have to have training related to that business when they bring that new manufacturing equipment on line. They have to have the training effort there so the individuals can increase their skills to be able to handle new, modern, more complicated machinery.

So I hope that this piece of legislation is seen by the administration as a constructive effort to do precisely what the Vice President and the President have been talking about; streamlining the Government, making its performance review—in fact, increase the performance of our Government. But equally important, I hope the administration sees this legislation as a way to make job training work and work for the purpose of increasing the skills of Americans and increasing the numbers of high-paying jobs in this country.

Mr. DURENBERGER. Mr. President, I am proud to join today with the distinguished ranking member of the Labor and Human Resources Commit-

tee, Senator KASSEBAUM, my friend and colleague from Nebraska, Senator KERREY, and Senator CHAFEE, in introducing the Job Training Consolidation Act of 1994.

The Job Training Consolidation Act is a bold, necessary, thoughtful, and very serious attempt to reinvent the labyrinth of Federal programs that masquerades today as our Nation's reemployment and job training system.

Senator KASSEBAUM has already described this initiative in some detail. I would just like to expand on some of the points she has made, and discuss my own reasons for supporting this legislation. In particular, I want to highlight the reasons I have decided to join with Senator KASSEBAUM and Senator KERREY to support this initiative—instead of the administration's Reemployment Act—as the starting point for reshaping the hodgepodge of current training and income assistance programs into a coherent national system for reemployment.

Let me begin by commending the Clinton administration—and especially Labor Secretary Robert Reich—for recognizing that our Nation's job training programs need fixing, and for putting this issue high on our national agenda. According to the General Accounting Office, there are currently over 150 Federal job training programs administered by 14 different Federal departments and independent agencies costing nearly $25 billion. These programs do not function as a comprehensive, cohesive system, but often operate in isolation. This fragmented system is duplicative, ineffective, costly, and confusing to jobseekers and training providers alike. Conflicting eligibility and income requirements add to the barriers States face in providing assistance.

The administration's Reemployment Act, which will be introduced sometime this week, is a significant first step down the long road to reform.

Mr. President, I have a great deal of respect for what Secretary Reich has done to bring this issue to our attention. I have made sure that President Clinton and Secretary Reich know of my interest in reforming our Nation's job training and income support programs.

I hope to build on my own strong record of collaboration with the administration on education and job training issues—such as student loan reform, Goals 2000, the school-to-work and national service bills, and the Elementary and Secondary Education Act—to help move fundamental job training reform legislation through Congress this year.

I know there are many people of good will on both sides of the aisle in this body—including Senator KASSEBAUM and Senator KERREY—who share my goals. I can only say that I hope all parties will come to the table with sincerity, honesty, creativity, and the willingness to look beyond the margins of their own legislation to get something done. We owe that to the millions of American people for whom job training and income support are a lifeline.

In starting this debate, the administration has given us an opportunity to reform the crazy quilt of Federal job training programs by developing an integrated national reemployment strategy. It is an opportunity we cannot afford to pass up.

I support much of what is in the administration's Reemployment Act. The Reemployment Act would consolidate six existing job training programs under the Department of Labor's jurisdiction, and set up one-stop career centers where workers would receive job assistance services, training, and information about other job opportunities at a single entry point.

The bill would institute early identification programs for people at risk of becoming long-term unemployed, and provide better quality labor market information to jobseekers.

Perhaps most importantly, it recognizes that the unemployment compensation system must be modernized to deal more effectively with structural dislocation as well as temporary layoffs caused by cyclical economic downturns.

The administration's Reemployment Act is a good start. But, as the Job Training Consolidation Act we are introducing today recognizes, it is only a start. I believe we must go farther if we are to truly serve the needs of American workers and businesses.

The Job Training Consolidation Act will allow us to wipe the slate clean and develop a single, coherent U.S. job training and employment strategy which shifts primary responsibility for reemployment services to the States and local communities. That's where it belongs.

This approach is twofold. First, the legislation would establish a national commission to formulate a cohesive reemployment strategy and report its recommendations to Congress within 2 years. Second, the legislation will grant broad waivers to the States from the 12 largest Federal job training programs, to allow coordination to begin immediately at the State and local levels.

I want to make two things clear. First, I have decided to support the Job Training Consolidation Act as the starting point for reform. I believe that any reform legislation we ultimately pass will look very different from both the administration's Reemployment Act and this legislation.

Second, I am supporting the Job Training Consolidation Act not because the administration's bill goes too far, but because it does not go far enough. The administration's Reemployment Act addresses problems with only 6 of the current 154 training programs—representing less than one-third of the Federal dollars spent on job training.

Reforming Federal job training programs in a piecemeal fashion will only add to the existing problems of client access, differing eligibility and reporting requirements, and fragmented lines of authority for operating programs. Unless we make a serious effort to integrate various reform initiatives, we will lose an important opportunity to consolidate and improve the programs in ways that benefit both taxpayers and the customers of job training services.

Mr. President, let me briefly discuss the three main principles that will guide my approach to job training and income support reform this year.

First, I believe we need to convert the current patchwork of Federal job training programs into a cohesive, coherent, comprehensive, customer-friendly reemployment system.

Second, any reform initiative ought to put responsibility and accountability where they belong—at the State and local level. There has been a great deal of evidence in recent years that our current Federal job training programs are ineffective and unable to adequately meet the needs of their clients. Instead of simply building on the current Federal job training system, we need to make States and local communities full partners in developing and implementing reemployment services tailored to the needs of their local labor markets.

In an attempt to improve local service delivery of Federal employment training services, several States and communities, including those in Minnesota, have taken the initiative in recent years to reorganize their service delivery system to better coordinate services at the local level. But their efforts have been hampered by differences in Federal program requirements, such as differences in eligibility criteria and planning and budgeting cycles.

Therefore, we should recognize that perhaps the most valuable contribution the Federal Government can make to job training reform is to get out of the way of State and local reform efforts.

Third, I believe strongly that any new reemployment system must be coordinated with current welfare reform and student aid reform efforts. Since Federal welfare programs, student aid, and job training programs often serve the same disadvantaged adult population, I believe that reform efforts in all three of these areas should be coordinated as they are developed so as to minimize problems for clients, States, and localities.

As we coordinate these reform efforts, our emphasis should be on prevention. We must do more to help peo-

ple stay off public assistance in the first place. And for those who do need assistance, we should make sure that programs are designed to get them into the work force—or back into the work force—as quickly as possible.

Mr. President, the Job Training Consolidation Act is not perfect. It lacks, for example, the important income support reform proposals contained in the administration's bill. However, at this stage, it is more consistent with my broader approach to reemployment reform, as highlighted by the principles I have just outlined.

Finally, Mr. President, let me say that I do realize that many programs I have supported in the past may be significantly redesigned, or even repealed, under the Job Training Consolidation Act.

In this regard, it is important to point out that there are safeguards in the bill to ensure that populations served under existing programs will continue to be served under any new program. For example, States will not be able to obtain waivers from existing programs under the bill unless they demonstrate that populations served under those programs are being served.

It is also important to point out that the bill does not reduce overall funding for U.S. job training programs. It merely folds these programs into a comprehensive program. By reducing costs due to program inefficiencies, paperwork, bureaucracy, and overlap, I believe we will make more money available directly to people who need training.

I believe that everyone will be served better by this reform effort. It's clear that the current programs are not up to par. To take just one example: According to the GAO, the Nation's $2 billion-a-year vocational rehabilitation program serves only a small proportion of potential beneficiaries, and the gains achieved by disabled participants fade substantially after 2 years.

As ranking member of the Subcommittee on Disability Policy, let me assure you that I would never support this initiative if I believed it would have the effect of reducing current support to individuals with disabilities and others who are disadvantaged.

I believe the Vocational Rehabilitation Act and other programs would better serve targeted populations if more flexibility were given to States and local communities.

That's the guiding spirit behind the legislation we are introducing today. As I mentioned earlier, I hope to build on my past record of cooperation with the administration to bridge the differences between the Reemployment Act and the broader approach that Senator KERREY, Senator KASSEBAUM and I have endorsed in the Job Training Consolidation Act.

Mr. CHAFEE. Mr. President, today our distinguished colleague, the Senator from Kansas, [Mr. KASSEBAUM], introduced the Job Training Consolidation Act of 1994.

As a ranking Republican on the Labor and Human Resources Committee, Senator KASSEBAUM has crafted what, in my judgment, is a very thoughtful bill. What it does is consolidates the confusing array of Federal job training programs, some 154 separate programs in total. Importantly, the legislation provides immediate flexibility to States and localities to use Federal job training funds totaling some $25 billion a year. This is astonishing the amount of money we are putting into these job training programs, $25 billion a year. What this bill does is it provides, as I say, the immediate flexibility to States and localities to use these job training funds on programs and priorities of the design of the States and localities.

It also provides for the creation of a national commission with a strong input from the private sector—I want to stress that a strong input from the private sector—to develop a single coordinated system of employment and training. The legislation would consolidate about 60 programs, scattered across a dozen statutes, without requiring any additional spending, any additional new taxes, or any additional new bureaucracy.

While much of the country has begun to enjoy the fruits of a growing economy, my own State of Rhode Island continues to suffer the effects of a nagging recession. In January, 10.5 percent of Rhode Island's labor force, seasonally adjusted, was out of work. By contrast, the State experienced a 3-percent unemployment rate for all of 1988.

While the most recent jump in Rhode Island's unemployment is partly the result of new Federal methods for counting joblessness, much of our problem is due to longer term economic dislocation in defense and other manufacturing sectors. Many of the jobs Rhode Islanders have lost during this downturn are not coming back. Now, more than ever, we need a coherent, cost effective system for retraining dislocated workers. This bill takes an important step in that direction.

A recent report by the General Accounting Office [GAO] found that American taxpayers do not get fair value for the $25 billion we expend annually on job training. The GAO report audited 62 training programs and discovered that less than half ever bothered to find out whether or not participants found jobs. We have very little data on the effectiveness of Federal job training programs, and even less accountability. In a period of scarce budgetary resources and growing demands for Federal assistance, this situation is intolerable.

Let me turn to the administration's efforts in this area for a moment. I comment the Secretary of Labor, Robert Reich, for the comprehensive legislation he has developed to address the problem of structural unemployment. The administration's Reemployment Act is a very thoughtful proposal that correctly seeks to transform our present Federal-State unemployment insurance program into a reemployment system.

However, upon review, I have a number of concerns about the proposal, including the financing, the broad reliance on untested retraining program, and the scope of the consolidation effort. I also have some reservations about the bill's impact on the existing unemployment insurance system. State officials in Rhode Island have also reviewed the proposal, and share many of these concerns, particularly with respect to the fiscal implications, and the effects on the present employment and training system in our State.

Despite these concerns, I stand ready as a member of the Finance Committee to work on a bipartisan basis with the administration, and with my Senate colleagues to enact legislation this year to address the problem of long term structural unemployment. It is absolutely imperative that we develop a comprehensive national strategy as soon as possible to give dislocated workers the training, employment assistance, and other resources they need to secure their futures.

Many citizens in my State of Rhode Island have exhausted their regular unemployment benefits, and do not have access to the training and employment services they need to find the high quality jobs they deserve. Clearly, our present unemployment insurance system falls short of addressing the problems of dislocated workers. Both the administration and Kassebaum bills offer us much hope for meaningful action to address this serious problem this year, and I intend to work in earnest toward that end.

By Mr. KOHL:

S. 1944. A bill to increase and extend criminal and other penalties for health care fraud and abuse, and for other purposes; read the first time.

S. 1947. A bill to increase criminal penalties for health care fraud, and for other purposes; to the Committee on the Judiciary.

HEALTH CARE ANTI-FRAUD LEGISLATION

Mr. KOHL. Mr. President, I rise to introduce two bills: the Health Care Anti-Fraud Act of 1994 and the Health Care Fraud and Abuse Act of 1994. These bills would expand current fraud and abuse laws to cover fraud against private payers, and increase existing civil and criminal fraud and abuse penalties.

Mr. President, this promises to be a historic Congress, from which we hope a legacy of important health reform legislation will emerge. As we all know, the skyrocketing costs of health

care has much to do with why we are working so hard to fashion meaningful reform. One of the reasons that our health care costs are as high as they are is because our system is being ripped-off daily by those who see health care as a giant game: A game in which there are few rules and the winner is the one who manages to dupe the Government, private insurance companies, and individual Americans into paying the most money.

The General Accounting Office estimates that up to 10 percent of our health care dollars—up to $100 billion annually—are lost to fraud and abuse. Even if this number is exaggerated by 50 percent—even if the amount of fraud and abuse only totals $50 billion—this is a staggering amount. In a day and age when we are struggling to contain health care costs and stretch our resources to cover millions of Americans who now go without insurance, we must increase our efforts to root out the fraud and abuse that infects our health care system.

Mr. President, Federal law enforcement officials have already begun mounting a vigorous battle against health care fraud. In 1993, the Federal Government collected more than $177 million in health care fraud penalties and fines. $100 million of that total came from one company alone that was systematically looting the Medicare and Medicaid programs on a national scale.

But despite efforts to date, there is still much more for us to do if we are going to deter health care fraud. We know for a fact that there are still thousands of dishonest providers in the United States who continue to pilfer our national health care pocketbook, playing games with charges, billing codes, and unnecessary tests and procedures. Only last week, a report released by the Wisconsin Legislative Audit Bureau uncovered troubling examples of transportation vendors overcharging Medicaid, and charging for services that were never even rendered. As Congress contemplates health care reform, we must also reform our fraud and abuse laws to better target those who see the rules and regulations governing the delivery of health care in this country as little more than negotiable obstacles.

Toward this end, I am introducing today two simple, effective, and straightforward bills which together will help combat health care fraud.

First and foremost, this legislation would take our existing fraud and abuse laws, which at present protect only the Medicare and Medicaid programs, and extend their reach to encompass private insurance arrangements as well. The Federal Government currently accounts for approximately 30 percent of U.S. health care spending, and the core elements of our existing health care fraud laws only protect against conduct that defrauds the Government. But what about the other 70 percent of our health care spending?

It is time that we send the message that the Federal Government will not tolerate fraud and abuse in any health care transaction, even if the target of the fraud is a private payer. No matter who appears to be the victim of fraud and abuse, all Americans end up paying the price when costs and premiums skyrocket as a result.

Second, and equally important, this legislation will substantially increase the criminal and civil penalties for fraudulent conduct so that unscrupulous health care providers have greater reason to think twice before attempting to cheat the system. Existing civil monetary penalties will be more than doubled under this legislation. And criminal penalties will be expanded to include treble damages and to provide for stiff prison sentences when fraud results in physical harm to a patient. As a result of these modifications, our health care fraud laws will pack a more powerful deterrent punch.

This bill would also make it easier for courts to impose community service obligations on those who have violated the health care fraud laws. Those who defraud society's efforts to deliver one of its most important public goods should be made to serve society and contribute to that good when they are caught.

At the same time, this legislation would give health care providers an incentive to come clean and voluntarily disclose violations of the law to Federal authorities. In exchange for such disclosure, providers would be subject to substantially reduced penalties. Our experience in other areas strongly suggests that a voluntary disclosure program of this type will encourage providers to police themselves more rigorously, foster a culture of compliance and respect for the law, and ultimately increase the Federal Government's monetary recoveries.

Expanding and strengthening the fraud laws will not, however, mean much if the Federal Government does not have the resources necessary to police the health care industry properly. The fact is that laws unenforced are laws ignored. To promote a respect for the law, therefore, we must commit to putting more health care fraud investigators on the street.

This bill would authorize $100 million in funding over 4 years to allow the Federal Government to expand its antifraud efforts. There can be no question that this is money well spent. Each dollar spent on health care fraud investigations has yielded more than 4 dollars in real, money-in-the-bank recoveries to the Government. With health care reform around the corner, this is not the time to be penny-wise and pound-foolish.

As we all know, Mr. President, there are many tough questions that need to be asked and answered during the health care reform process. The issue of health care fraud, by contrast, is a relatively straightforward one. The legislation introduced today offers an uncontroversial, but meaningful opportunity to turn up the heat in our battle against fraud and abuse—no matter which broader health reform options the Congress ultimately chooses to enact. I look forward to working with my colleagues on this problem in the months to come.

Mr. President, I ask unanimous consent that the complete text of these bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD as follows:

S. 1944

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 "Health Care Fraud and Abuse Act of 1994".

SEC. 2. EXPANSION OF CIVIL AND CRIMINAL MONETARY SANCTIONS.

(a) CIVIL SANCTIONS.—Section 1128A of the Social Security Act (42 U.S.C. 1320a-7a) is amended—

(1) in subsections (a) and (b), by striking "$2,000" each place it appears and inserting "$5,000",

(2) in the second sentence of subsection (a), by striking "not more than twice" and inserting "not more than three times", and

(3) by adding at the end the following new subsection:

"(m)(1) The maximum civil monetary penalty amounts specified in subsections (a) and (b) shall be adjusted for inflation as provided in this subsection.

"(2) Not later than December 1, 1999, and December 1 of each fifth calendar year thereafter, the Secretary shall prescribe and publish in the Federal Register a schedule of maximum authorized penalties that shall apply for violations that occur after January 1 of the year immediately following such publication.

"(3) The schedule of maximum authorized penalties shall be prescribed by increasing each of the amounts specified in subsections (a) and (b) by the cost-of-living adjustment for the preceding five years. Any increase determined under the preceding sentence shall be rounded to the nearest multiple of $1,000.

"(4) For purposes of this subsection:

"(A) The term 'cost-of-living adjustment for the preceding five years' means the percentage by which—

"(i) the Consumer Price Index for the month of June of the calendar year preceding the adjustment, exceeds

"(ii) the Consumer Price Index for the month of June preceding the date on which the maximum authorized penalty was last adjusted under this subsection.

"(B) The term 'Consumer Price Index' means the Consumer Price Index for all urban consumers published by the Department of Labor.".

(b) TREBLE DAMAGES FOR CRIMINAL SANCTIONS.—Section 1128B of the Social Security Act (42 U.S.C. 1320a-7b) is amended by adding at the end the following new subsection:

"(f) In addition to the fines that may be imposed under subsection (a), (b), or (c), any

individual found to have violated the provisions of any of such subsections may be subject to treble damages.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1995.

SEC. 3. APPLICATION OF FEDERAL HEALTH ANTI-FRAUD AND ABUSE SANCTIONS TO ALL FRAUD AND ABUSE AGAINST ANY HEALTH BENEFIT PLAN.

(a) CIVIL MONETARY PENALTIES.—Section 1128A of the Social Security Act (42 U.S.C. 1320a-7a) is amended as follows:

(1) In subsection (a)(1), in the matter before subparagraph (A), by inserting "or of any health benefit plan," after "subsection (i)(1)),".

(2) In subsection (b)(1)(A), by inserting "or under a health benefit plan" after "title XIX".

(3) In subsection (f)—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following new paragraph:

"(3) With respect to amounts recovered arising out of a claim under a health benefit plan, the portion of such amounts as is determined to have been paid by the plan shall be repaid to the plan.".

(4) In subsection (i)—

(A) in paragraph (2), by inserting "or under a health benefit plan" before the period at the end, and

(B) in paragraph (5), by inserting "or under a health benefit plan" after "or XX".

(b) CRIMES.—Section 1128B of the Social Security Act (42 U.S.C. 1320a-7b) is amended as follows:

(1) In the heading, by adding at the end the following: "OR HEALTH BENEFIT PLANS".

(2) In subsection (a)(1)—

(A) by striking "title XVIII or" and inserting "title XVIII,", and

(B) by adding at the end the following: "or a health benefit plan (as defined in section 1128(i)),".

(3) In subsection (a)(5), by striking "title XVIII or a State health care program" and inserting "title XVIII, a State health care program, or a health benefit plan".

(4) In the second sentence of subsection (a)—

(A) by inserting after "title XIX" the following: "or a health benefit plan", and

(B) by inserting after "the State" the following: "or the plan".

(5) In subsection (b)(1), by striking "title XVIII or a State health care program" each place it appears and inserting "title XVIII, a State health care program, or a health benefit plan".

(6) In subsection (b)(2), by striking "title XVIII or a State health care program" each place it appears and inserting "title XVIII, a State health care program, or a health benefit plan".

(7) In subsection (b)(3), by striking "title XVIII or a State health care program" each place it appears in subparagraphs (A) and (C) and inserting "title XVIII, a State health care program, or a health benefit plan".

(8) In subsection (d)(2)—

(A) by striking "title XIX," and inserting "title XIX or under a health benefit plan,", and

(B) by striking "State plan," and inserting "State plan or the health benefit plan,".

(c) HEALTH BENEFIT PLAN DEFINED.—Section 1128 of the Social Security Act (42 U.S.C. 1320a-7) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) HEALTH BENEFIT PLAN DEFINED.—For purposes of sections 1128A and 1128B, the term 'health benefit plan' means a health benefit program other than the medicare program, the medicaid program, or a State health care program.".

(d) CONFORMING AMENDMENT.—Section 1128(b)(8)(B)(ii) of the Social Security Act (42 U.S.C. 1320a-7(b)(8)(B)(ii)) is amended by striking "1128A" and inserting "1128A (other than a penalty arising from a health benefit plan, as defined in subsection (i))".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect January 1, 1995.

SEC. 4. CIVIL MONETARY PENALTIES INCLUDED IN ANTI-KICKBACK SANCTIONS.

(a) IN GENERAL.—Section 1128A(a) of the Social Security Act (42 U.S.C. 1320a-7a(a)), as amended by section 2(a), is amended—

(1) by striking "or" at the end of paragraph (1)(D);

(2) by striking ", or" at the end of paragraph (2) and inserting a semicolon;

(3) by striking the semicolon at the end of paragraph (3) and inserting "; or";

(4) by inserting after paragraph (3) the following new paragraph:

"(4) carries out any activity in violation of paragraph (1) or (2) of section 1128B(b);";

(5) by striking "than $5,000" and all that follows through the period and inserting "than, in cases under paragraph (1) or (2), $5,000 for each item or service, in cases under paragraph (3), $15,000 for each individual with respect to whom false or misleading information is given, and in cases under paragraph (4), $10,000 for each violation."; and

(6) by striking "than three times" and all that follows through the period and inserting "than, in cases under paragraph (1) or (2), three times the amount claimed for each such item or service in lieu of damages sustained by the United States or a State agency because of such claim, and in cases under paragraph (4), twice the total amount of the remuneration offered, paid, solicited, or received in violation of paragraph (1) or (2) of section 1128B(b).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect January 1, 1995.

SEC. 5. VOLUNTARY DISCLOSURE PROGRAM.

In consultation with the Attorney General of the United States, the Secretary of Health and Human Services shall publish proposed regulations no later than 9 months after the date of the enactment of this Act, and final regulations no later than 18 months after such date of enactment, establishing a program of voluntary disclosure that would facilitate enforcement of sections 1128A and 1128B of the Social Security Act (42 U.S.C. 1320a-7a and 1320a-7b) and other relevant provisions of Federal law relating to health care fraud and abuse. Such program should promote and provide incentives for disclosures of potential violations of such sections and provisions by providing that, under certain circumstances, the voluntary disclosure of wrongdoing would result in the imposition of penalties and punishments less substantial than those that would be assessed for the same wrongdoing if voluntary disclosure did not occur.

SEC. 6. EXPANSION OF HEALTH CARE FRAUD INVESTIGATIVE RESOURCES.

There are authorized to be appropriated for the hiring of additional personnel in the Department of Health and Human Services Office of the Inspector General $25,000,000 for each of fiscal years 1994, 1995, 1996, and 1997 to sustain and expand the investigation of health care fraud.

S. 1947

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 "Health Care Anti-Fraud Act of 1994".

SEC. 2. CRIMINAL PENALTIES FOR HEALTH CARE FRAUD.

(a) OFFENSE.—Part I of title 18, United States Code, is amended by inserting after chapter 50A the following:

"CHAPTER 50B—HEALTH CARE FRAUD

"Sec.
"1101. Health care fraud.
"1102. Definitions.

"§ 1101. Health care fraud

"(a) IN GENERAL.—Whoever, in or affecting interstate commerce, knowingly—

"(1) executes, or attempts to execute, a scheme or artifice to defraud to obtain a health care payment; or

"(2) presents to any person any statement as part of, or in support of, a claim for a health care payment, knowing that such statement contains any false or misleading information concerning any fact or thing material to such claim;

shall be fined under this title or imprisoned not more than 10 years, or both.

"(b) AGGRAVATED OFFENSES.—In an offense under subsection (a) of this section—

"(1) if the offender knowingly or recklessly causes serious bodily injury to an individual or knowingly or recklessly endangers the life of a person, the offender shall be fined under this title or imprisoned not more than 15 years, or both; and

"(2) if the offender knowingly or recklessly causes the death of an individual, the offender shall be fined under this title or imprisoned not more than 25 years, or both.

"§ 1102. Definitions

"As used in this chapter—

"(1) the term 'health care payment' means a payment for health care services or health care products, or the right to have a payment made by a third party payer for specified health care services or products; and

"(2) the term 'third party payer' means any person, public or private, who undertakes to indemnify another against loss arising from a contingent or unknown event.".

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by inserting after the item relating to chapter 50A the following new item:

"50B. Health care fraud ..... 1101.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect January 1, 1995.

SEC. 3. IDENTIFICATION OF COMMUNITY SERVICE OPPORTUNITIES.

(a) IN GENERAL.—Chapter 50B of title 18, United States Code, as added by section 2, is amended by inserting after section 1102 the following new section:

"§ 1103. Identification of community service opportunities

"The Attorney General shall—

"(1) in consultation with the Secretary of Health and Human Services and State and local health care officials, identify opportunities for the satisfaction of community service obligations that a court may impose upon the conviction of an offense under section 1101 or an offense under section 1128B of the Social Security Act (42 U.S.C. 1320a-7b), and

"(2) make information concerning such opportunities available to Federal and State law enforcement officers and State and local health care officials.".

(b) CLERICAL AMENDMENT.—The table of sections for such chapter 50B is amended by adding at the end the following new item:

"1103. Identification of community service opportunities.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1995.

By Mr. HOLLINGS (by request):

S. 1945. A bill to authorize appropriations for fiscal year 1995 for certain maritime programs of Department of Transportation, to amend the Merchant Marine Act, 1936, as amended, to revitalize the U.S.-flag merchant marine, and for other purposes; to the Committee on Commerce, Science, and Transportation.

MARITIME ADMINISTRATION AUTHORIZATION ACT

• Mr. HOLLINGS. Mr. President, today I am introducing, at the request of the administration, the Maritime Administration Authorization Act for fiscal year 1995.

Title I of this bill contains the authorization of appropriations for the Maritime Administration [MarAd]. MarAd operates the U.S. Government-supported maritime promotion programs, such as the operating differential subsidy program, the title XI loan guarantee program for shipbuilding, and the U.S. Merchant Marine Academy.

The second title of this bill, the Maritime Security and Trade Act of 1994, is intended to lead to a much needed revitalization of the U.S. maritime industry. The administration's proposed plan, the Maritime Security Program, would provide assistance to support 52 ships for 10 years. Beginning in fiscal year 1995, it would provide U.S.-flag vessels operating in the foreign trade with assistance as a means of making the vessels competitive in the world market.

Maritime reform is vital to the continued existence of the U.S. merchant marine, which is so critical to our national interest. Over the last two decades, the U.S. maritime industry has been in a continuous state of decline. In fact, the largest American shipping companies, American President's Lines and SeaLand, applied last year to the Department of Transportation to reflag a substantial portion of their fleets in foreign countries. The companies have indicated that they will be obligated to lower their U.S. flags and replace them with the flags of convenience, and replace their U.S. citizen crews with foreign crews.

I believe that this reflagging would be devastating not only to our economic security but also to our national defense. It is unthinkable to me that supplies to our troops may be carried on ships from so-called outlaw nations in times of international conflict. Additionally, we cannot be in the position of relying on foreign ships to carry all of our imports and exports and thus be beholden to the trading practices of the countries in which these ships are flagged. How ironic it would be if the manufacturers and consumers of the only superpower in the world were to become embroiled in a trade war with a country that controls all of its shipping! Without a U.S.-flag commercial fleet, our manufacturers, importers, and exporters would be at the mercy of the trade practices of these nations.

I appreciate the dedication that Secretary of Transportation Federico Peña and Adm. Albert Herberger, the Administrator of MarAd, have shown in trying to address the very serious decline in our maritime industry. They have put forward a bill for us to consider carefully, and the Commerce Committee will proceed to do so. We must find a way to stimulate and revitalize the U.S. maritime industry.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1945

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—MARITIME ADMINISTRATION AUTHORIZATION OF APPROPRIATIONS

SEC. 101. SHORT TITLE.

This title may be cited as the "Maritime Administration Authorization Act for Fiscal Year 1995."

SEC. 102. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1995.

Funds are authorized to be appropriated without fiscal year limitation, as Appropriations Acts may provide for the use of the Department of Transportation, for the fiscal year ending September 30, 1995, as follows:

(a) For payment of obligations incurred for operating-differential subsidy, not to exceed $214,356,000.

(b) For expenses necessary for operations and training activities, not to exceed $77,000,000, including reception and representation expenses associated with graduation functions at the Merchant Marine Academy at Kings Point, New York.

(c) For expenses necessary to acquire and maintain the Ready Reserve Force surge shipping and resupply capability in an advanced state of readiness, and for related programs, not to exceed $250,000,000.

(d) For the costs, as defined in section 502 of the Federal Credit Reform Act of 1990, of guaranteed loans authorized by Title XI of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1271, *et seq.*), $50,000,000. In addition, for administrative expenses related to loan guarantee commitments under Title XI of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1271, *et seq.*), $4,000,000.

SEC. 103. MERCHANT SHIP SALES ACT OF 1946 AMENDMENT.

Section 11 of the Act of March 8, 1946 (50 App. U.S.C. 1744, is amended as follows:

(a) by striking "Secretary of the Navy," in subsection (b)(2) and inserting "Secretary of Defense,".

(b) by striking subsection (c) and redesignating subsection (d) as subsection (c).

SEC. 104. SUBMISSION OF REPORT ON CONDITION OF PUBLIC PORTS.

Section 308(c) of Title 49, United States Code, is amended by inserting "even-numbered" between "each" and "year."

TITLE II—AMENDMENTS TO THE MERCHANT MARINE ACT, 1936

SEC. 201. SHORT TITLE.

This title may be cited as the "Maritime Security and Trade Act of 1994".

SEC. 202. MARITIME SECURITY PROGRAM.

(a) Title VI of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1171 *et seq.*), is amended by deleting the heading of Title VI, "Operating-Differential Subsidy" and inserting a new heading and subheading as follows:

"TITLE VI—OPERATING-DIFFERENTIAL SUBSIDY AND MARITIME SECURITY PROGRAM.

"Subpart A—Operating-Differential Subsidy".

(b) Section 605(b) (46 App. U.S.C. 1175(b)) is amended to read as follows:

"(b) No operating-differential subsidy shall be paid for the operation of a vessel that is more than twenty-five years of age, unless the Secretary of Transportation has determined, before the enactment of the Maritime Security and Trade Act of 1994, that it is in the public interest to grant such financial aid for the operation of such vessel."

(c) Title VI of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1171 *et seq.*) is amended by adding a new Section 616 following Section 615, to read as follows:

"SEC. 616. (a)(1) The Secretary of Transportation may authorize a contractor operating a liner vessel and receiving an operating-differential subsidy under Subpart A of this title to construct, reconstruct, or acquire a liner vessel of over five thousand deadweight tons worldwide to replace a vessel that would reach the end of its subsidizable life prior to the expiration of the contractor's operating-differential subsidy contract. The replacement vessel shall be documented under chapter 121 of subtitle II of title 46, United States Code.

"(2) A replacement liner vessel shall not be eligible for operating-differential subsidy pursuant to Subpart A of this title, and shall be limited to payments in the amounts set forth in Subpart B of this title until the existing contract pursuant to Subpart A terminates according to its terms.

"(b)(1) The Secretary of Transportation may authorize a contractor operating a bulk cargo vessel and receiving operating-differential subsidy under Subpart A of this title to construct, reconstruct, or acquire a bulk cargo vessel of over five thousand deadweight tons worldwide to replace a vessel that would reach the end of its subsidizable life prior to the expiration of the contractor's operating-differential subsidy contract. The replacement vessel shall be documented under chapter 121 of subtitle II of title 46, United States Code.

"(2) A replacement bulk cargo vessel shall continue to receive an operating-differential subsidy under an existing contract pursuant to Subpart A of this title until the existing contract terminates according to its terms.

"(c) Liner vessels and bulk cargo vessels constructed pursuant to subsections (a) and (b) of this section shall be deemed to have been built in a domestic shipyard for the purposes of section 610 of this Act: Provided, That the provisions of section 607 of this Act shall not apply to vessels constructed, recon-

structed, or acquired pursuant to subsections (a) and (b) of this section.

"(d) Any existing foreign-built liner vessel that is acquired pursuant to subsection (a) of this section and documented under chapter 121 of subtitle II of title 46, United States Code, shall be less than five years of age at the time of such documentation.

"(e) Any existing foreign-built bulk cargo vessel that is acquired pursuant to subsection (b) of this section and documented under chapter 121 of subtitle II of title 46, United States Code, shall be less than five years of age at the time of such documentation.

"(f) No authority granted by the Secretary of Transportation to construct, reconstruct, or acquire vessels pursuant to subsections (a) and (b) of this section may be sold, assigned, conveyed, leased or otherwise transferred to any other party, without the written consent of the Secretary of Transportation pursuant to section 608 of this title.

"(g) Any repair or alteration necessary to bring a vessel, which is constructed, reconstructed, or acquired pursuant to subsections (a) and (b) of this section, into compliance with parts B and C of subtitle II of title 46, United States Code, or any regulations prescribed under those Parts, shall be performed in a privately owned shipyard in the United States."

(d) Title VI of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1171 *et seq.*) is amended by adding a new Section 617 following the new Section 616, to read as follows:

"SEC. 617. (a) After the date of enactment of the Maritime Security and Trade Act of 1994, the Secretary of Transportation shall not enter into any new contract for an operating-differential subsidy under subpart A of this title.

"(b) Notwithstanding any other provision of this Act, any operating-differential subsidy contract in effect under title VI on the day before the date of enactment of the Maritime Security and Trade Act of 1994:

"(1) shall continue in effect and terminate as set forth in the contract, unless voluntarily terminated at an earlier date by the persons (other than the United States Government) that are parties to the contract; and

"(2) may not be renewed or extended.

"(c) After the date of enactment of the Maritime Security and Trade Act of 1994, an owner or operator of a vessel covered by an operating-differential subsidy contract under subpart A of this title may operate such vessel in the foreign commerce of the United States without restriction, notwithstanding any other provision of this Act.

"(d) With respect to a liner vessel—

"(1) whose operator receives operating-differential subsidy pursuant to a contract under this title, which is in force on October 1, 1993, and if the Secretary approves the replacement of such vessel with a comparable vessel, or

"(2) covered by an operating agreement under subpart B of this title, and if the Secretary approves the replacement of such vessel with a comparable vessel for inclusion in the fleet established under Subpart B of title VI—

such vessel may be transferred and registered under the flag of an effective United States-controlled foreign flag, notwithstanding any other provision of law: *Provided*, that the vessel is available to be requisitioned by the Secretary of Transportation pursuant to section 902 of this Act (46 App.U.S.C. 1242)."

(e) Title VI of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1171 *et seq.*) is amended by adding a new Subpart B to read as follows:

"Subpart B—Maritime Security Program

"SEC. 650. Establishment of Fleet.

"(a) The Secretary of Transportation shall encourage the establishment of a fleet of active, militarily useful, privately-owned liner vessels to maintain an American presence in international commercial shipping and meet national defense and other security requirements. The fleet shall consist of privately-owned, United States-flag liner vessels for which there are in effect operating agreements under this Subpart.

"(b) A liner vessel may not be included in the fleet unless:

"(1) it is operated by an "ocean common carrier" as defined in Section 3 of the Shipping Act of 1984 (46 App. U.S.C. 1702);

"(2) it is a vessel that is fifteen years of age or less on the date an operating agreement is entered into under Section 651, unless the Secretary of Transportation, in consultation with the Secretary of Defense, determines that it is in the national interest to waive this requirement;

"(3) it is a vessel that is less than five years of age at the time it is documented under chapter 121 of subtitle II of title 46, United States Code, if it is foreign-built;

"(4) The Secretary of Transportation, after consultation with the Secretary of Defense, determines that the vessel is necessary to maintain a United States presence in international commercial shipping or determines that the vessel is militarily useful for meeting the sealift needs of the United States with respect to national emergencies; and

"(5) the owner or operator of the vessel is a citizen of the United States as set forth in section 651.

SEC. 651. Operating Agreements.

"(a) The Secretary of Transportation shall require, as a condition of including any vessel in the fleet, that the owner or operator of the vessel enter into an operating agreement with the Secretary of Transportation pursuant to this section.

"(b) An operating agreement pursuant to this section shall require that, during the period of the agreement:

"(1) each vessel covered by the operating agreement:

"(A) shall be operated exclusively in the foreign trade, and

"(B) shall not be operated in the coastwise trade of the United States or in mixed domestic and foreign trade; and

"(2) the owner or operator of a vessel covered by the operating agreement shall have the vessel documented under chapter 121 of subtitle II of title 46, United States Code, and shall maintain that documentation.

"(c) An owner or operator of a vessel covered by an operating agreement under this subpart may operate this vessel in the foreign commerce of the United States without restriction.

"(d)(1) The Secretary of Transportation is authorized to enter into operating agreements, provided that the total does not exceed $1,000,000,000 for the fiscal years 1995 through 2004.

"(2) An operating agreement pursuant to this section shall provide that the Secretary of Transportation pay to the owner or operator of each liner vessel that is included in the operating agreement, an amount per vessel per year that does not exceed $2,500,000, for fiscal years 1995 through 1997, and does not exceed $2,000,000, for fiscal years 1998 through 2004. The amount per year paid to the owner or operator of a liner vessel under an operating agreement pursuant to this section shall be paid at the end of each month in equal installments.

"(3) An amount of $1,000,000,000 is appropriated to carry out this section.

"(e) In order to qualify for the annual payments under this section, the owner or operator shall certify annually, pursuant to regulations issued by the Secretary, that each vessel covered by an operating agreement was operated in a trade required by section 651(b)(1) for at least 320 days in a fiscal year, including days during which the liner vessel is drydocked, surveyed, inspected, or repaired.

"(f) Without regard to an operating agreement in effect with an owner or operator of a liner vessel under this section, the Secretary of Transportation shall not make any payment under this section for a vessel with respect to any period in which the vessel is—

"(1) subject to an operating-differential subsidy contract under subpart A of title VI of this Act;

"(2) not operated or maintained in accordance with an operating agreement under this subpart; or

"(3) more than twenty-five years of age.

"(g) With respect to payments under this section for a vessel covered by an operating agreement, the Secretary of Transportation—

"(1) shall not reduce any payment for the operation of a vessel to carry military or other preference cargoes under—

"(A) Section 2631 of title 10, United States Code; or

"(B) Section 1241-1 of title 46, Appendix, United States Code;

"(2) shall not make any payment for each day that a vessel is engaged in transporting more than 5,000 tons of civilian bulk preference cargoes pursuant to Sections 901(a), 901(b), or 901b of this Act; and

"(3) shall reduce any payment for each day that a vessel is engaged in transporting less than 5,000 tons of civilian bulk preference cargoes pursuant to Sections 901(a), 901(b), or 901b of this Act, by an amount which bears the same ratio to the amount otherwise payable as revenue for the carriage of preference cargo bears to the gross revenue derived from the entire voyage.

"(h) The Secretary of Transportation shall enter into operating agreements in the following order of priority:

"(1) liner vessel or vessels owned or operated by a person that is a citizen of the United States under section 2 of the Shipping Act, 1916; and then

"(2) liner vessel or vessels owned or operated by a person that is eligible to document a vessel under chapter 121 of subtitle II of title 46, United States Code.

"(i) No authority granted by the Secretary of Transportation to an owner or operator of a vessel covered by an operating agreement under this subpart may be sold, assigned, conveyed, leased or otherwise transferred to any other party, without the written consent of the Secretary of Transportation pursuant to the provisions of section 608 of this title.

"(j) Any authority granted by the Secretary of Transportation to an owner or operator of a vessel covered by an operating agreement under this subpart shall be used by the holder of the operating agreement within one year from the date such authority is granted for existing vessels and within two years from the date such authority is granted for newly constructed vessels, or the authority shall revert to the Secretary of Transportation for such disposition as determined appropriate.

"(k) An operating agreement entered into by the Secretary of Transportation under

this subpart shall be effective for a period of not more than ten years, and, under any condition, terminate not later than September 30, 2004.

"(l) An operating agreement entered into by the Secretary of Transportation under this subpart shall require the owner or operator of a vessel covered by an operating agreement under this subpart to enroll in an Emergency Preparedness Program, pursuant to the requirements of section 652, under such terms and conditions as the Secretary may prescribe.

"SEC. 652. National Security Requirements.

"(a) On a request of the President, acting through the Secretary of Transportation in consultation with the Secretary of Defense, during time of war or national emergency or when decided by the President to be necessary in the national interest, acting through the Secretary of Transportation in consultation with the Secretary of Defense, an owner or operator of a vessel covered by an operating agreement under this subpart shall make available commercial transportation resources pursuant to an Emergency Preparedness Program established by the Secretary of Transportation in consultation with the Secretary of Defense.

"(b) The commercial transportation resources to be made available shall include ships, capacity, intermodal systems or equipment, terminal facilities, and intermodal and management services, or any portion of these resources, as the Secretary may determine to be necessary.

"(c) The Secretary of Transportation shall not reduce the amount of equal monthly installment payments under section 651 to an owner or operator who makes commercial transportation resources available pursuant to an Emergency Preparedness Program under this section.

"(d) An owner or operator who makes a vessel available pursuant to this section shall be permitted to employ a foreign-flag vessel in the foreign commerce of the United States, without receiving additional compensation, as a replacement for a vessel covered by an operating agreement, until a vessel used is redelivered.

"SEC. 653. Domestic Noncontiguous Trade Restrictions.

"(a) PROHIBITION.—

"(1) IN GENERAL.—Except as provided in this section, an owner or operator may not receive any payment under this subpart—

"(A) if the owner or operator or a related party with respect to the owner or operator, directly or indirectly owns, charters, or operates a vessel engaged in the transportation of cargo in a noncontiguous trade other than in accordance with a waiver under subsection (b), (c), or (d); or

"(B) if the owner or operator is authorized to operate a vessel in noncontiguous trade under such a waiver, and there is a—

"(i) material change in the domestic ports served by the owner or operator from the ports permitted to be served under the waiver;

"(ii) material increase in the annual number or the frequency of sailings by the owner or operator from the number or frequency permitted under the waiver; or

"(iii) material increase in the annual volume of cargo carried or annual capacity utilized by the owner or operator from the annual volume of cargo or annual capacity permitted under the waiver.

"(2) LIMITATIONS ON PROHIBITION.—Paragraph (1) applies to an owner or operator only in the years specified for payments under the operating agreement entered into by the owner or operator.

"(b) GENERAL WAIVER AUTHORITY.—

"(1) IN GENERAL.—Except as provided in subsection (c), the Secretary may waive, in writing, the application of subsection (a) to an owner or operator pursuant to an application submitted in accordance with this subsection, unless the Secretary finds that—

"(A) the waiver would result in unfair competition to any person that operates vessels as a carrier of cargo in a service exclusively in the noncontiguous trade for which the waiver is applied;

"(B) subject to paragraph (6), existing service in that noncontiguous trade is adequate; or

"(C) the waiver will result in prejudice to the objects or policy of this title or Act.

"(2) TERMS OF WAIVER.—Any waiver granted by the Secretary under this subsection shall state—

"(A) the domestic ports permitted to be served,

"(B) the annual number or frequency of sailings that may be provided; and

"(C)(i) the annual volume of cargo permitted,

"(ii) for containerized or trailer service, the annual 40-foot equivalent unit shipboard container and trailer or vehicle or general cargo capacity permitted, or

"(iii) for tug and barge service, the annual barge house cubic foot capacity and the annual barge deck general cargo capacity, or 40-foot equivalent unit container, trailer, or vehicle capacity, permitted.

"(3) APPLICATIONS FOR WAIVERS.—An application for a waiver under this subsection may be submitted by an owner or operator and shall describe, as applicable, the nature and scope of—

"(A) the service proposed to be conducted in a noncontiguous trade under the waiver; or

"(B) any proposed material change or increase in a service in a noncontiguous trade permitted under a previous waiver.

"(4) ACTION ON APPLICATION AND HEARING.—

"(A) NOTICE AND PROCEEDING.—Within 30 days after receipt of an application for a waiver under this subsection, the Secretary shall—

"(i) publish a notice of the application;

"(ii) begin a proceeding on the application section 554 of title 5, United States Code, to recieve—

"(I) evidence of the nature, quantity, and quality of the existing service in the noncontiguous trade for which the waiver is applied;

"(II) a description of the proposed service or proposed material change or increase in a previously permitted service;

"(III) the projected effect of the proposed service or proposed material change or increase in existing service; and

"(IV) recommendations on conditions that should be contained in any waiver for the proposed service or material change or increase.

"(B) INTERVENTION.—An applicant for a waiver under this subsection, and any person that operates cargo vessels in the noncontiguous trade for which a waiver is applied and that has any interest in the application, may intervene in the proceedings on the application.

"(C) HEARING.—Before deciding whether to grant a waiver under this subsection, the Secretary shall hold a public hearing in an expeditious manner, reasonable notice of which shall be published.

"(5) DECISION.—The Secretary shall complete all proceedings and hearings on an application under this subsection and issue decision on the record within 90 days after receipt of the final briefs submitted for the record.

"(6) LIMITATION ON CONSIDERATION OF CERTAIN EXISTING SERVICE.—

"(A) LIMITATION.—In determining whether to grant a waiver under this subsection for noncontiguous trade with Hawaii, the Secretary shall not consider the criterion set forth in paragraph (1)(B) if a qualified operator—

"(i) is a party to an operating agreement under this subpart, and

"(ii) operates 4 or more vessels in foreign commerce in competition with another operator who is a party to an operating agreement under this subpart.

"(B) QUALIFIED OPERATOR.—In this paragraph, the term 'qualified operator' means a person that on July 1, 1992, offered service as an operator of containerized vessels, trailer vessels, or combination container and trailer vessels in domestic trade with Hawaii and the Johnston Islands (including a related party with respect to the person).

"(c) WAIVERS FOR EXISTING NONCONTIGUOUS TRADE OPERATORS.—

"(1) IN GENERAL.—The Secretary shall waive the application of subsection (a) to an owner or operator, who is a party to an operating agreement under this subpart, pursuant to an application submitted in accordance with this subsection if the Secretary finds that the owner or operator, or a related party or predecessor in interest with respect to the owner or operator—

"(A) engaged in bona fide operation of a vessel as a carrier of cargo by water—

"(i) in a noncontiguous trade on July 1, 1992; or

"(ii) in furnishing seasonal service in a season ordinarily covered by its operation, during the 12 calendar months preceding July 1, 1992; and

"(B) has operated in this service since that time, except for interruptions of service resulting from military contingency or over which the owner or operator (or related party or predecessor in interest) had no control.

"(2) TERMS OF WAIVER.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the level of service permitted under a waiver under this subsection shall be the level of service provided by the applicant (or related party or predecessor in interest) in the relevant noncontiguous trade during, for year-round service, the 6 calendar months preceding July 1, 1992, or for seasonal service, the 12 calendar months preceding July 1, 1992, determined by—

"(i) the domestic ports called;

"(ii) the number of sailings actually made, except as to interruptions in the service in the noncontiguous trade resulting from military contingency or over which the applicant (or related party or predecessor in interest) had no control; and

"(iii) the volume of cargo carried or, for containerized or trailer service, the 40-foot equivalent unit shipboard container, trailer, or vehicle or general cargo capacity employed, or, for tug and barge service, the barge house cubit foot capacity and barge deck general cargo capacity or 40-foot equivalent unit container, trailer, or vehicle capacity, employed.

"(B) CERTAIN CONTAINERIZED VESSELS. If an applicant under this subsection was offering service as an operator of containerized vessels in noncontiguous trades with Hawaii, Puerto Rico, and Alaska on July 1, 1992, a

waiver under this subsection for the applicant shall permit a level of service consisting of—

"(i) 104 sailings each year from the West Coast of the United States to Hawaii with an annual capacity allocated to the service of 75 percent of the total capacity of the vessels employed in the service on July 1, 1992;

"(ii) 156 sailings each year in each direction between the East Coast or Gulf Coast of the United States and Puerto Rico with an annual capacity allocated to the service of 75 percent of the total capacity of its vessels employed in the service on the date of the enactment of the Maritime Security and Trade Act of 1994; and

"(iii) 103 sailings each year in each direction between Washington and Alaska with an annual capacity allocated to the service in each direction of 100 percent of the total capacity of its vessels employed in the service on July 1, 1992.

"(C) CERTAIN TUGS AND BARGES.—If an applicant under this subsection was offering service as an operator of tugs and barges in noncontiguous trades with Hawaii, Puerto Rico, and Alaska on July 1, 1992, a waiver under this subsection for the applicant shall permit a level of service consisting of—

"(i) 17 sailings each year in each direction between ports in Washington, Oregon, and Northern California and ports in Hawaii with an annual barge house cubic foot capacity and annual barge deck 40-foot equivalent unit container capacity in each direction of 100 percent of the total of the capacity of its vessels employed in the service during the 6 calendar months preceding July 1, 1992, annualized;

"(ii) 253 sailings each year in each direction between the East Coast or Gulf Coast of the United States and Puerto Rico with an annual 40-foot equivalent unit container or trailer capacity equal to 100 percent of the capacity of its barges employed in the service on the date of the enactment of the Maritime Security and Trade Act of 1994;

"(iii) 37 regularly scheduled tandem tow rail barge sailings and 10 additional single tow rail barge sailings each year in each direction between Washington and the Alaskan port range between and including Anchorage and Whittier with an annual capacity allocated to the service in each direction of 100 percent of the total rail car capacity of its vessels employed in the service on July 1, 1992;

"(iv) 8 regularly scheduled single tow sailings each year in each direction between Washington and points in Alaska (not including the port range between and including Anchorage and Whittier, except occasional deviations to discharge incidental quantities of cargo) with an annual capacity allocated to the service in each direction of 100 percent of the total capacity of its vessels employed in the service on July 1, 1992; and

"(v) unscheduled, contract carrier tug and barge service between points in Alaska south of the Arctic Circle not served by the common carrier service permitted under clause (iii) and points in the contiguous 48 States, with an annual capacity allocated to that service not exceeding 100 percent of the total capacity of the equipment that was dedicated to service south of the Arctic Circle on July 1, 1992, and actually utilized in that service in the 2-year period preceding that date.

"(D) ANNUALIZATION.—Capacity otherwise required by this paragraph to be permitted under a waiver under this subsection shall be annualized if not a seasonal service.

"(E) ADJUSTMENTS.—

"(i) Each written waiver granted by the Secretary under this subsection shall contain a statement that the annual capacity permitted under this waiver in any direction shall increase for a calendar year by the percentage of increase during the preceding calendar year in the rural gross product of the State or territory to which goods are transported in the noncontiguous trade covered by the waiver, or its equivalent economic measure as determined by the Secretary if the real gross product is not available, and that the increase shall not be considered to be a material change or increase for purposes of subsection (a)(1)(B).

"(ii) The increase in permitted capacity under clause (i) in the noncontiguous trade with Alaska shall be allowed only to the extent the operator actually uses that increased capacity to carry cargo in the permitted service in the calendar year immediately following the preceding increase in gross product. However, if an operator operating exclusively containerized vessels in trade on July 1, 1992, carries an average load factor of at least 90 percent of permitted capacity (including the capacity, if any, both authorized and used under the previous sentence) during 9 months of any one calendar year, than in the next following calendar year and thereafter, the requirement that additional capacity must be used in the immediately following year does not apply.

"(F) SERVICE LEVELS NOT INCREASED BY TERMINATION OF AGREEMENT.—The termination of an operating agreement under Subpart B of this title shall not be considered to increase a level of service specified in subparagraph (A), (B), or (C) if the contractor under the agreement enters into another operating agreement after that termination.

"(3) APPLICATIONS FOR WAIVERS.—For a waiver under this subsection a contractor shall submit to the Secretary an application certifying the facts required to be found under paragraph (1) (A) or (B), as applicable.

"(4) ACTION ON APPLICATION.—

"(A) NOTICE.—The Secretary shall publish a notice of receipt of an application for a waiver under this subsection within 30 days after receiving the application.

"(B) HEARING PROHIBITED.—The Secretary may not conduct a hearing on an application for a waiver under this subsection.

"(C) SUBMISSION OF COMMENTS.—The Secretary shall give every person operating a cargo vessel in a noncontiguous domestic trade for which a waiver is applied for under this subsection and who has any interest in the application a reasonable opportunity to submit comments on the application and on the description of the service that would be permitted by any waiver that is granted by the Secretary under the application.

"(5) DECISION ON APPLICATION.—Subject to the time required for publication of notice and for receipt and evaluation of comments by the Secretary, an application for a waiver under this subsection submitted at the same time the applicant applies for inclusion of a vessel in the fleet established under this subpart shall be granted in accordance with the level of service determined by the Secretary under this subsection by not later than the date on which the Secretary offers to the applicant an operating agreement with respect to that vessel.

"(6) CHANGE OR INCREASE IN SERVICE.—Any material change or increase in a service that is subject to a waiver under this subsection is not authorized except to the extent the change or increase is permitted by a waiver under subsection (b).

"(d) EMERGENCY WAIVER.—Notwithstanding any other provision of this section, the Secretary may, without hearing, temporarily waive the application of subsection (a)(1)(B) if the Secretary finds that a material change or increase is essential in order to respond adequately to (1) an environmental or natural disaster or emergency, or (2) another emergency declared by the President. Any waiver shall be for a period of not to exceed 45 days, except that a waiver may be renewed for 30-day periods if the Secretary finds that adequate capacity continues to be otherwise unavailable.

"(e) ANNUAL REPORT ON WAIVERS.—Each waiver under this section shall require the person who is granted the waiver to submit to the Secretary each year an annual report setting forth for the service authorized by the waiver—

"(1) the ports served during the year;

"(2) the number or frequency of sailings performed during the year; and

"(3) the volume of cargo carried or, for containerized or trailer service, the annual 40-foot equivalent unit shipboard container, trailer, or vehicle capacity utilized during the year, or for tug and barge service, the annual barge house and barge deck capacity utilized during the year.

"(f) DEFINITIONS.—In this section—

"(1) the term 'noncontiguous trade' means trade between—

"(A) a point in the contiguous 48 States; and

"(B) a point in Alaska, Hawaii, or Puerto Rico, other than a point in Alaska north of the Arctic Circle; and

"(2) the term 'related party' means—

"(A) a holding company, subsidiary, affiliate, or associate of a owner or operator who is a party to an operating agreement under this subpart; and

"(B) an officer, director, agency, or other executive of a contractor or of a person referred to in subparagraph (A).

"SEC. 654. DEFINITIONS.—

"For the purposes of Subpart B of this title:

"(1) The term 'citizen of the United States' means a person that is a citizen of the United States under section 651 of this subpart.

"(2) The term 'operating agreement' means an operating agreement that takes effect under section 651 of this subpart and covers one or more vessels."

(f) EFFECTIVE DATE.—The amendments made by subsections (a) through (e) of this section shall be effective beginning on the date which is 120 days after the date of enactment of the Maritime Security and Trade Act of 1994.

SEC. 203. TONNAGE FEES.

(a) INCREASE OF DUTIES.—Section 36 of the Act of August 5, 1909 (46 App. U.S.C. 121) is amended in the second paragraph by—

(1) inserting after "1998," the first place it appears "and a supplemental duty of 15 cents per ton, not to exceed in the aggregate 75 cents per ton in any one year, for fiscal years 1995 through 2004,"; and

(2) inserting after "1998," the second place it appears, "and a supplemental duty of 44 cents per ton, not to exceed $2.20 per ton in any one year, for fiscal years 1995 through 2004,".

(b) OFFSETTING RECEIPTS.—The increased tonnage fees collected as a result of the amendments made by subsection (a) shall be deposited in the general fund of the Treasury as offsetting receipts of the department in which the Coast Guard is operating and ascribed to Coast Guard activities.

SEC. 204. USE OF FOREIGN-FLAG VESSELS.

Section 804 of Title VIII of the Merchant Marine Act, 1936, as amended (46 App. U.S.C.

1222), is amended by adding a new subsection (f) as follows:

"(f) The provisions of subsection (a) of this section shall not preclude an owner or operator receiving operating assistance under Subpart A or Subpart B of title VI, or any holding company, subsidiary, affiliate or associate of such owner or operator, or any officer, director, agency, or executive thereof from:

"(1) owning, chartering, or operating any foreign-flag vessel that is operated as a feeder vessel for a United States-flag service under an operating agreement pursuant to Subpart B of title VI;

"(2) owning, chartering, or operating any foreign-flag vessel in line haul service between the United States and foreign ports; *Provided*, That the foreign-flag vessel was operated by that owner or operator on the date of enactment of this Act; or that the owner or operator, with respect to each additional foreign-flag vessel, has first applied to have that vessel added to the existing operating agreement, and the Secretary denies the application; *And provided further*, That any foreign-flag vessel in line haul service between the United States and foreign ports is (a) registered under the flag of an effective United States-controlled foreign flag, and (b) available to be requisitioned by the Secretary of Transportation pursuant to section 902 of this Act;

"(3) owning, chartering, or operating foreign-flag liner vessels that are operated exclusively in foreign-to-foreign service and not in the foreign commerce of the United States;

"(4) owning, chartering, or operating foreign-flag bulk cargo vessels that are operated in both foreign-to-foreign service and the foreign commerce of the United States;

"(5) chartering or operating foreign-flag vessels that are operated solely as replacement vessels for United States-flag vessels that are made available to the Secretary of Defense pursuant to section 652 of Subpart B of title VI; or

"(6) entering into space charter agreements with foreign-flag carriers or acting as agent or broker for a foreign-flag vessel or vessels.

SEC. 205. DEFINITION OF PRIVATELY OWNED UNITED STATES-FLAG COMMERCIAL VESSELS.

The third sentence of section 901(b)(1) of title IX of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1241(b)(1)) is deleted in its entirety and the following is inserted in lieu thereof:

"For purposes of this section, the term 'privately owned United States-flag commercial vessels' shall be deemed to include (1) any privately owned United States flag commercial vessel constructed in the United States, (2) any privately owned liner vessel constructed, reconstructed, or acquired outside the United States that is documented pursuant to chapter 121 of title 46, United States Code and is less than five years of age on the date of such documentation, and (3) any bulk cargo vessel constructed in or delivered by a shipyard outside the United States after January 1, 1993. The term 'privately owned United States-flag commercial vessels' shall also be deemed to include any liner or bulk cargo vessel that so qualified pursuant to section 615 of title VI or Section 901(b)(1) of title IX of this Act, prior to enactment of the Maritime Security and Trade Ace of 1994. The term 'privately owned United States-flag commercial vessels' shall not be deemed to include any liquid bulk cargo vessel that does not meet the requirements of section 3703a of title 46, United States Code."

SEC. 206. USE OF FOREIGN-FLAG FEEDER VESSELS IN CARRIAGE OF PREFERENCE CARGOES.

The provisions of law set forth in 46 App. U.S.C. 1241(b)(1), 1241-1, and 1241f, requiring use of United States-flag vessels shall, with respect to liner vessels, be deemed fulfilled, as to the total of any shipment other than that of the Department of Defense covered by 10 U.S.C. 2631, if the actual ocean transportation of each shipment for which the United States-flag carrier has issued its own through bill-of-lading between the original port of lading and the port of final discharge, consists of transportation of the cargo by a combination of United States- and foreign-flag vessels; *Provided*, That, measured by distance, the United States-flag line haul portion of each voyage is greater than the foreign-flag feeder portion of each voyage pursuant to regulations issued by the Secretary of Transportation.

SEC. 207. LIMITATION ON RESTRICTIONS.

Notwithstanding any other provision of law or contract, all restrictions and requirements set forth in 46 App. U.S.C. 1153, 1156, and 1212, applicable to a vessel constructed, reconstructed or reconditioned with the aid of construction-differential subsidy shall terminate: (1) for a liner or dry bulk cargo vessel, upon the expiration of the 25-year period beginning on the date of original delivery of the vessel from the shipyard, and (2) for a liquid bulk cargo vessel, upon the expiration of the 20-year period beginning on the date of original delivery of the vessel from the shipyard.●

By Mr. INOUYE:

S. 1946. A bill to provide for the repurchase of land taken by eminent domain, by native American organizations, and for other purposes; to the Committee on Governmental Affairs.

LAND REPURCHASE ACT OF 1994

● Mr. INOUYE. Mr. President, I am today introducing a bill to provide for the return of lands that were held in trust for native Americans prior to their acquisition by the United States in the Government's exercise of its power of condemnation through eminent domain.

Mr. President, this bill would provide that within 90 days of the date on which property is declared to be surplus by the United States, an organization that previously held the land in trust for native Americans would have the right to exercise the right of first refusal to repurchase the property from the Government at fair market value.

I believe that the result effected by this measure will afford a greater degree of equity to native Americans for whom land was held in trust, while compensating the Government in full for the reacquisition of such lands.●

By Mr. DECONCINI (for himself, Mr. WARNER, Mr. GRAHAM, Mr. MURKOWSKI, Mr. D'AMATO, Mr. KERREY, Mr. GORTON, Mr. BRYAN, Mr. CHAFEE, Mr. JOHNSTON, Mr. BOREN, and Mr. BAUCUS):

S. 1948. A bill to amend the National Security Act of 1947 to improve the counterintelligence and security posture of the U.S. intelligence community and to enhance the investigative authority of the Federal Bureau of Investigation in counterintelligence matters, and for other purposes; to the Select Committee on Intelligence.

COUNTERINTELLIGENCE AND SECURITY ENHANCEMENTS ACT OF 1994

Mr. DECONCINI. Mr. President, Senator WARNER and I are today introducing a bill which we believe would go a long way toward improving the counterintelligence and security posture of U.S. intelligence agencies. Joining us as cosponsors of this bill are Senators GRAHAM, KERREY, BRYAN, JOHNSTON, D'AMATO, CHAFEE, GORTON, BAUCUS, BOREN, and MURKOWSKI, all of whom are members or former members of the Select Committee on Intelligence.

Mr. President, I particularly thank Senator BOREN and Senator COHEN for their tireless work that they put forth in 1989 and 1990 as chairman and ranking member of the committee. Senator COHEN has introduced that legislation and then modified it. We are going to work from that excellent work that was put together by the committee at that time, and our legislation indicates what additions we have made to that.

We will continue to work with any Senator who is interested in seeing our national security secrets are protected and there is the best effort put forward to prevent the types of incidents that just recently occurred relating to the allegations concerning Mr. Ames and his wife.

We have all been shocked and saddened in recent weeks by the arrest of CIA employee, Alrich H. Ames, and his wife, Maria del Rosario Casas Ames, on charges of spying, first for the Soviet Union and then for the Russian Republic. Allegedly, this began in 1985 and lasted until the time the couple was arrested several weeks ago.

We are incredulous that such activities could have gone on so long without detection by an agency which we thought had very stringent security procedures. In the weeks since the arrest, the Select Committee on Intelligence has been exploring what went wrong and how best to fix it.

While we are a long way from completing our inquiry, several points are clear:

First, CIA and other intelligence agencies actually require little in the way of information from their employees which might tip them off to espionage activities.

There are background investigations which are periodically updated, and, at CIA and NSA, there are polygraphs required for employees. Once you are in, however, there is relatively little scrutiny given employees and little effort made to enforce the rules.

Second, it is apparent that security elements at the intelligence agencies as well as the FBI itself lack the legal

authority needed to obtain records from private institutions relating to the employees of intelligence agencies.

Moreover, some of the authorities the FBI does have—for example, to see tax returns—often are not available until very late in the investigative process.

Third, it is clear that there has been a problem between the CIA and the FBI in terms of their cooperation on counterintelligence investigations. While there may be an understandable desire on the part of the CIA to protect the identities of its intelligence sources, it cannot be allowed to be an obstacle where investigations of counterintelligence problems are concerned. There must be complete cooperation and coordination between these agencies.

Mr. President, the bill we are introducing today addresses each of these problem areas:

It would require all employees of intelligence agencies, as a condition of their employment, to consent to access by the Government to their tax returns, financial records, and travel records.

It would further require that all such employees who are in critical intelligence positions, as defined by the bill, must make detailed financial disclosures and continuously update them for so long as they hold such positions, and for 10 years thereafter, or until they leave Government service.

It would provide additional legal authority needed by the intelligence agencies and by the FBI to obtain access to records needed for counterintelligence investigations.

It would establish clear requirements to improve the relationship between the FBI and the CIA and other intelligence agencies.

Mr. President, I do not stand here and say that we can pass a law that will stop espionage. There is no panacea for spying. Someone who decides to betray his country will, regrettably, find a way to do so regardless of the laws we have on the books.

But it does seem to me that there are things we can do that would make it more difficult for such people to escape detection—that would make it easier for them to trip themselves up. There are also things we can do to improve the ability of our counterintelligence and security agencies to identify the culprits, and things we can do to facilitate their prosecution. That is what our bill attempts to do.

It builds upon legislation that was introduced by Senators BOREN and COHEN in 1990, and I want to take this opportunity to acknowledge the contribution that both of these distinguished Senators made, not only to this legislation, but to intelligence generally, when they served as chairman and vice chairman, respectively, of the Select Committee on Intelligence.

Senator WARNER and I thought it desirable to develop a new bill to address more directly the problems apparent in the Ames case and to reflect developments since 1990 when the original legislation was introduced.

None of this is etched in stone. Indeed, the committee will be holding public hearings on this bill, as well as the bill introduced by Senators BOREN and COHEN, and the bills recently introduced by Senators METZENBAUM and HEFLIN, to deal with the counterintelligence problem.

Our objective is to find the best solution, striking the appropriate balance between our security needs and the privacy of the Government employees who are affected. I think the bill that Senator WARNER and I introduce today is a good place to start.

Mr. President, I now ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1948

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 "Counterintelligence and Security Enhancements Act of 1994".

SEC. 2. COUNTERINTELLIGENCE FOR EMPLOYEES OF AGENCIES IN THE INTELLIGENCE COMMUNITY.

(a) IN GENERAL.—The National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended by adding at the end the following new title:

"TITLE VIII—COUNTERINTELLIGENCE FOR EMPLOYEES OF AGENCIES IN THE INTELLIGENCE COMMUNITY

"DEFINITIONS

"SEC. 801. As used in this title:

"(1) The term 'head of an agency within the intelligence community' includes the following:

"(A) The Director of Central Intelligence in the case of the Central Intelligence Agency and the Office of the Director of Central Intelligence.

"(B) The Director of the National Security Agency in the case of such agency.

"(C) The Director of the Defense Intelligence Agency in the case of such agency.

"(D) The head of the central imagery authority of the Department of Defense in the case of such authority.

"(E) The Director of the National Reconnaissance Office in the case of such office.

"(F) The Secretaries of the military departments in the case of offices within such departments for the collection of specialized national intelligence through reconnaissance program and in the case of intelligence elements of the Army, Navy, Air Force, and Marine Corps.

"(G) The Director of the Federal Bureau of Investigation in the case of the intelligence elements of such bureau.

"(H) The Secretary of State, the Secretary of Treasury, and the Secretary of Energy in the case of the intelligence elements within the departments of each such Secretary, respectively.

"(2) The term 'critical intelligence position' means any position within the intelligence community, the holder of which requires access to critical intelligence information.

"(3) The term 'critical intelligence information' means—

"(A) classified information which reveals the identities of covert agents of the intelligence community and the disclosure of which to unauthorized persons would reasonably jeopardize the lives or safety of such agents;

"(B) classified information concerning a technical collection system of the intelligence community, the disclosure of which to unauthorized persons would substantially negate or impair the effectiveness of the system; or

"(C) classified information relating to a cryptographic system for the protection of classified information of the United States, the disclosure of which to unauthorized persons would substantially negate or impair the effectiveness of the system.

"(4) The term 'covert agent' has the meaning given such term in section 606(4).

"(5) The term 'technical collection system' means a system for the collection, transmission, or exploitation of electronic signals, emanations, or images by means that are not commercially available.

"(6) The term 'information relating to a cryptographic system' means information relating to (i) the nature, preparation, content, or use of any code, cipher, or other method of protecting communications of classified information of the United States from interception by unauthorized persons, or (ii) the design, construction, use, maintenance, or repair of any equipment used to protect such communications from such interception. Such term does not include information on the use of such equipment for personal or office use.

"(7) The term 'authorized investigative agency' means an agency, office, or element of the Federal Government authorized by law or regulation to conduct investigations of employees of the intelligence community for counterintelligence or security purposes.

"(8) The term 'employee' means any person who—

"(A) receives a salary or compensation of any kind from an agency of the intelligence community;

"(B) is a contractor or unpaid consultant of such an agency; or

"(C) otherwise acts for or on behalf of such an agency.

"REQUIREMENTS FOR EMPLOYEES OF AGENCIES IN THE INTELLIGENCE COMMUNITY

"SEC. 802. A person may not become an employee of an agency within the intelligence community unless, before becoming such an employee, the person—

"(1) authorizes, in writing, the Secretary of the Treasury to disclose the tax returns of the person, or information from such tax returns, to a representative of an authorized investigative agency specified in the document evidencing such authority during the period in which the person is employed by the agency;

"(2) agrees, in writing, to permit a representative of such an authorized investigative agency to inspect or obtain for purposes authorized under this title copies of all records relating to bank accounts, investment accounts, credit accounts, and assets having a value of more than $10,000 in which the person, or any member of the immediate family of the person, has a beneficial interest during such period; and

"(3) agrees, in writing, to permit a representative of such an authorized investigative agency to inspect or obtain copies of all

records maintained by a governmental entity or a private entity relating to the travel of the person to a foreign country.

"DESIGNATION OF CRITICAL INTELLIGENCE POSITIONS

"SEC. 803. Consistent with this title and in accordance with section 808, the head of each agency within the intelligence community shall by regulation designate each position within the agency which qualifies as a critical intelligence position.

"REQUIREMENTS FOR EMPLOYEES IN CRITICAL INTELLIGENCE POSITIONS

"SEC. 804. (a) An employee of an agency within the intelligence community may not hold a critical intelligence position unless, before holding such position, such employee—

"(1) provides the authority and agreements referred to in paragraphs (1), (2), and (3) of section 802; and

"(2) in accordance with the regulations prescribed under section 808—

"(A) provides the agency employing the employee with an appropriate statement disclosing the nature and location of all bank accounts, investment accounts, credit accounts, and assets valued at more than $10,000 in which the employee, or any immediate member of the family of the employee, has a beneficial interest;

"(B) agrees, in writing, to advise promptly the agency of any changes which occur with respect to the nature or location of the accounts or assets disclosed pursuant to subparagraph (A); and

"(C) agrees, in writing, to advise the agency employing the employee, in advance, of any travel of the employee to a foreign country if the travel is not authorized as part of the employee's official duties in such position.

"(b) An employee providing an authorization and agreements under subsection (a) shall agree that the authorization and agreement continue in effect—

"(1) during the period in which the employee holds the critical intelligence position for which the employee provides the authorization and agreements; and

"(2) if the employee ceases holding such position, until the earlier of—

"(A) the date 10 years after the date on which the employee ceases holding such position; or

"(B) the date on which the employee ceases employment with the Federal Government.

"RESPONSIBILITIES OF AUTHORIZED INVESTIGATIVE AGENCIES

"SEC. 805. (a) An appropriate authorized investigative agency shall, in accordance with the regulations prescribed under section 808—

"(1) periodically review and verify the information provided and disclosed under section 804 by persons holding critical intelligence positions; and

"(2) if such review indicates the failure of any such person to comply fully and completely with the requirements of such section, conduct an appropriate inquiry with respect to such failure.

"(b)(1) If circumstances indicate the loss or compromise of critical intelligence information, the head of the agency concerned shall immediately advise the Federal Bureau of Investigation of such loss or compromise.

"(2) Upon notification under paragraph (1), the Federal Bureau of Investigation, or any other appropriate authorized investigative agency with the concurrence with the Federal Bureau of Investigation, may conduct appropriate inquiries with respect to such loss or compromise.

"(c) Any inquiry under this section may include requests for information from a governmental entity or from private entities. Such requests shall be made in accordance with section 806.

"REQUESTS BY AUTHORIZED INVESTIGATIVE AGENCIES

"SEC. 806. (a)(1) Any authorized investigative agency may request from any governmental entity, or from any private entity, such records or other information as are necessary in order to conduct any authorized counterintelligence inquiry or security inquiry, including inquiries under section 805.

"(2) Each such request—

"(A) shall be accompanied by a written certification signed by the head of the intelligence agency concerned, or the designee of the head of the agency, and shall certify that—

"(i) the person concerned is an employee of the intelligence agency;

"(ii) the request is being made pursuant to an authorized inquiry or investigation; and

"(iii) the records or information to be reviewed are records or information which the employee has previously agreed to make available to the authorized investigative agency for review;

"(B) shall contain a copy of the agreement referred to in subparagraph (A)(iii);

"(C) shall identify the records or information to be reviewed; and

"(D) shall inform the recipient of the request of the prohibition described in subsection (b).

"(b) No governmental or private entity, or officer, employee, or agent of such entity, may disclose to any person, other than those officers, employees, or agents of such entity necessary to satisfy a request made under this section, that such entity has received or satisfied a request made by an authorized investigative agency under this section.

"(c)(1) Notwithstanding any other provision of law, an entity receiving a request for records or information under subsection (a) shall, if the request satisfies the requirements of this section, make available such records or information for inspection or copying, as may be appropriate, by the agency requesting such records or information.

"(2) Any entity (including any officer, employee or agent thereof) that discloses records or information for inspection or copying pursuant to this section in good faith reliance upon the certifications made by an agency of the intelligence community pursuant to this section shall not be liable for any such disclosure to any person under this title, the constitution of any State, or any law or regulation of any State or any political subdivision of any State.

"(d) Subject to the availability of appropriations therefor, any agency requesting records or information under this section may reimburse a private entity for any cost reasonably incurred by such entity in responding to such request, including the cost of identifying, reproducing, or transporting records or other data.

"(e)(1) Except as provided in paragraph (2), an agency receiving records or information pursuant to a request under this section may not disseminate the records or information obtained pursuant to such request outside such agency.

"(2) An agency may disseminate records or information referred to in paragraph (1) only to the agency employing the employee who is the subject of the records or information or to the Department of Justice for law enforcement or counterintelligence purposes.

"(f) Any authorized investigative agency that discloses records or information received pursuant to a request under this section in violation of subsection (e)(1) shall be liable to the employee to whom the records relate in an amount equal to the sum of—

"(1) $100, without regard to the volume of records involved;

"(2) any actual damages sustained by the employee as a result of the disclosure;

"(3) if the violation is found to have been willful or intentional, such punitive damages as the court may allow; and

"(4) in the case of any successful action to enforce liability, the costs of the action, together with reasonable attorney fees, as determined by the court.

"RESPONSIBILITIES OF THE FEDERAL BUREAU OF INVESTIGATION

"SEC. 807. (a) The Director of the Federal Bureau of Investigation shall have overall responsibility for the conduct of counterintelligence and law enforcement investigations involving persons in critical intelligence positions. The Director shall coordinate all investigative activities (other than routine inquiries for security purposes) undertaken with respect to such persons by authorized investigative agencies.

"(b) The head of each agency within the intelligence community shall ensure that the Director of the Federal Bureau of Investigation is provided appropriate access to the employees and the records of the agency as may be necessary to carry out authorized counterintelligence or law enforcement investigations.

"IMPLEMENTING REGULATIONS

"SEC. 808. Not later than 6 months after the date of the enactment of this Act, the Director of Central Intelligence shall issue regulations applicable to all agencies of the intelligence community to implement the provisions of this Act. Such regulations shall take effect not later than 6 months after the date of their issuance by the Director.

"OVERSIGHT

"SEC. 809. The Director of Central Intelligence shall submit to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives a report on the activities carried out under this title and the effectiveness of this title in facilitating counterintelligence activities. The Director shall submit the report on an annual basis.".

(b) TREATMENT OF INCUMBENTS OF COVERED POSITIONS.—(1) Each employee of an agency within the intelligence community shall carry out the requirements of section 802 of the National Security Act of 1947, as added by subsection (a), not later than 60 days after the issuance of the regulations required under section 808 of such Act, as so added.

(2) The head of each agency within the intelligence community shall, upon designating a position within the agency as a critical intelligence position under section 803 of such Act, as so added, promptly inform the incumbent, if any, of such position, and any persons being considered for such position, of such designation.

(3) The head of each such agency shall require that each person who holds a position in the agency so designated shall carry out the requirements of section 804 of such Act, as so added, not later than 60 days after the date of such designation.

(4) Notwithstanding any other provision of law, the head of each such agency shall—

(A) terminate the employment of any employee of the agency, or any incumbent in a critical intelligence position in the agency, who fails to comply with the requirements set forth in paragraph (1) or (3), as the case may be; and

(B) to the extent feasible—

(i) reassign such incumbent to a position of equal grade and status within the agency that is not a critical intelligence position; or

(ii) facilitate the reemployment of such employee in an agency that is not an agency within the intelligence community.

(c) TREATMENT OF CONGRESSIONAL STAFF HAVING ACCESS TO CRITICAL INTELLIGENCE INFORMATION.—(1) Notwithstanding any other provision of law and subject to paragraph (2), sections 802 and 804 of the National Security Act of 1947, as added by subsection (a), shall apply to employees of Congress whose positions of employment require access to critical intelligence information.

(2) The leaders of each House of Congress shall jointly determine with respect to such House—

(A) the employees of such House whose positions of employment require access to critical intelligence information; and

(B) appropriate means of applying such sections to such employees.

(3) In this subsection:

(A) The term "critical intelligence information" has the meaning given such term in section 801(3) of such Act, as so added.

(B) The term "leaders of each House of Congress" means the following:

(i) In the case of the Senate, the Majority Leader of the Senate and the Minority Leader of the Senate.

(ii) In the case of the House of Representative, the Speaker of the House of Representatives and the Minority Leader of the House of Representatives.

SEC. 3. DISCLOSURE OF CONSUMER CREDIT REPORTS FOR COUNTERINTELLIGENCE PURPOSES.

Section 608 of the Fair Credit Reporting Act (15 U.S.C. 1681f) is amended—

(1) by striking "Notwithstanding" and inserting "(a) DISCLOSURE OF CERTAIN IDENTIFYING INFORMATION.—Notwithstanding"; and

(2) by adding at the end the following new subsection:

"(b) DISCLOSURES TO THE FBI FOR COUNTERINTELLIGENCE PURPOSES.—

"(1) CONSUMER REPORTS.—Notwithstanding the provisions of section 604, a consumer reporting agency shall furnish a consumer report to the Federal Bureau of Investigation when presented with a written request for a consumer report, signed by the Director of the Federal Bureau of Investigation, or the Director's designee, who certifies compliance with this subsection. The Director or the Director's designee may make such a certification only if the Director or the Director's designee has determined in writing that—

"(A) such records are necessary for the conduct of an authorized foreign counterintelligence investigation; and

"(B) there are specific and articulable facts giving reason to believe that the consumer whose consumer report is sought is a foreign power or an agent of a foreign power, as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).

"(2) IDENTIFYING INFORMATION.—Notwithstanding the provisions of section 604, a consumer reporting agency shall furnish identifying information respecting a consumer, limited to name, address, former addresses, places of employment, or former places of employment, to the Federal Bureau of Investigation when presented with a written request, signed by the Director or the Director's designee, which certifies compliance with this subsection. The Director or the Director's designee may make such a certification only if the Director or the Director's designee has determined in writing that—

"(A) such information is necessary to the conduct of an authorized counterintelligence investigation; and

"(B) there is information giving reason to believe that the consumer has been, or is about to be, in contact with a foreign power or an agent of a foreign power, as so defined.

"(3) CONFIDENTIALITY.—No consumer reporting agency or officer, employee, or agent of such consumer reporting agency may disclose to any person, other than those officers, employees, or agents of such agency necessary to fulfill the requirement to disclose information to the Federal Bureau of Investigation under this subsection, that the Federal Bureau of Investigation has sought or obtained a consumer report or identifying information respecting any consumer under paragraph (1) or (2), nor shall such agency, officer, employee, or agent include in any consumer report any information that would indicate that the Federal Bureau of Investigation has sought or obtained such a consumer report or identifying information.

"(4) PAYMENT OF FEES.—The Federal Bureau of Investigation shall, subject to the availability of appropriations, pay to the consumer reporting agency assembling or providing credit reports or identifying information in accordance with procedures established under this title, a fee for reimbursement for such costs as are reasonably necessary and which have been directly incurred in searching, reproducing, or transporting books, papers, records, or other data required or requested to be produced under this subsection.

"(5) LIMIT ON DISSEMINATION.—The Federal Bureau of Investigation may not disseminate information obtained pursuant to this subsection outside of the Federal Bureau of Investigation, except to the Department of Justice as may be necessary for the approval or conduct of a foreign counterintelligence investigation.

"(6) RULES OF CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit information from being furnished by the Federal Bureau of Investigation pursuant to a subpoena or court order, or in connection with a judicial or administrative proceeding to enforce the provisions of this Act. Nothing in this subsection shall be construed to authorize or permit the withholding of information from Congress.

"(7) REPORTS TO CONGRESS.—On a semiannual basis, the Attorney General of the United States shall fully inform the Permanent Select Committee on Intelligence and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and the Select Committee on Intelligence and the Committee on Banking, Housing, and Urban Affairs of the Senate concerning all requests made pursuant to paragraphs (1) and (2).

"(8) DAMAGES.—Any agency or department of the United States obtaining or disclosing credit reports, records, or information contained therein in violation of this subsection is liable to the consumer to whom such records relate in an amount equal to the sum of—

"(A) $100, without regard to the volume of records involved;

"(B) any actual damages sustained by the consumer as a result of the disclosure;

"(C) if the violation is found to have been willful or intentional, such punitive damages as a court may allow; and

"(D) in the case of any successful action to enforce liability under this subsection, the costs of the action, together with reasonable attorney fees, as determined by the court.

"(9) DISCIPLINARY ACTIONS FOR VIOLATIONS.—If a court determines that any agency or department of the United States has violated any provision of this subsection and the court finds that the circumstances surrounding the violation raise questions of whether or not an officer or employee of the agency or department acted willfully or intentionally with respect to the violation, the agency or department shall promptly initiate a proceeding to determine whether or not disciplinary action is warranted against the officer or employee who was responsible for the violation.

"(10) GOOD-FAITH EXCEPTION.—Any credit reporting agency or agent or employee thereof making disclosure of credit reports or identifying information pursuant to this subsection in good-faith reliance upon a certificate of the Federal Bureau of Investigation pursuant to provisions of this subsection shall not be liable to any person for such disclosure under this title, the constitution of any State, or any law or regulation of any State or any political subdivision of any State.

"(11) LIMITATION OF REMEDIES.—The remedies and sanction set forth in this subsection shall be the only judicial remedies and sanctions for violation of this subsection.

"(12) INJUNCTIVE RELIEF.—In addition to any other remedy contained in this subsection, injunctive relief shall be available to require compliance with the procedures of this subsection. In the event of any successful action under this subsection, costs together with reasonable attorney fees, as determined by the court, may be recovered.".

SEC. 4. FBI ACCESS TO TAX RETURNS FOR COUNTERINTELLIGENCE PURPOSES.

Section 6103(i) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

"(9) DISCLOSURE FOR COUNTERINTELLIGENCE PURPOSES.—

"(A) IN GENERAL.—Except as provided in paragraph (6), any return or return information with respect to any specified taxable period or periods shall, pursuant to and upon the grant of an ex parte order by a district court judge issued pursuant to section 103 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803), be open (but only to the extent necessary as provided in such order) to inspection by, or disclosure to, officers and employees of the Department of Justice who are personally and directly engaged in an authorized counterintelligence investigation solely for the use of such officers and employees in such investigation.

"(B) APPLICATION FOR ORDER.—The Attorney General or the Deputy Attorney General may authorize an application to a judge referred to in subparagraph (A). Upon such application, such judge may grant such an order if the judge determines on the basis of the facts submitted by the applicant that—

"(i) there are specific and articulable facts giving reason to believe that the person whose returns or return information is sought is a foreign power or an agent of a foreign power, as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801);

"(ii) there is reasonable cause to believe that the return or return information is or may be relevant to an authorized counterintelligence investigation;

"(iii) the return or return information is sought exclusively for use in an authorized counterintelligence investigation; and

"(iv) the information sought to be disclosed cannot reasonably be obtained, under the circumstances, from another source.".

SEC. 5. REWARDS FOR INFORMATION CONCERNING ESPIONAGE.

(a) REWARDS.—Section 3071 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "With respect to"; and

(2) by adding at the end the following new subsection:

"(b) With respect to acts of espionage involving or directed at classified information of the United States, the Attorney General may reward any individual who furnishes information—

"(1) leading to the arrest or conviction, in any country, of any individual or individuals for commission of an act of espionage with respect to such information against the United States;

"(2) leading to the arrest or conviction, in any country, of any individual or individuals for conspiring or attempting to commit an act of espionage with respect to such information against the United States; or

"(3) leading to the prevention or frustration of an act of espionage with respect to such information against the United States.".

(b) DEFINITIONS.—Section 3077 of such title is amended by inserting at the end thereof the following new paragraphs:

"(8) 'act of espionage' means an activity that is a violation of—

"(A) section 794 or 798 of title 18, United States Code; or

"(B) section 4 of the Subversive Activities Control Act of 1950 (50 U.S.C. 783).

"(9) 'classified information of the United States' means information originated, owned, or possessed by the United States Government concerning the national defense or foreign relations of the United States that has been determined pursuant to law or Executive order to require protection against unauthorized disclosure in the interests of national security.".

(c) CLERICAL AMENDMENTS.—The items relating to chapter 204 in the table of chapters at the beginning of such title, and in the table of chapters at the beginning of part II of such title, are each amended by adding at the end the following: "**AND ESPIONAGE**".

SEC. 6. JURISDICTION OF UNITED STATES COURTS TO TRY CASES INVOLVING ESPIONAGE OUTSIDE THE UNITED STATES.

(a) IN GENERAL.—Chapter 211 of title 18, United States Code, is amended by inserting after section 3238 the following new section 3239:

"§ 3239. Jurisdiction of espionage outside the United States and related offenses

"The trial for any offense involving a violation of—

"(1) section 793, 794, 798, or 1030(a)(1) of this title;

"(2) section 601 of the National Security Act of 1947 (50 U.S.C. 421); or

"(3) subsection (b) or (c) of section 4 of the Subversive Activities Control Act of 1950 (50 U.S.C. 783(b) or (c)),

begun or committed upon the high seas or elsewhere out of the jurisdiction of any particular State or district, may be prosecuted in the District of Columbia, or in the Eastern District of Virginia, or in any other district authorized by law.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 211 of such title is amended by inserting after the item relating to section 3238 the following:

"3239. Jurisdiction of espionage outside the United States and related offenses.".

SEC. 7. LESSER CRIMINAL OFFENSE FOR THE UNAUTHORIZED REMOVAL OF CLASSIFIED DOCUMENTS.

(a) IN GENERAL.—Chapter 93 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1924. Unauthorized removal and retention of classified documents or material

"(a) IN GENERAL.—Whoever, being an officer, employee, contractor, or consultant of the United States, and, by virtue of his office, employment, position, or contract, becomes possessed of documents or materials containing classified information of the United States, knowingly removes such documents or materials without authority and with the intent to retain such documents or materials at an unauthorized location shall be fined not more than $1,000, or imprisoned for not more than 1 year, or both.

"(b) DEFINITION.—In this section, the term 'classified information of the United States' means information originated, owned, or possessed by the United States Government concerning the national defense or foreign relations of the United States that has been determined pursuant to law or Executive order to require protection against unauthorized disclosure in the interests of national security.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"1924. Unauthorized removal and retention of classified documents or material.".

SEC. 8. CRIMINAL FORFEITURE FOR VIOLATION OF CERTAIN ESPIONAGE LAWS.

(a) TITLE 18.—Section 798 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(d)(1) Any person convicted of a violation of this section shall forfeit to the United States irrespective of any provision of State law—

"(A) any property constituting, or derived from, any proceeds the person obtained, directly or indirectly, as the result of such violation; and

"(B) any of the person's property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, such violation.

"(2) The court, in imposing sentence on a defendant for a conviction of a violation of this section, shall order that the defendant forfeit to the United States all property described in paragraph (1).

"(3) Except as provided in paragraph (4), the provisions of subsections (b), (c), and (e) through (p) of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853 (b), (c), and (e)–(p)) shall apply to—

"(A) property subject to forfeiture under this subsection;

"(B) any seizure or disposition of such property; and

"(C) any administrative or judicial proceeding in relation to such property, if not inconsistent with this subsection.

"(4) Notwithstanding section 524(c) of title 28, there shall be deposited in the Crime Victims Fund established under section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601) all amounts from the forfeiture of property under this subsection remaining after the payment of expenses for forfeiture and sale authorized by law.".

(b) AMENDMENTS FOR CONSISTENCY IN APPLICATION OF FORFEITURE UNDER TITLE 18.—(1) Section 793(h)(3) of such title is amended in the matter above subparagraph (A) by striking out "(o)" each place it appears and inserting in lieu thereof "(p)".

(2) Section 794(d)(3) of such title is amended in the matter above subparagraph (A) by striking out "(o)" each place it appears and inserting in lieu thereof "(p)".

(c) SUBVERSIVE ACTIVITIES CONTROL ACT.—Section 4 of the Subversive Activities Control Act of 1950 (50 U.S.C. 783) is amended by adding at the end the following new subsection:

"(g)(1) Any person convicted of a violation of this section shall forfeit to the United States irrespective of any provision of State law—

"(A) any property constituting, or derived from, any proceeds the person obtained, directly or indirectly, as the result of such violation; and

"(B) any of the person's property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, such violation.

"(2) The court, in imposing sentence on a defendant for a conviction of a violation of this section, shall order that the defendant forfeit to the United States all property described in paragraph (1).

"(3) Except as provided in paragraph (4), the provisions of subsections (b), (c), and (e) through (p) of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853 (b), (c), and (e)–(p)) shall apply to—

"(A) property subject to forfeiture under this subsection;

"(B) any seizure or disposition of such property; and

"(C) any administrative or judicial proceeding in relation to such property, if not inconsistent with this subsection.

"(4) Notwithstanding section 524(c) of title 28, United States Code, there shall be deposited in the Crime Victims Fund established under section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601) all amounts from the forfeiture of property under this subsection remaining after the payment of expenses for forfeiture and sale authorized by law.".

Mr. WARNER. Mr. President, I join the distinguished chairman of the Intelligence Committee, on which I am privileged to serve as cochairman, in introducing this legislation today. I also join him in extending our respects to our colleague from Maine and our colleague from Oklahoma, who did a lot of very important work several years ago and, once again, have brought this matter to the attention of the Senate.

I have drawn up in my statement a careful comparison between the bill we put in today and the bill that was originally fashioned by Senators BOREN and COHEN. The encountered, at that time, when they put this bill before the Senate Intelligence Committee, considerable opposition because of the necessity, in this type of legislation, to ask of the employees—not just the CIA, but throughout the several departments and agencies of our Government dealing with intelligence matters—to give up a certain measure of personal privacy as a condition of their employment.

That is a very serious point. We have put that provision in this bill, and it is one which this body must address at a time, I hope an early time, when this

bill will be addressed in full and be passed by this body.

We have also incorporated a provision that was essential, in the judgment of the Director of the CIA, Director Woolsey. And that is, we have a law in here by which the appropriate authorities of the U.S. Government can go into the bank records, travel records, brokerage records of individual employees and determine the presence or absence of evidence which could, in fact, implicate them in violation of laws relating to the security of our Nation.

In concluding, throughout the history of this country, our Nation has been fortunate to have a very large number of individual citizens who dedicated their entire careers to intelligence. Indeed, some of them have suffered loss of limb, and indeed loss of life. There are no less than 50 names on a wall at the Central Intelligence Agency permanently recognizing the ultimate sacrifice of those individuals.

They should not be tainted by the Ames case, nor should they in any way be impugned by the serious and constructive deliberation that is now underway by both the legislative and executive branches as we proceed to revise and add to that body of law that would preclude an individual from becoming a turncoat and divulging classified material.

As I look back in history, in the 1940's and the 1950's and the 1960's, indeed, almost into the 1970's, those few individuals who did become turncoats were motivated in large part by ideology.

But not so today. This is the dirty dollar. It is greed; it is money; and that is the reason we must ask for the appropriate legislation to have surveillance over the financial records of these several employees.

In thank the Senator, and I appreciate the indulgence of our colleagues.

I ask unanimous consent that my full statement be printed in the RECORD.

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

STATEMENT OF SENATOR JOHN WARNER ON THE INTRODUCTION OF COUNTERINTELLIGENCE LEGISLATION, MARCH 17, 1994

Mr. President, I am pleased to join with Chairman DeConcini in introducing a bill today to greatly improve the counterintelligence and security posture of the United States intelligence community.

Contrary to popular belief, the espionage threat against the United States did not lessen with the end of the cold war. The tragic Ames case makes this fact painfully clear. Our vital National intelligence still needs to be carefully protected, and turncoats who seek to betray our Nation must be discovered as quickly as possible and brought to justice.

A review of espionage cases over the past 20 years reveals disturbing trends. Unlike the spies of the 1940's, 1950's, and 1960's who seemed primarily motivated by ideology, today's turncoats are overwhelmingly motivated by greed. It's the dirty dollar that destroys them and their families. With this in mind, the bill we are introducing today focuses on the financial activities of employees in the intelligence community.

Mr. President, at this point I would like to briefly review the history of recent congressional consideration of legislation similar to our bill. Senators Cohen and Boren deserve a great deal of credit for their pioneering work in this area in the late 1980's and early 1990's when they were cochairman of the Senate Intelligence Committee. In the fall of 1989, Senators Cohen and Boren established a panel of outside, volunteer consultants—under the chairmanship of ELI JACOBS—to examine the statutory framework for the conduct of U.S. counterintelligence activities, and to recommend legislative proposals.

This group submitted the "Jacobs Panel Report" with 13 recommendations to the Senate Intelligence Committee during a public hearing on May 23, 1990. Senators Cohen and Boren incorporated many of these recommendations into a bill (S.2726), which was referred to the Intelligence Committee. The Committee held a second public hearing on the "Jacobs Panel Report," with witnesses from the Justice Department and the ACLU, on July 12, 1990.

Unfortunately, S.2726 was not reported out of the Senate Committee. The bill was reintroduced by Senators Cohen and Boren in January 1991 as S. 394, but again was not reported out of committee.

I have recently gone back over the records of the Intelligence Committee in an effort to recollect why this important legislation was not enacted in 1990 or 1991. It appears that there were several reasons for this failure. The Justice Department raised a number of problems with the legislation, as did the Judiciary, Banking, and Governmental Affairs Committees of the Senate. In addition, the ACLU opposed several aspects of the bill due to civil liberties concerns. It was clear that time did not permit the legislation to be worked out among all of the interested parties.

But perhaps the biggest single determining factor in why this legislation was not enacted were events on the international scene. With the collapse of the Berlin Wall, the fall of communism in Eastern Europe, and the dissolution of the Soviet Union, the political mood in the United States began to shift. Many felt that with the end of the cold war, there was less need to be concerned about an espionage threat, particularly from the East.

We now all see what some of us have known all along—that the espionage threat to the United States remains a very real one. I applaud Senators Cohen and Boren for reintroducing their counterintelligence legislation—S. 1869—on February 24 of this year. I believe that S. 1869 is a good starting point for legislation in this area. But this legislation, which originated in 1990, can be improved upon and strengthened in light of the Ames case. The bill that we are introducing today does just that.

I would like to highlight some of the key differences between the Cohen Boren bill and the DeConcini/Warner bill:

Our bill applies to all employees of intelligence agencies; the Cohen/Boren bill is limited to individuals with a top secret clearance. While the Cohen/Boren bill requires everyone with a top secret clearance to give consent for the Government to have access to their financial and travel records as part of the initial background investigation and during 5-year update investigations, the DeConcini/Warner bill requires all employees of intelligence agencies to consent to government access to their financial and travel records, as well as their tax returns during their entire period of employment. In addition, the DeConcini/Warner bill establishes stricter requirements for employees in critical intelligence positions, as defined by the bill. Such employees will be required to file detailed financial disclosure reports.

The DeConcini/Warner bill also contains a key provision that is not in the Cohen/Boren bill. That is, our bill prohibits the private sector (i.e., banks, brokerage houses, travel agencies) from disclosing that a request for access to financial and travel records has been made. This provision is crucial so that employees under suspicion are not tipped off.

The DeConcini/Warner bill also has two new provisions. The first of these provisions permits the FBI to access tax returns in counterintelligence cases (whether or not such returns involve an intelligence agency employee). The second provision extends the criminal forfeiture provisions of the drug enforcement statute to the proceeds of espionage, that is, giving government greater authority to recover the proceeds of espionage activities.

The DeConcini/Warner bill establishes a new misdemeanor offense for the removal of classified documents to an unauthorized location with the intent to retain them there. The Cohen/Boren bill has a similar provision but limits its application only to the removal of material classified top secret.

In my view, the DeConcini/Warner bill incorporates a major portion of the ideas from the Cohen/Boren bill and, in many cases, substantially strengthens those ideas. The DeConcini/Warner bill will provide the Government with a number of valuable tools for both deterring espionage activity, as well as more expeditiously discovering espionage when deterrence fails.

I would like to end my remarks with an appeal to my colleagues, to Americans across our land. As we struggle with the revelations and implications of the tragic Ames case, I urge we not lose sight of the loyal intelligence professionals through the many departments and agencies of our Government who have dedicated their careers, and some who have given life and limb, to the service of our Nation. Over 50 stars engraved on the wall at CIA headquarters attest to the ultimate sacrifice which CIA employees are willing to make for their country. The contributions of these officers who gave their lives, and the thousands of others at CIA who work in the secret intelligence world will never be accorded the attention that a Mr. Ames receives.

As the executive and legislative branches expeditiously turn to strengthening our laws and strengthening our administrative procedures to better protect our Nation's security, we must not allow this constructive work to reflect adversely on the reputations of those, past and present, who serve and have served our Nation with great distinction in the intelligence field. Mr. Ames is a rare exception to the rule in an intelligence community which is staffed by dedicated employees who—perhaps more than anyone else in the Nation—have reason to be outraged at the turncoat actions of but a few.

Employees of intelligence agencies must be willing to accept certain personal disclosures as a condition of employment. In an area as sensitive and critical as the Nation's security, the scales must tip in favor of protecting our Nation's secrets. This bill does that.

Mr. GRAHAM. Mr. President, I am pleased to join today with Senators

DECONCINI and WARNER as an original cosponsor of the Counterintelligence and Security Enhancements Act of 1994.

The chairman and vice chairman of the Senate Select Committee on Intelligence have ably outlined the bill's provisions.

Many of these provisions are based upon the fine work of the Jacobs panel, led by Eli Jacobs. I support all of them.

We need this legislation—particularly the ability to do thorough financial background checks—if we are going to guard successfully against a future Rick Ames.

But, Mr. President, it will take more than legislation to fix what is wrong at the Central Intelligence Agency. The CIA is seriously broken. I believe we all know that.

When the last investigator has written the last word on the *Ames'* case, we are going to find that this massive security breakdown was due in large measure to the CIA's organizational culture—what some have described as an old boys' network.

As Mr. Jim Hoagland so accurately wrote on March 8 in the Washington Post, Ames was OOU—One of Us. Son of an agency employee, hired before he finished college, he never received the scrutiny he so obviously warranted.

Let me quote Mr. Hoagland because he hits it right on the head.

> What we are really talking about is an old boys' network—a network that also revolves around the central notions of a class system; inherited privilege and social solidarity . . . A sense of social solidarity may help explain why the U.S. intelligence community, which spends about $30 billion a year to discover the world's most guarded secrets, failed to see a significant and suspicious change of behavior that occurred under its nose. There are some things OOU are not expected to do.

In other words, Mr. President, OOU's are not supposed to sell out their country for money.

But that's exactly what Ames did. And so did virtually every other turned American spy caught during the 1980's.

This legislation, with its emphasis on personal finances, is a step in the right direction.

Legislation, however, is no substitute for leadership. Whether we successfully come to grips with the one-of-us syndrome will depend largely upon CIA Director Jim Woolsey's leadership.

Serious mistakes were made in the *Ames* case. Those responsible for the extraordinary level of complacency that surrounded this case must be held accountable.

It is Mr. Woolsey's responsibility as director to make that call. But if he avoids the hard decisions, if he goes for the quick fix and papers over the Agency's deep-rooted cultural problems, he will face a growing credibility problem with an American public already highly skeptical of the billions of dollars we spend on the spy business.

If, on the other hand, Mr. Woolsey takes serious corrective action, if he aggressively builds on that action to define a new role for the CIA in the post-cold-war world, he will be taking the first steps toward rebuilding the Agency's tarnished reputation.

The choice is his.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

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

[From the Washington Post, Mar. 8, 1994]

OLD BOYS AT CIA

(By Jim Hoagland)

Aldrich Hazen Ames, the spy with three last names, might not have run his scam as long as he did had he been plain Fred Jones or Billy Bob Smith. Then his fellow spooks might have been more suspicious when he drove up to work one day in a new Jaguar, fresh from his mortgage-free $540,000 manse.

Let me rephrase that as a question: Does the still-unfolding Ames case reveal the Central Intelligence Agency as a mini-class system that has begun a decline into obsolescence and decay?

It is grandiose overstatement to refer to an intelligence agency as a class system, of course. What we are really talking about is an old boys' network—a network that also revolves around the central notions of a class system: inherited privilege and social solidarity.

Those notions permeate the case of Ames, the 52-year-old former head of counterintelligence for the Soviet Union and Eastern Europe at the CIA, now accused of having spied for the Kremlin. He was hired by the agency before even finishing college because of his father's good record there. He was, the old boys at the agency decided, OUF: One Of Us.

A sense of social solidarity may help explain why the U.S. intelligence community, which spends about $30 billion a year to discover the world's most guarded secrets, failed to see a significant and suspicious change of behavior that occurred under its nose. There are some things OUFs are not expected to do.

CIA Director R. James Woolsey reportedly said as much when he informed CIA employees of Ames's arrest. A Washington Post account paraphrased Woolsey saying on closed circuit television that he found such a betrayal hard to comprehend "involving as it did both harm to the country and a violation of a spy's personal and professional obligations."

That is the mind-set that produced the failure of the agency to follow Ronald Reagan's most famous dictum: Trust but Verify. The spymasters trusted Ames but did not verify his bank accounts. Indeed, the agency does not seem to have even asked to see them. (Reagan was President when Ames's alleged treachery began.)

Ex-director Robert M. Gates bristled on television when journalists suggested that failing to check Ames's finances may possibly have been an error. Congress did not order us to check employees' bank accounts, Gates said by way of explanation. The agency was uncomfortable about being too "intrusive" in the lives of its employees, he added.

I doubt that delicacy about intrusiveness really explains the agency's failure in the Ames case. I think the spymasters missed a crucial turn in their business, much as Philco stuck with radios at the dawn of the television era and IBM let its disdain for laptop computers undermine its corporate foundations.

The agency seems to have stuck with the idea that what OUFs don't do is spy for big money. Internal controls are designed to weed out or capture ideological turncoats or agents caught in the familiar KGB honeypot trap of compromising sexual situations that expose fallen agents to blackmail.

The CIA was run in a tweedy Ivy League fashion in its first decades and has remained deeply influenced by the Anglophilia of its founders. Ideology and/or sex were at the core of Britain's big spy cases. The CIA's first line of counterespionage defense assumed, perhaps unconsciously, that the same would be true for American spies.

But times change. In the 1980s the Walker family, Ronald Pelton and other cash-short Americans got big bonuses for signing up with the KGB and selling their country secret by secret. In a world of satellite photography and the big ears of electronic surveillance, spies concentrated more and more on the commerce of turning each other's coats.

Seventy to eighty percent of a CIA covert agent's working hours is spent on one activity: trying to recruit his or her opposite number in the Kremlin's secret service. That estimate comes from several CIA field agents, all speaking with the same tones of frustration over this misplaced expenditure of time and effort.

This is marketplace activity, the buying and selling of careers and lives. In its last decade the KGB dominated this loathsome traffic. In contrast, the major Soviet defectors in that period came over not for money but because they saw the failure and inevitable doom of a bankrupt Soviet system.

The Ames case displays a third characteristic of the class system, even one as small as an old boys' network. A self-contained aristocracy is eventually corrupted or overwhelmed by money.

Treating espionage primarily as a marketplace activity exposed the OUFs of the CIA to the virus of betrayal through greed. If he is guilty as charged, Aldrich Hazen Ames became One Of Them, and a traitor to his professional class, for money.

Mr. BOREN. Mr. President, I am pleased to cosponsor the DeConcini-Warner counterintelligence bill. The DeConcini legislation reflects many of the ideas and recommendations that are included in S. 1869, a bill Senator COHEN and I recently reintroduced on improving our country's ability to counter foreign espionage activities.

Senator COHEN and I became first involved with this issue in 1990 when I was chairman of the Senate Select Committee on Intelligence and Senator COHEN was vice chairman. The committee commissioned an independent panel of experts led by Eli Jacobs, a noted business leader who had served on a number of national security advisory boards. The panel included members who are now high ranking officials in the Clinton administration like Secretary of State Warren Christopher, White House counsel Lloyd Cutler, and CIA Director Jim Woolsey. Others participating in the Jacobs group were Adm. Bobby Inman, former Director of the National Security Agency; former Reagan White House counsel A.B.

Culvahouse; Sol Linowitz, former ambassador to the Organization of American States; former CIA Director Richard Helms; and Columbia law professor, Harold Edgar. Their exhaustive review of espionage laws and our country's security system led to the legislative proposals first outlined by Senator COHEN and I in 1990.

Now, with the Ames case coming to light, the need for reform is even greater. Our country must realize, as the Jacobs panel and our intelligence committee determined several years ago, that most modern spies sell secrets for financial rather than philosophical motives and for that reason are not likely to be discouraged by the political changes that have swept through the Eastern bloc.

I am pleased that the current chairmen and vice chairmen of the Senate Select Committee on Intelligence have decided to continue the efforts for reform. I note the many similarities between the DeConcini-Warner and Boren-Cohen bills and I look forward to working with them on reconciling the two initiatives. In particular, we must carefully decide which employees hold sensitive enough positions to be subjected to close monitoring of their financial dealings. It is obvious, we do not have the resources to scrutinize carefully all employees. To monitor too many employees could mean that we do not carefully monitor those we should. I hope to discuss this and other issues with my distinguished colleagues as the process continues.

By Mr. LAUTENBERG (for himself, Mr. FAIRCLOTH, Mr. LIEBERMAN, and Mr. REID):

S. 1949. A bill entitled the "Mercury-Containing and Rechargeable Battery Management Act"; to the Committee on Environment and Public Works.

MERCURY-CONTAINING AND RECHARGEABLE BATTERY MANAGEMENT ACT

• Mr. LAUTENBERG. Mr. President, I introduce the Mercury-Containing and Rechargeable Battery Management Act. I am pleased to be joined by Senators FAIRCLOTH, LIEBERMAN, and REID in cosponsoring this bill. This legislation will achieve three goals. It will reduce the amount of mercury used in disposable batteries; it will protect public health; and it will stimulate the recycling or proper disposal of rechargeable dry cell batteries containing cadmium and lead. As a result, there will be a significant reduction in the amounts of toxic heavy metals entering our air, water, and soil.

Lead, mercury, and cadmium can threaten human health. Unlike many organic toxic substances, these toxic metals do not break-down into less harmful constituents. Instead, lead, mercury, and cadmium persist in the environment, where they can be absorbed into human, plant, and animal tissues. EPA has identified mercury, cadmium, and lead as 3 of the 17 high priority toxic chemicals on which EPA is focusing pollution reduction efforts because of their toxicity.

Lead, which is used in the electrodes of sealed lead rechargeable batteries, has been classified as a probable human carcinogen by EPA. It has been shown to retard physical and mental development in children, leading one expert to call childhood lead poisoning "the most serious pediatric problem in the United States." But children are not the only ones at risk. Elevated lead exposures also have been linked to high blood pressure and central nervous system and kidney disorders in adults. And EPA says that lead is "highly toxic" to aquatic life.

Cadmium, which is used in the electrodes of rechargeable nickel-cadmium batteries, can cause kidney and liver damage. And EPA has said that exposure to high levels of airborne cadmium can result in pulmonary edema and even death, while chronic low-level exposure can result in fibrosis of the lung and lung cancer.

In 1976, EPA banned mercury in pesticide applications, after finding that mercury exposure can cause significant damage to the nervous system and kidneys. Mercury also has been linked to decreased motor functions and muscle reflexes, memory loss, headaches, and brain function disorders. And when mercury enters the aquatic environment, it can form methyl mercury which is extremely toxic to both humans and wildlife.

Mercury, cadmium, and lead are contained in some battery casings and pose no risk while in use. But they can be a significant concern when discarded in our solid waste stream.

In 1992 Americans used approximately 4 billion dry cell batteries each year. While dry cell batteries account for less than one-tenth of 1 percent of the 180 million tons of garbage we generate each year, dry cell batteries have been significant sources of mercury, cadmium and lead in our solid waste stream. According to the "Report on Dry Cell Batteries in New York State," mercury batteries accounted for 85 percent of the mercury, and rechargeable batteries accounted for 68 percent of the cadmium in New York's solid waste.

Dry cell batteries in landfills can break down over time to release their toxic contents and contaminate our waters. In composting facilities, batteries could contaminate and limit the use of the resulting compost. In incinerators, the combustion of dry cell batteries containing toxic metals leads to elevated toxic air emissions, and increases the concentrations of toxic metals in the resulting fly and bottom ash. So it is imperative that we reduce the amount of these metals going to our landfills and incinerators where they can be released into the environment.

Sixteen States, including New Jersey, have passed laws either to regulate certain types of dry cell batteries, or to study their disposal.

Mr. President, dry cell batteries fall into two major categories. The first are primary batteries—which include the familiar disposable alkaline manganese and zinc carbon types used in flash lights, toys, radios, and similar products. Primary batteries do not rely, in most cases, on toxic metals in their electrodes. Instead, most primary batteries incorporate relatively small amounts of heavy metals to suppress the unwanted formation of gases and to extend battery life.

The other type of batteries are the secondary or rechargeable batteries, which include nickel cadmium and sealed lead rechargeable batteries. These batteries often are marketed separately, with rechargers, for the same uses as primary batteries. Alternatively, rechargeable batteries often are permanently installed into a variety of portable rechargeable tools and appliances, such as drills, flashlights, and hand-held vacuums.

Because of technological constraints, secondary batteries rely on toxic metals in their electrodes, and therefore contain much higher levels of heavy metals than do regular primary batteries. At the beginning of this decade, rechargeable batteries occupied only about 8 percent of the total dry cell battery market—which is about 350,000 batteries a year. With technological improvements, they are expected to make up roughly 20 percent of the market within the next decade. Because rechargeables can be re-used for several years, they use relatively less raw materials than disposable batteries, and thus reduce the environmental costs of extracting virgin metals. And Consumer Reports magazine has said, "[i]n the long run * * * rechargeables are far more economical [to the consumer] than disposables," and that "for now * * * rechargeable nickel cadmium cells represent the 'greenest' [consumer] choice." That's why my bill supports the continued use of rechargeable batteries while at the same time encouraging that they are recycled or properly disposed at the end of their useful life.

Mr. President, both primary and secondary batteries contain toxic heavy metals. However, they incorporate them for different reasons and in different amounts, and that is why my bill will treat them differently within a two-pronged Federal regulatory framework.

The first part of this framework will reduce toxic metals at the source, by prohibiting the sale of alkaline manganese, zinc carbon and mercuric-oxide batteries with mercury concentrations that were intentionally introduced by dates established in the bill.

The five companies responsible for most of primary battery sales in the

United States—Eveready, Duracell, Rayovac, Panasonic, and Kodak—have already begun to reduce their mercury concentrations in line with this schedule, and I commend these companies for their efforts. In 1991, the battery industry consumed 92 percent less mercury than it did in 1984. This part of the bill would focus on those manufacturers who have not yet committed to these reductions.

The second part of this framework would encourage the recycling of rechargeable batteries containing cadmium or lead. These batteries pose a special challenge because current technology does not allow for the toxic metal concentrations in these batteries to be reduced. Yet at the same time, these batteries serve many valuable applications and consumer and environmental benefits.

The Portable Rechargeable Battery Association [PRBA] has proposed a comprehensive program for the collection and recycling of rechargeable batteries. My bill will assist PRBA in carrying out its recycling program.

The bills contains a number of other elements designed to aid recycling efforts. Twelve months after the enactment of the act, rechargeable consumer products must be manufactured in a manner in which the rechargeable battery can be removable easily from the product or is contained in a battery pack separate from the product. Rechargeable batteries and rechargeable consumer products containing cadmium and lead must contain labels advising consumers to recycle or properly dispose of the battery. EPA would be required to establish a battery information dissemination program. Retailers selling rechargeable batteries containing cadmium or lead or rechargeable consumer products must display a notice that the batteries must be recycled or disposed at property.

Most importantly, the bill changes existing law regarding the handling of these batteries from nonhousehold sources. EPA classifies spent rechargeable batteries containing cadmium or lead as hazardous and subjects them to hazardous waste regulations. This deters the recycling of these batteries without providing commensurate environmental benefits.

My bill would address this problem by legislatively exempting the collection, storage and disposal of nonhousehold dry cell batteries from the hazardous waste requirements if the batteries are to be recycled. The bill will not exempt these batteries if they are destined for disposal in a hazardous waste landfill. Batteries collected from households already are exempted from the hazardous waste requirements under RCRA.

EPA has already established precedent in this area, by excluding the wet cell lead acid batteries used in automobiles from hazardous waste requirements. And EPA has proposed to treat dry cell batteries in a similar matter. But EPA has been slow to take final action.

The bill also authorizes the battery industry to undertake cooperative efforts to collect and properly manage used rechargeable batteries and rechargeable consumer products.

The bill would give EPA the authority to promulgate rules regulating the sale of other dry cell batteries if they are found to pose a threat to human health or the environment. Penalties are established for violations of the act. And State battery programs, like the one in New Jersey, would not be preempted except for the labeling of batteries, consumer products and their packages.

Finally, EPA would be required to prepare biennial reports to Congress which would document the recycling rate for rechargeable batteries and companies which are and are not participating in the voluntary recycling program. This information will give the Congress and the public information regarding the success and participation rates of the voluntary recycling program. As we have seen from publication of the Toxic Release Inventory established by the Emergency Planning and Community Right to Know Act, giving the public information can help spur voluntary efforts to reduce pollution.

This bill will benefit States like New Jersey which have dry cell battery programs. The bill will further State efforts by: First, requiring the labeling of batteries to facilitate separation and recycling of batteries; second, removing the hazardous waste restrictions from collection, transportation and storage of dry cell batteries; and third, establishing a large, consistent supply of rechargeable batteries with cadmium and lead which will stimulate the growth of a domestic recycling industry.

Mr. President, toxic heavy metals are a bane to our environment, our wildlife and our people. This bill will provide effective ways to reduce exposure to these dangerous metals.

I want to commend the dry cell battery industry which has worked constructively in the development of this legislation.

I urge my colleagues to cosponsor this important bill. I ask unanimous consent that a copy of the bill, together with letters of support from Portable Rechargeable Battery Association and the National Electrical Manufacturers Association, be included in the RECORD.

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

S. 1949

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Mercury-Containing and Rechargeable Battery Management Act."

SEC. 2. CONGRESSIONAL FINDINGS.

The Congress finds the following:

(1) On the basis of available scientific and medical evidence, exposure to toxic metals including mercury, cadmium and lead, is of concern to human health and the environment.

(2) The presence of toxic metals in certain used batteries is of concern, in light of the substantial quantity of used batteries discarded annually in the solid waste stream, and the potential environmental and health consequences associated with land disposal, composting or incineration.

(3) It is in the public interest to reduce the quantity of toxic metals entering solid waste landfills, incinerators and composting facilities by phasing-out the use of mercury in batteries and by providing for the efficient and cost effective collection and recycling or proper disposal of used nickel cadmium, small sealed lead-acid regulated batteries and any other regulated battery, and to educate the public concerning the collection, recycling and proper disposal of such batteries.

(4) Uniform national labeling requirements for regulated batteries, rechargeable consumer products and product packaging will significantly benefit programs for regulated battery collection and recycling or proper disposal, and thus will benefit human health and the environment.

(5) It is in the public interest to encourage recycling by persons who participate in collection, storage, transportation, and recycling of used nickel-cadmium, small sealed lead-acid or any other regulated batteries, and such batteries used in consumer products.

(6) It is in the public interest and will create economic efficiencies to allow persons who participate in projects or programs to collect and properly manage used batteries or battery-powered products to enter into agreements with other participating persons to include the costs operating such programs in the price of such batteries and battery powered products.

SEC. 3. DEFINITIONS.

For the purposes of this Act:

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) The term "battery pack" means any combination of rechargeable batteries containing one or more regulated batteries that commonly has wire leads, terminals and dielectric housing.

(3) The term "easily removable" means the battery or battery pack is either detachable or removable from a consumer product by a consumer with the use of common household tools at the end of the life of the product.

(4) The term "rechargeable battery" means any type of enclosed device or sealed container consisting of one or more voltaic or galvanic cells, electrically connected to produce electric energy, that is designed to be recharged for repeated uses. Such term shall not include:

(a) Any lead-acid battery used to start an internal combustion engine or as the principal electrical power source for vehicles, including but not limited to automobiles, trucks, construction equipment, motorcycles, garden tractors, golfcarts, wheelchairs and boats;

(b) Any lead-acid battery used for load leveling or for storage of electricity generated by alternative energy sources, such as (but

not limited to) solar cells or wind driven generators;

(c) Any battery used as a backup power source for memory or program instruction storage, timekeeping, or any similar purpose that requires uninterrupted electrical power in order to function if the primary energy supply fails or fluctuates momentarily; and

(d) rechargeable alkaline batteries.

(5) The term "rechargeable consumer product" means any product that when sold at retail includes a regulated battery as a primary energy supply, and that is primarily intended for personal or household use. Such term shall not include any product that only uses a battery solely as a backup power source for memory or program instruction storage, timekeeping, or any similar purpose that requires uninterrupted electrical power in order to function if the primary energy supply fails or fluctuates momentarily.

(6) The term "regulated battery" means any rechargeable battery that contains a cadmium or a lead electrode or any combination thereof, and such other electrode chemistries as determined by the Administrator pursuant to Section 103(e).

(7) The term "remanufactured product" means a rechargeable consumer product that has been altered by the replacement of parts, repackaged, or repaired after initial sale by the original manufacturer.

(8) The term "mercuric-oxide battery" means a battery that uses a mercuric-oxide electrode.

(9) The term "button cell" means any button-shaped or coin shaped battery.

SEC. 4. INFORMATION DISSEMINATION.

The Administrator shall, in consultation with representatives of rechargeable battery manufacturers, rechargeable consumer product manufacturers and retailers, establish a program to provide information to the public concerning the proper handling and disposal of used regulated batteries and rechargeable consumer products with nonremovable batteries.

SEC. 5. ENFORCEMENT.

For the purposes of this Act:

(1) Whenever on the basis of any information the Administrator determines that any person has violated or is in violation of any requirement of this Act, the Administrator may issue an order assessing a civil penalty for any past or current violation, requiring compliance immediately or within a reasonable specified time period, or both, or the Administrator may commence a civil action in the United States district court in the district in which the violation occurred for appropriate relief, including a temporary or permanent injunction.

(2) Any order issued pursuant to this subsection shall state with reasonable specificity the nature of the violation. Any penalty assessed in the order shall not exceed $10,000 for each such violation. In assessing such a penalty, the Administrator shall take into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.

(3) Any order issued under this section shall become final unless, no later than thirty days after the order is served, the person or persons named therein request a public hearing. Upon such request the Administrator shall promptly conduct a public hearing. In connection with any proceeding under this section the Administrator may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books and documents.

(4) If a violator fails to take corrective action within the time specified in a compliance order, the Administrator may assess a civil penalty of not more that $10,000 for the continued noncompliance with the order.

SEC. 6. INFORMATION GATHERING AND ACCESS.

For the purposes of this Act:

(1) Any person who is required to carry out the objectives of this Act, including but not limited to, (1) regulated battery manufacturers, (2) rechargeable consumer product manufacturers, (3) mercury containing battery manufacturers, or (4) their authorized agents shall establish and maintain such records and report such information as the Administrator may by rulemaking reasonably require to carry out the objectives of this Act.

(2) The Administrator or his authorized representative upon presentation of his credentials may at reasonable times have access to any copy any such records required to be maintained under paragraph (1) of this Section.

(3) The Administrator shall maintain the confidentiality of such documents and records that contain proprietary information.

SEC. 7. STATE AUTHORITY.

Except as provided in Sections 103(f) and 104, relating to requirements and the labeling of rechargeable batteries, battery packs, or rechargeable consumer products or packages containing such products, nothing in this Act shall be construed so as to prohibit a State from enacting and enforcing a standard or requirement that is more stringent than a standard or requirement established or promulgated under this Act.

SEC. 8. AUTHORIZATION.

Funds necessary to implement the requirements of this Act are hereby authorized to be appropriated.

TITLE I.—RECHARGEABLE BATTERY RECYCLING ACT

SEC. 101. SHORT TITLE.

This Title may be cited as the "Rechargeable Battery Recycling Act."

SEC. 102. PURPOSE.

The purpose of this title is to:

(1) Reduce the quantity of cadmium and lead entering solid waste landfills, incinerators and composing facilities by promoting the efficient recycling of used nickel-cadmium rechargeable batteries, used small sealed lead-acid rechargeable batteries or any other regulated battery, and such rechargeable batteries in used consumer products, through uniform labeling requirements, streamlined regulatory requirements for regulated battery collection programs, and by encouraging voluntary industry programs by eliminating barriers to funding the collection and recycling or proper disposal of used rechargeable batteries.

SEC. 103. RECHARGEABLE CONSUMER PRODUCTS AND LABELING.

(a) PROHIBITION.—No person shall sell to the end user for use in the United States a regulated battery or rechargeable consumer product manufactured on or after the date that is 12 months after the date of enactment of this Act, unless—

(1) the regulated battery—

(A) is easily removable from the rechargeable consumer product; or

(B) is contained in a battery pack that is easily removable from the product; or

(C) is sold separately; and

(2) The rechargeable consumer product and the regulated battery are labeled in accordance with subsection (b).

(3) The requirements of subsection (a) do not apply to the following:

(A) The sale of remanufactured product units unless subsection (a) applied to the sale of the unit when originally manufactured; and

(B) Product units intended for export purposes only.

(b) LABELING.—Each of the following items manufactured on or after the date that is 12 months after the date of enactment of this Act, whether produced domestically or imported, shall be labeled with the three chasing arrows or a comparable recycling symbol, and, on nickel-cadmium batteries or battery packs, the chemical name or the abbreviation "Ni-Cd", or, on lead-acid batteries and battery packs, either "Pb" or the words "LEAD" "RETURN" "RECYCLE", and all applicable statements listed below:

(1) On each regulated battery or battery pack: "NICKEL-CADMIUM BATTERY. MUST BE RECYCLED OR DISPOSED OF PROPERLY." or "SEALED LEAD BATTERY. BATTERY MUST BE RECYCLED.";

(2) On each rechargeable consumer product without an easily removable battery or battery pack: "CONTAINS NICKEL-CADMIUM BATTERY. BATTERY MUST BE RECYCLED OR DISPOSED OF PROPERLY." or "CONTAINS SEALED LEAD BATTERY. BATTERY MUST BE RECYCLED."; and

(3) On the packaging of each rechargeable consumer product, and the packaging of each regulated battery or battery pack sold separately, unless the relevant label is clearly visible through the packaging: "CONTAINS NICKEL-CADIUM BATTERY. BATTERY MUST BE RECYCLED OR DISPOSED OF PROPERLY." or "CONTAINS SEALED LEAD BATTERY. BATTERY MUST BE RECYCLED."

(c) EXISTING LABELING.—

(1) For a period of twenty-four (24) months after the date of enactment of this Act, regulated batteries and battery packs, rechargeable consumer products containing regulated batteries, and rechargeable consumer product packages that are labeled in substantial compliance with subsection (b) shall be deemed to comply with the labeling requirements of subsection (b).

(2) Upon application by persons subject to the labeling requirements of subsection 103(b) or the labeling requirements promulgated by the Administrator under subsection 103(e), the Administrator may approve and certify that a different label meets the requirements of subsections 103 (b) and (e), if the different label is substantially similar to the label required under subsections 103 (b) and (e) or conforms with a recognized international standard and is consistent with the overall purposes of this Title.

(d) POINT OF SALE INFORMATION.—Any retail establishment that offers for sale any battery or product subject to the requirements of subsection (b) or regulations promulgated by the Administrator under subsection (e), shall display in a manner visible to the consumer, a written notice that informs the consumer that regulated batteries, whether sold separately or in rechargeable products, must be recycled or disposed of properly.

(e) ADMINISTRATOR'S RULEMAKING AUTHORITY.—If the Administrator determines that other rechargeable batteries having electrode chemistries different from regulated batteries are toxic and may cause substantial harm to human health and the environment if discarded into the solid waste stream for land disposal or incineration, the Administrator may, with the advice and counsel of state regulatory authorities and manufacturers of rechargeable batteries and products, and after public comment, (1) promulgate labeling requirements for such bat-

teries, battery packs, products without easily removable batteries and their packaging, and (2) promulgate easily-removable design requirements for rechargeable consumer products designed to contain such batteries or battery packs. The regulations promulgated pursuant to this subsection shall be substantially similar to the requirements contained in subsections (a) and (b).

(f) UNIFORMITY.—After the effective dates of the requirements set forth in Section 103, no federal agency, State, or political subdivision may enforce any easy removability or environmental labeling requirement for a rechargeable battery or product that includes a rechargeable battery that is not identical to the requirements contained in subsections (a), (b) and (c) or the regulations promulgated by the Administrator under subsection (e).

(g) EXEMPTIONS.—

(1) IN GENERAL.—With respect to any rechargeable consumer product, any person may submit an application to the Administrator for an exemption from the requirements of subsection (a) in accordance with the procedures under paragraph (2). The application shall include the following information:

(A) A statement of the specific basis for the request for the exemption.

(B) The name, business address, and telephone number of the applicant.

(2) GRANTING OF EXEMPTION.—Within 60 days of receipt of an application under paragraph (1), the Administrator shall approve or deny the application. Upon approval of the application the Administrator shall grant an exemption to the applicant. The exemption shall be issued for a period of time that the Administrator determines to be appropriate, except that such period shall not exceed 2 years. The Administrator shall grant an exemption on the basis of evidence supplied to the Administrator that the manufacturer has been unable to commence manufacturing the rechargeable consumer product in compliance with the requirements of this section and with an equivalent level of product performance without the product—

(A) resulting in danger to human health, safety, or the environment; or

(B) violating requirements for approvals from governmental agencies or widely recognized private standard-setting organizations (including but not limited to Underwriters Laboratories).

(3) RENEWAL OF EXEMPTION.—A person granted an exemption may apply for a renewal of the exemption in accordance with the requirements and procedures described in paragraph (2). The Administrator may grant renewals of an exemption for periods of not more than 2 years after the date of granting of the renewal.

SEC. 104. REQUIREMENTS.

For the purposes of carrying out the collection, storage, transportation and recycling or proper disposal of used rechargeable batteries and products without easily removable rechargeable batteries, persons involved in collecting, storing, or transporting used rechargeable batteries or products containing used rechargeable batteries to a facility for recycling or proper disposal shall be regulated in the same manner and with the same limitations as if such persons were collecting, storing or transporting batteries subject to 40 C.F.R. Part 266 Subpart G on January 1, 1993, notwithstanding any regulations adopted pursuant to a grant of authority to a State under Section 3006 of the Solid Waste Disposal Act (42 U.S.C. §6926).

SEC. 105. COOPERATIVE EFFORTS.

If two or more persons who participate in projects or programs to collect and properly manage used rechargeable batteries or products powered by rechargeable batteries advise the Administrator of their intent, they may agree to develop jointly, or to share in the costs of participating in, such a program and to examine and rely upon such cost information as is collected during the project or program, notwithstanding any other provision of law.

SEC. 106. REPORT TO THE CONGRESS.

(a) REPORT DEADLINES IN GENERAL.—Not later than 36 months after the date of enactment of this Act, the Administrator, after consultation with and obtaining relevant industry-wide data from the States, environmental and consumer groups, and organizations representing rechargeable battery manufacturers, rechargeable consumer product manufacturers and retailers, and after public hearing and comment, shall submit to Congress a report that provides the information specified in Subsection (b). In collecting information for said report, the Administrator shall coordinate with the aforementioned States, environmental and consumer groups, and organizations to minimize the frequency and scope of any reporting requirements associated with the manufacture, sale, or collection of regulated batteries.

(b) CONTENT OF REPORT.—The report described in Subsection (a) shall consider and discuss each of the following:

(1) A review of the activities carried out by the entities listed in Subsection (a) with respect to the labeling and collection, transportation, and recycling or disposal of regulated batteries;

(2) An estimate, for the period beginning on the date of enactment of this Section and ending on the date of preparation of the report, of the number of regulated batteries entering the solid waste stream for disposal in incinerators, landfills and municipal solid waste facilities;

(3) A review of the recycling and reclamation rates for regulated batteries; and

(4) A review of the availability of permitted facilities sufficient to handle the current and projected volume of used regulated batteries, along with a complete evaluation of potential regulatory impediments to management options;

(5) A list of entities involved in the production and distribution of regulated batteries or rechargeable consumer products participating in programs for the collection of regulated batteries; and

(6) A list of entities involved in the production and distribution of regulated batteries or rechargeable consumer products, excluding retailers, that are not participating in regulated battery collection programs. In formulating such list, the Administrator shall not require any participant to report the name of any non-participant. Prior to listing any entity as a nonparticipant, the Administrator must determine that the entity should be a participant, and independently verify with the entity that it is not a participant.

(c) FREQUENCY OF REPORT.—24 months after publication of the report required in Subsection (a), and biennially thereafter, the Administrator shall issue a report that provides an update of the information specified in Subsection (b).

TITLE II.—MERCURY CONTAINING BATTERY MANAGEMENT ACT

SEC. 201. SHORT TITLE.

This Title may be cited as the "Mercury-Containing Battery Management Act."

SEC. 202. PURPOSE.

The purpose of this Title is to eliminate the quantity of mercury entering solid waste landfills, incinerators and composting facilities by phasing-out the use of mercury in batteries containing mercury.

SEC. 203. LIMITATIONS ON THE SALE OF ALKALINE-MANGANESE BATTERIES CONTAINING MERCURY.

No person shall sell, offer for sale, or offer for promotional purposes any alkaline-manganese battery manufactured on or after January 1, 1996 with a mercury content that was intentionally introduced (as distinguished from mercury which may be incidentally present in other materials), except that the limitation on mercury content in alkaline-manganese button cells shall be 25 milligrams of mercury per button cell.

SEC. 204. LIMITATIONS ON THE SALE OF ZINC CARBON BATTERIES CONTAINING MERCURY.

No person shall sell, offer for sale, or offer for promotional purposes any zinc carbon battery manufactured on or after January 1, 1995, that contains any mercury that was intentionally introduced.

SEC. 205. LIMITATIONS ON THE SALE OF BUTTON CELL MERCURIC-OXIDE BATTERIES.

No person shall sell, offer for sale, or offer for promotional purposes any button cell mercuric-oxide battery on or after January 1, 1995.

SEC. 206. LIMITATIONS ON THE SALE OF MERCURIC-OXIDE BATTERIES.

No person shall sell, offer for sale, or offer for promotional purposes, any mercuric-oxide battery on or after January 1, 1997.

PORTABLE RECHARGEABLE BATTERY ASSOCIATION,
Atlanta, GA, March 9, 1994.

Hon. FRANK R. LAUTENBERG,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR LAUTENBERG: I write on behalf of the Portable Rechargeable Battery Association ("PRBA") to express our support for the "Mercury-Containing and Rechargeable Battery Management Act."

PRBA is a non-profit trade association representing manufacturers, distributors, assemblers, users, suppliers and sellers of rechargeable batteries and rechargeable consumer products.[1] We have over one hundred twenty members, including manufacturers of approximately 95 percent of the world's nickel-cadmium batteries, manufacturers of approximately 60 percent of the world's small sealed lead-acid batteries, and manufacturers of almost 50 percent of the world's rechargeable consumer products.

Our goal is to play a leadership role in the environmentally responsible stewardship of rechargeable batteries and products. To this end, we are assisting several states, including the State of New Jersey, as well as local governments in establishing collection and recycling programs for these batteries and products. Later this year, PRBA expects to launch a national battery collection program for used rechargeable batteries. This program will eventually collect rechargeable batteries from all 50 states for recycling.

Your legislation would greatly assist our efforts to collect rechargeable batteries for recycling. It would require that all rechargeable batteries and battery packs containing nickel-cadmium and lead-acid electrodes be easily removable from consumer products, be

[1] Rechargeable batteries are used in a variety of consumer products including portable telephones, portable power tools, cameras, camcorders, lap-top computers and flashlights. These batteries also are widely used commercially in police radios, pagers, emergency lighting, hospitals and other applications.

labeled with a recycling symbol and contain the chemical name or abbreviation to facilitate sortation of the batteries for recycling. Retailers of batteries and consumer products (shavers, lap-top computers, etc.) would be required to provide information indicating that such batteries and battery packs must be recycled or disposed of properly. Following implementation of the Act, EPA would be required to report to Congress on the amount of rechargeable batteries entering the municipal solid waste stream, the recycling rates for rechargeable batteries, and a list of organizations participating and not participating in collection and recycling programs for rechargeable batteries.

This legislation also would phase-out the use of mercury in certain batteries by prohibiting the intentional introduction of mercury in batteries manufactured after January 1, 1996. By phasing-out the use of mercury in batteries and providing for the efficient and cost-effective collection and recycling of rechargeable batteries, your legislation will reduce the quantity of certain heavy metals from entering the municipal solid waste stream.

We thank you for your efforts to address these issues, and look forward to working with you and your staff to obtain enactment of this legislation.

With best wishes,

FRANK WESTFALL,
Chairman, PRBA Board of Directors.

NATIONAL ELECTRICAL MANUFACTURERS ASSOCIATION,
Washington, DC, March 9, 1994.

Hon. FRANK R. LAUTENBERG,
U.S. Senate, Hart Building,
Washington, DC.

Subject: Mercury Containing and Rechargeable Battery Management Act.

DEAR SENATOR LAUTENBERG: It is my pleasure to introduce myself as the Manager of Environmental Affairs at the National Electrical Manufacturers Association (NEMA). NEMA is the principal national trade association for manufacturers in the electrical industry representing over 600 domestic manufacturers of products used in the generation, transmission, distribution and end-use of electrical energy.

This letter is written on behalf of the members of Dry Battery Section of the National Electrical Manufacturers Association (NEMA), which is the trade association for United States manufacturers of dry cell batteries. Members of the NEMA dry Battery Section include Duracell, Eveready, Rayovac, Eastman Kodak and other companies.

NEMA wishes to voice its support of the "Mercury-Containing and Rechargeable Battery Management Act". Your leadership in introducing this important bill is greatly appreciated.

Manufacturers appreciate the introduction of this bill which recognizes the differences in various battery systems, and uses these distinctions to provide effective methods of lessening the quantities of toxic materials entering the waste stream.

Please let us know if NEMA can provide further support.

Sincerely,

RICHARD H. ROBINSON,
Manager, Environmental Affairs.●

By Mrs. KASSEBAUM (for herself and Mr. HATCH):

S. 1950. A bill to amend the Occupational Safety and Health Act of 1970 to make needed revisions in regulations and programs, and for other purposes; to the Committee on Labor and Human Resources.

OCCUPATIONAL SAFETY AND HEALTH REFORM ACT

Mrs. KASSEBAUM. Mr. President, today I rise to introduce, with Senator HATCH, the Occupational Safety and Health Reform Act, which offers a fresh perspective to workplace safety that I believe is long overdue. Instead of relying on mandates and penalties, this legislation provides positive incentives for employers to address occupational safety.

This bill is a companion bill, with minor modification, to the legislation that Representative FAWELL introduced in the House of Representatives. I would like to thank Representative FAWELL for his leadership on this issue. He deserves a great deal of credit for approaching health and safety in a new and innovative way.

Mr. President, Congress first enacted our current workplace safety law, the Occupational Safety and Health Act, in 1970. We imposed a legal duty on employers to provide a safe and healthy workplace, and we created a new agency within the Department of Labor—the Occupational Safety and Health Administration [OSHA]—to promulgate and enforce health and safety standards.

When Congress first passed workplace safety legislation, we envisioned a Government agency that would work in partnership with private industry to improve working conditions for our country's men and women. We hoped employers would not fear OSHA inspections, because we anticipated OSHA would use inspections as an opportunity to educate supervisors on methods to improve workplace safety.

Mr. President, I am not sure whether the Federal Government ever took that approach with the business community, but if that partnership ever did exist, it regrettably does not exist right now.

Over the past 20 years, we have developed an adversarial relationship between the Federal Government and the private sector. OSHA and private industry no longer view their relationship as an alliance. Part of the problem is that OSHA too often relies on fines and penalties rather than on education and consultation. And part of the problem is that OSHA too often focuses on paperwork violations rather than on real safety deficits. As a result, OSHA has lost much of its credibility with the American people.

The legislation that we are introducing today reverses this course. Rather than rely on more mandates and fines, which promote as adversarial relationship, this reform bill provides positive incentives for employers to address health and safety issues. My hope is that this will change OSHA's role from safety policeman to safety coach.

Under this new reform initiative, those employers utilizing certified private sector safety experts to conduct safety audits would be exempt from regular OSHA inspections. In addition, employers with exemplary safety records that have implemented comprehensive safety programs also would be exempt from regular inspections. Finally, these employers would be eligible for reduced OSHA fines if a workplace accident did occur.

There are several other provisions that I would like to highlight. For the first time, we have incorporated full congressional coverage into our workplace safety laws. Clearly we must learn to live by the same laws that we impose upon others.

Second, we have included, with minor modification, the Teamwork for Employees And Management [TEAM] Act, S. 669, in the OSHA bill to assure that employers and employees can meet to discuss safety issues without violating our Federal labor laws. Employee involvement is crucial to identifying workplace hazards. The TEAM Act allows the myriad of employee involvement programs to continue without requiring it in a one-size-fits-all mandate.

Third, we have expanded the on-site consultation program to assure that OSHA fulfills its obligation to work in partnership with the business community. Fourth, we have included a mediation procedure to facilitate resolution of conflicts when OSHA charges an employer with violating an OSHA standard or regulation.

In addition, we have avoided placing an enormous unfunded mandate on State and local governments. Unlike the legislation introduced by Senator KENNEDY, S. 575, we do not impose Federal workplace safety standards on State governments.

Furthermore, we provide more flexibility for States that choose to operate their own safety programs. Under the legislation introduced today, we authorize the Federal Government to grant broad waiver authority for States to experiment with cutting edge, innovative methods of improving workplace safety.

Mr. President, workplace safety is an important issue. The current system has failed to produce the type of consensus that Congress contemplated when it passed the Occupational Safety and Health Act in 1970. I hope that the Senate will act promptly on this legislation so we can truly assure every working man and woman a safe and healthy workplace.

I ask unanimous consent that the legislation be printed in the RECORD.

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

S. 1950

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This Act may be cited as the "Occupational Safety and Health Reform Act".

(b) REFERENCE.—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 Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

SEC. 2. PUBLIC EMPLOYEES.

(a) DEFINITION OF EMPLOYER.—Section 3(5) (29 U.S.C. 652(5)) is amended to read as follows:

"(5) The term 'employer'—

"(A) means a person engaged in a business affecting commerce who has employees;

"(B) includes a congressional employer and any person acting directly or indirectly in the interest of an employer in relation to an individual employed by any entity of the executive or judicial branch of the Government; and

"(C) does not include any State or political subdivision of a State.".

(b) DEFINITION OF CONGRESSIONAL EMPLOYER.—Section 3 (29 U.S.C. 652) is amended by adding at the end at the following new paragraph:

"(15) The term 'congressional employer' means an individual who has the final authority to appoint, hire, and set the terms, conditions, or privileges of the congressional employment of any individual employed by any entity of the legislative branch of the Government.".

(c) REPEALS AND CONFORMING AMENDMENTS.—

(1) Section 19 (29 U.S.C. 668) is repealed.

(2) Section 410(b) of title 39, United States Code, is amended—

(A) by striking paragraph (7);

(B) in paragraph (9), by striking "and";

(C) in paragraph (10), by striking the period and inserting "; and"; and

(D) by redesignating paragraphs (8), (9), (10), and (11) as paragraphs (7), (8), (9), and (10), respectively.

(3) Section 1312(c) of the Atomic Energy Act of 1954 (42 U.S.C. 2297b-11(c)) is amended—

(A) by striking "sections 3(5), 4(b)(1), and 19" and inserting "sections 3(5) and 4(b)(1)"; and

(B) by striking "(29 U.S.C. 652(5), 653(b)(1), and 668))" and inserting "(29 U.S.C. 652(5) and 653(b)(1))".

SEC. 3. OCCUPATIONAL SAFETY AND HEALTH STANDARDS.

(a) REGULATORY FLEXIBILITY ANALYSIS.—Section 6 (29 U.S.C. 655) is amended by adding at the end the following new subsections:

"(h) In promulgating any occupational safety and health standard under subsection (b), the Secretary shall perform a regulatory flexibility analysis described in sections 603 and 604 of title 5, United States Code.

"(i) In promulgating any occupational safety and health standard under subsection (b), the Secretary shall minimize the time, effort, and costs involved in the retention, reporting, notifying, or disclosure of information to the Secretary, to third parties, or to the public to the extent consistent with the purpose of the standard. Compliance with the requirement of this subsection may be included in a review under subsection (f).".

(b) ECONOMIC IMPACT ANALYSIS.—The Secretary of Labor shall conduct a continuing comprehensive analysis of the costs and benefits of each standard in effect under section 6 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655). The Secretary shall first report the results of such analysis to Congress upon the expiration of 2 years after the date of the enactment of this Act and shall make such report every 2 years thereafter.

SEC. 4. VARIANCES.

Section 6(d) (29 U.S.C. 655(d)) is amended by adding at the end the following new sentence: "No citation shall be issued for a violation of an occupational safety and health standard that is the subject of an application for a variance (which has been pending before the Secretary for at least 90 days), during the period the application is pending before the Secretary.".

SEC. 5. INSPECTIONS.

(a) TRAINING AND AUTHORITY OF SECRETARY.—Section 8 (29 U.S.C. 657) is amended by redesignating subsection (g) as subsection (l) and by adding after subsection (f) the following new subsections:

"(g) Inspections shall be conducted under this section by at least one individual who has training in and is knowledgeable of the industry or types of hazards being inspected.

"(h) The Secretary shall enter into agreements with other Federal agencies and with States to train the inspection personnel of agencies that conduct inspections of employers to determine if employee fire protection is adequate and to identify recognizable dangerous conditions, and shall establish a system for the referral of information with respect to fire hazards and such dangerous conditions to the Secretary.

"(i)(1) Except as provided in paragraph (2), the Secretary shall not conduct routine inspections of, or enforce any standard, rule, regulation, or order under this Act with respect to—

"(A) any person who is engaged in a farming operation that does not maintain a temporary labor camp and that employs 10 or fewer employees; or

"(B) any employer of not more than 10 employees if such employer is included within a category of employers having an occupational injury or a lost work day case rate (determined under the Standard Industrial Classification Code for which such data are published) that is less than the national average rate as most recently published by the Secretary acting through the Bureau of Labor Statistics under section 24.

"(2) Paragraph (1) shall, in the case of persons who are not engaged in farming operations, not be construed to prevent the Secretary from—

"(A) providing consultations, technical assistance, and educational and training services and conducting surveys and studies under this Act;

"(B) conducting inspections or investigations in response to employee's complaints, issuing citations for violations of this Act found during such an inspection, and assessing a penalty for violations that are not corrected within a reasonable abatement period;

"(C) taking any action authorized by this Act with respect to imminent dangers;

"(D) taking any action authorized by this Act with respect to health standards;

"(E) taking any action authorized by this Act with respect to a report of an employment accident that is fatal to at least one employee or that results in the hospitalization of at least three employees, and taking any action pursuant to an investigation conducted with respect to such report; and

"(F) taking any action authorized by this Act with respect to complaints of discrimination against employees for exercising their rights under this Act.".

(b) EMPLOYEE NOTICE.—Section 8(f)(1) (29 U.S.C. 657(f)(1)) is amended—

(1) in the third sentence, by striking "he shall make" and inserting "the Secretary may make"; and

(2) in the fourth sentence—

(A) by striking "determines there" and inserting "determines that there"; and

(B) by striking "he shall notify" and inserting "or that the facts alleged in the notification do not justify an exercise of the Secretary's inspection authority under subsection (a) for any reason consistent with the standard used by the Secretary to choose subjects for inspection under such subsection, the Secretary shall notify".

SEC. 6. WORKSITE BASED INITIATIVES.

(a) PROGRAM.—The Act is amended by inserting after section 8 the following new section:

"SEC. 8A. HEALTH AND SAFETY REINVENTION INITIATIVES.

"(a) IN GENERAL.—The Secretary shall by regulation establish a program to encourage voluntary employer and employee efforts to provide safe and healthful working conditions.

"(b) EXEMPTION.—In establishing a program under subsection (a), the Secretary shall, in accordance with subsection (c), provide an exemption from all safety and health inspections and investigations with respect to a place of employment maintained by an employer, except inspections and investigations conducted for the purpose of—

"(1) determining the cause of a workplace accident that resulted in the death of one or more employees or the hospitalization of three or more employees;

"(2) responding to a request for an inspection pursuant to section 8(f)(1); or

"(3) carrying out a special emphasis program under section 8.

"(c) EXEMPTION REQUIREMENTS.—In order to qualify for the exemption provided under subsection (b), an employer shall provide evidence that—

"(1) during the preceding year, the place of employment or conditions of employment have been reviewed or inspected under—

"(A) a consultation program provided by recipients of grants under section 7(c)(1), 16 (c) or (d), or 23(g);

"(B) a certification or consultation program provided by an insurance carrier or other private business entity pursuant to a State program, law, or regulation; or

"(C) a workplace consultation program provided by a person certified by the Secretary for purposes of providing such consultations,

that includes a means of ensuring that serious hazards identified in the consultation are corrected within an appropriate time; or

"(2) the place of employment has an exemplary safety record and the employer maintains a safety and health program for the workplace that includes—

"(A) procedures for assessing hazards to the employer's employees that are inherent to the employer's operations or business;

"(B) procedures for correcting or controlling such hazards in a timely manner based upon the severity of the hazard; and

"(C) employee participation in the program that includes at the least—

"(i) regular consultation between the employer and nonsupervisory employees regarding safety and health issues;

"(ii) assurances that participating nonsupervisory employees have training or expertise on safety and health issues consistent with the responsibilities of such employees; and

"(iii) the opportunity for nonsupervisory employees to make recommendations regarding hazards in the workplace and to receive responses or to implement improvements in response to such recommendations.

"(d) APPLICABILITY TO THE NATIONAL LABOR RELATIONS ACT.—In order to carry out the purposes of this Act and to encourage employers and employees in their efforts to reduce the number of occupational safety and health hazards, section 8(a)(2) of the National Labor Relations Act shall not apply to an employer that establishes, assists, maintains, or participates in any organization, health and safety committee, or other entity of any kind—

"(1) in which employees participate to discuss matters of mutual interest (including issues of health and safety, quality, productivity, or efficiency); and

"(2) that does not have, claim, or seek authority, to negotiate or enter into collective bargaining agreements under such Act with the employer or to amend existing collective bargaining agreements between the employer and any labor organization.

"(e) CERTIFICATION.—The Secretary may require that an employer in order to claim the exemption under subsection (b) give certification to the Secretary and notice to the employer's employees of such eligibility.

"(f) RECORDS.—Records of safety and health inspections, audits, or reviews conducted by an employer and not required by this Act shall not be required to be disclosed to the Secretary except as may be necessary to determine eligibility for an exemption from inspection under this section.".

(b) DEFINITION.—Section 3 (29 U.S.C. 652) as amended by section 2(b) is further amended by adding at the end the following new paragraph:

"(16) The term 'exemplary safety record' means such record as the Secretary shall annually determine for each industry. Such record shall include employers that have had, in the most recent reporting period, no employee death caused by occupational injury and fewer lost workdays due to occupational injury and illness than the average for the industry of which the employer is a part.".

SEC. 7. EMPLOYER DEFENSES.

Section 9 (29 U.S.C. 658) is amended by adding at the end the following new subsections:

"(d) No citation may be issued under subsection (a) to an employer unless the employer knew or with the exercise of reasonable diligence would have known of the presence of the alleged violation. No citation shall be issued under subsection (a) to an employer for an alleged violation of section 5, any standard, rule, or order promulgated pursuant to section 6, any other regulation promulgated under this Act, or any other occupational safety and health standard, if such employer demonstrates that—

"(1) employees of such employer have been provided with the proper training and equipment to prevent such a violation;

"(2) work rules designed to prevent such a violation have been established and adequately communicated to employees by such employer and the employer has taken reasonable measures to discipline employees when violations of such work rules have been discovered;

"(3) the failure of employees to observe work rules led to the violation; and

"(4) reasonable steps have been taken by such employer to discover any such violation.

"(e) A citation issued under subsection (a) to an employer who violates the requirements of section 5, of any standard, rule, or order promulgated pursuant to section 6, or any other regulation promulgated, under this Act shall be vacated if such employer demonstrates that employees of such employer were protected by alternative methods equally or more protective of the employee's safety and health than those required by such standard, rule, order, or regulation in the factual circumstances underlying the citation.

"(f) Subsections (d) and (e) shall not be construed to eliminate or modify other defenses that may exist to any citation.".

SEC. 8. THE OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

(a) SECTION 10.—Section 10(c) (29 U.S.C 659(c)) is amended—

(1) in the first sentence, by striking "fifteen working days" and inserting "30 working days"; and

(2) by striking the second sentence and inserting the following: "The Commission shall issue an order, based on de novo findings of fact and de novo conclusions of law, affirming, modifying, or vacating the Secretary's citation or proposed penalty or directing other appropriate relief. Such order shall become final 30 days after such order is issued.".

(b) SECTION 11.—Section 11(a) (29 U.S.C 660(a)) is amended by inserting after "conclusive" at the end of the sixth sentence the following: "and the Commission's conclusions with respect to questions of law shall be given deference if reasonable".

SEC. 9. DISCRIMINATION.

Section 11(c) (29 U.S.C. 660(c)) is amended by striking paragraphs (2) and (3) and inserting the following new paragraphs:

"(2) Any employee who believes that the employee has been discharged or otherwise discriminated against by any person in violation of paragraph (1) or who believes that the employee has been discharged or discriminated against because of an action taken by the employee's employer in violation of section 28, may, not later than 60 days after the date on which such violation occurs, file a complaint with the Secretary alleging such discrimination. Upon receipt of such a complaint, the Secretary shall notify the person named in the complaint and commence an investigation to determine if the Secretary should, on behalf of such employee, file such complaint with the Commission to request the Commission to take action on the basis of such complaint. The Secretary shall make such determination not later than 90 days after the filing of such complaint.

"(3) If within such 90-day period, the Secretary does not file a complaint on behalf of the complainant with the Commission, such employee may file such complaint with the Commission. If such a complaint is filed with the Commission, the Commission shall provide opportunity for a hearing (in accordance with section 554 of title 5, United States Code, but without regard to subsection (a)(3) of such section), and issue an order, based upon findings of fact and conclusions of law. In such an order, the Commission may require a person charged with committing a violation of paragraph (1) to take appropriate affirmative action, including the rehiring or reinstatement of the employee to the employee's former position with back pay and interest. Upon completion of a proceeding on such order, the Commission may award the prevailing party a reasonable attorney's fee. Final orders of the Commission may be appealed as provided in subsection (a).

"(4)(A) Anytime after a complaint has been filed with the Secretary alleging a violation of paragraph (1), the complaining employee, the person charged with committing the violation (referred to in this paragraph as the 'respondent'), or the Secretary has the right to request that the complaint be referred to the Federal Mediation and Conciliation Service (referred to in this paragraph as the 'Service') for mediation of the dispute. In lieu of receiving mediation services from the Service, the parties may upon mutual agreement refer the complaint to a mediator other than a mediator provided by the Service.

"(B) During mediation, the respondent and the complaining party may be represented by legal counsel or other representative of such respondent's or party's choice.

"(C)(i) All contested proceedings shall be stayed during the time for mediation and neither the Secretary nor the complaining party shall file a complaint pending completion of the mediation.

"(ii) The mediator shall have 60 days from the date of the referral to mediate to complete the mediation. If the complaint has not been resolved within such 60-day period or such extension as may be agreed upon, the mediation shall be deemed to be completed. The parties may extend the mediation for an additional 60 days by mutual agreement.

"(iii) The complaint shall be resolved through mediation in a manner that is mutually agreeable to the parties. The resolution of the complaint shall be binding upon the parties and shall preclude resort to other legal proceedings except as provided in subparagraph (E).

"(D)(i) Any agreement shall be kept confidential by the parties to the mediation unless all parties to the mediation agree otherwise in writing.

"(ii) All communications, oral or written, made in connection with the mediation (including memoranda, work product, transcripts, notes, or other materials) shall be kept confidential by the participants to the mediation.

"(iii) The material referred to in clause (ii) shall not be subject to disclosure through discovery or compulsory process and shall not be used as evidence in any investigatory, arbitral, judicial, administrative, or other proceeding.

"(E) A party to an agreement made pursuant to mediation under this paragraph may bring an action to enforce the agreement in any Federal or State court of competent jurisdiction.

"(F) Except as provided in subparagraph (C)(iii), nothing in this paragraph shall be interpreted to effect or modify whatever rights and obligations the parties may have under arbitration agreements or other form of alternative dispute resolution mechanisms.".

SEC. 10. ENFORCEMENT.

(a) SPECIAL CONDITIONS AND PRACTICES.—Section 13 (29 U.S.C. 662) is amended—

(1) by striking subsection (c);

(2) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively; and

(3) by inserting before subsection (b) (as so redesignated) the following new subsection:

"(a)(1) If the Secretary determines, on the basis of an inspection or investigation under this section, that a condition or practice in a place of employment is such that an imminent danger to safety or health exists that could reasonably be expected to cause death or serious physical harm or permanent impairment of the health or functional capacity of employees if not corrected immediately or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided by this

Act, the Secretary may so inform the employer and provide notice by posting to the affected employees and shall request that the condition or practice be corrected immediately or that employees be immediately removed from exposure to such danger. The notice shall be removed by the Secretary from the place of employment not later than 72 hours after the notice was first posted unless a court in an action brought under subsection (c) requires that the notice be maintained. The Secretary shall not prevent the continued activity of employees whose presence is necessary to avoid, correct, or remove such imminent danger or to maintain the capacity of a continuous process operation to resume normal operations without a cessation of operations or where cessation of operations is necessary, to permit such to be accomplished in a safe and orderly manner.

"(2) No person shall discharge or in any manner discriminate against any employee because such employee has refused to perform a duty that has been identified as the source of an imminent danger by a notice posted pursuant to paragraph (1).".

(b) MANDATORY SPECIAL EMPHASIS.—Section 8 (29 U.S.C. 657), as amended by section 6, is further amended by adding after subsection (i) the following new subsection:

"(j)(1) The Secretary shall establish and carry out a special emphasis program for identifying and correcting existing or newly recognized hazards in selected industries and operations and high hazard industries and operations.

"(2) Each special emphasis program under paragraph (1) shall consist of a planned and coordinated effort, including outreach, education and training programs, and inspections. Prior to beginning any such program, the Secretary shall meet and discuss with representatives of employers and employees in the industries affected by such program the intended goals and benefits of such program, the number of inspections under such program, and the nature of other activities planned. To the extent practicable, the Secretary shall coordinate efforts with such representatives. Each such program shall have a date of termination and shall include methods of evaluating the effectiveness of the program in reducing illness and injury in the targeted industries or operations.".

(c) INVESTIGATIONS OF DEATHS AND SERIOUS INCIDENTS.—Section 8 (29 U.S.C. 657), as amended by subsection (b), is further amended by inserting after subsection (j) the following new subsection:

"(k)(1) The Secretary shall investigate any work-related death or serious incident.

"(2) If a death or serious incident occurs in a place of employment covered by this Act, the employer shall notify the Secretary of the death or serious incident.

"(3) As used in this subsection or section 17, the term 'serious incident' means an incident that results in the hospitalization of three or more employees. The Secretary shall by regulation define 'hospitalization'.".

SEC. 11. PENALTIES.

(a) IN GENERAL.—Section 17 (29 U.S.C. 666) is amended—

(1) by striking subsections (a), (b), (c), (j), and (k);

(2) by redesignating subsections (d), (e), (f), (g), (h), (i), and (l) as subsections (b), (c), (d), (e), (f), (g), and (h), respectively; and

(3) by inserting before subsection (b) (as so redesignated) the following new subsection:

"(a)(1) Any employer who violates the requirements of section 5, any standard, rule, or order promulgated pursuant to section 6, or any other regulation promulgated under this Act may be assessed a civil penalty of not to exceed $7,000. The Commission shall have authority to assess all civil penalties provided in this section, giving due consideration to the appropriateness of the penalty with respect to—

"(A) the size of the employer;

"(B) the number of employees exposed to the violation;

"(C) the likely severity of any injuries directly resulting from such violation;

"(D) the probability that the violation could result in injury or illness;

"(E) the employer's good faith in correcting the violation after it has been identified;

"(F) the extent to which employee misconduct was responsible for the violation;

"(G) the effect of the penalty on the employer's ability to stay in business; and

"(H) whether the violation is the sole result of the failure to meet a requirement, under this Act or prescribed by regulation, with respect to the posting of notices, the preparation or maintenance of occupational safety and health records, or the preparation, maintenance, or submission of any written information.

"(2)(A) A penalty assessed under paragraph (1) shall be reduced by 25 percent in any case in which the employer—

"(i) maintains a safety and health program for the worksite at which the violation for which the penalty was assessed took place; or

"(ii) shows that the worksite at which the violation for which the penalty was assessed took place has an exemplary safety record.

If the employer maintains a program described in clause (i) and has the record described in clause (ii), the penalty shall be reduced by 50 percent.

"(B) No penalty shall be assessed against an employer for a violation other than a violation that—

"(i) has been previously cited by the Secretary;

"(ii) creates an imminent danger;

"(iii) has caused death; or

"(iv) has caused a serious incident,

if the worksite at which such violation occurred has been reviewed or inspected under a program described in section 8A(c)(1) during the 1-year period before the date of the citation for such violation, and such employer has complied with recommendations to bring such employer into compliance within a reasonable period of time.".

(b) SPECIAL ASSESSMENTS.—Section 17 (29 U.S.C. 666), as amended by subsection (a), is further amended by adding at the end the following new subsection:

"(i) The Secretary shall, by regulation, prescribe procedures for determining that conditions surrounding a violation warrant a special assessment. Such regulation shall provide that all findings shall be in narrative form and provide for individual review of violations for special assessment in the following circumstances:

"(1) Violations causing fatalities.

"(2) An excessive history of serious incidents or a pattern of violations of this Act that cause or are likely to cause death or serious incidents.

When the Secretary determines that a special assessment is appropriate, the Secretary may apply an appropriate multiplier, based on the factors described in subsection (a), of not greater than 10 to the penalty determined under subsection (a). In addition to any fines assessed with respect to the violations described in paragraphs (1) and (2), the Secretary may require the employer involved to establish a comprehensive safety and health program for the worksite at which the violations occurred and provide regular certification to the Secretary that such employer is in compliance with such program.".

(c) CITATIONS.—Section 17 (29 U.S.C. 666), as amended by subsection (b), is further amended by adding at the end the following new subsection:

"(j) Nothing in this Act shall be construed as requiring the Secretary to issue a citation for violations of this Act if the Secretary believes that the public interest will be adequately served by a suitable written notice or warning.".

(d) VICTIM'S RIGHTS.—Section 10 (29 U.S.C. 659) is amended by adding at the end the following new subsection:

"(d)(1) The Secretary shall provide any individual who is a victim of a violation of this Act with—

"(A) access to information with respect to any investigation of the Secretary or hearing by the Commission of such violation, to citations issued for such violation, to penalties imposed under this section for such violation, and to settlements made with respect to such violation; and

"(B) an opportunity to meet with the Secretary or a representative of the Secretary with respect to such violation.

"(2) For purposes of paragraph (1), the term 'victim' means—

"(A) an employee who has sustained a work-related injury or illness that is the subject of an inspection or investigation conducted under section 8; or

"(B) a family member of an employee described in subparagraph (A) who is killed as a result of such injury or illness.".

SEC. 12. STATE PROGRAMS.

Section 18(c) (29 U.S.C. 667(c)) is amended—

(1) in paragraph (2)—

(A) by striking "and which" and inserting "which"; and

(B) by inserting after the comma at the end the following: "and which, standards when applicable to the labeling, content, and hazard information for such products, are identical to any requirement under a standard promulgated under section 6,"; and

(2) in paragraph (4), by inserting before the comma the following: "in a manner at least as effective as enforcement by the Secretary"; and

(3) by adding at the end the following new flush sentence:

"The Secretary may waive any of the requirements of this subsection (other than the requirement of paragraph (2)) upon the request of a State seeking approval of a plan or an amendment to an approved plan. Such a waiver shall not extend for more than 3 years but may be renewed if the Secretary determines that the rate of occupational fatalities, injuries, and illnesses has declined in such State during the period of the waiver.".

SEC. 13. PREVENTION OF ALCOHOL AND SUBSTANCE ABUSE.

The Act is amended—

(1) by striking sections 28 through 31;

(2) by redesignating sections 32, 33, and 34 as sections 29, 30, and 31, respectively; and

(3) by inserting after section 27 (29 U.S.C. 676) the following new section:

"SEC. 28 ALCOHOL AND SUBSTANCE ABUSE TESTING.

"(a) TESTING PROGRAMS.—Whenever there exists the reasonable probability that the safety or health of any employee could be endangered because of the use of alcohol or a controlled substance in the workplace, the employer of such employee may establish

and implement an alcohol and substance abuse testing program in accordance with subsection (b).

"(b) STANDARDS.—The Secretary shall establish standards under section 6 for substance abuse and alcohol testing programs established under subsection (a) as follows:

"(1) SUBSTANCE ABUSE GUIDELINES.—The substance abuse testing program shall conform, to the maximum extent practicable, to subpart B of the mandatory guidelines for Federal workplace drug testing programs published on April 11, 1988, by the Secretary of Health and Human Services at 53 Federal Register 11979 and any amendments adopted to such guidelines.

"(2) ALCOHOL GUIDELINES.—The alcohol testing program shall take the form of alcohol breath analysis and shall conform, to the maximum extent practicable, to any guidelines developed by the Secretary of Transportation for alcohol testing of mass transit employees under the Department of Transportation and Related Agencies Appropriations Act, 1992.

"(c) CONSTRUCTION.—This section shall not be construed to prohibit an employer from requiring an employee to submit to and pass an alcohol or substance abuse test—

"(1) on a for cause basis or where the employer has reasonable suspicion to believe that such employee is using or is under the influence of alcohol or a controlled substance;

"(2) where such test is administered as part of a scheduled medical examination;

"(3) in the case of an accident or incident involving the actual or potential loss of human life, bodily injury, or property damage;

"(4) during and for a reasonable period of time (not to exceed 5 years) after the conclusion of an alcohol or substance abuse treatment program;

"(5) on a random selection basis in work units, locations, or facilities where alcohol and substance abuse has been identified as a problem or as part of a universal testing program; or

"(6) on a preemployment basis.".

SEC. 14. SMALL BUSINESS ASSISTANCE AND TRAINING.

Section 16 (29 U.S.C. 665) is amended—

(1) by inserting "(a)" after the section designation; and

(2) by adding at the end the following new subsections:

"(b) The Secretary shall publish and make available to employers a model injury prevention program that if completed by the employer shall be considered to meet the requirement for an exemption under section 8A or a reduction in penalty under section 17(a)(2)(A).

"(c) The Secretary shall establish and implement a program to provide technical assistance and consultative services for employers and employees, either directly or by grant or contract, concerning worksite safety and health and compliance with this Act. Such assistance shall be targeted at small employers and the most hazardous industries.

"(d) This subsection authorizes the consultative services to employers provided under cooperative agreements between the States and the Occupational Safety and Health Administration and described in part 1908 of title 39, Code of Federal Regulations.

"(e) Not less than one-fifth of the annual appropriation made to the Secretary to carry out this Act shall be expended for the purposes described in this section.".

SEC. 15. EXEMPLARY PROGRAMS.

(a) ESTABLISHMENT.—The Secretary of Labor shall establish an award that shall periodically be made to companies and other organizations that have implemented particularly effective approaches to addressing occupational safety and health in the workplace, including companies and organizations that provide for effective employee involvement in improving safety and health and that are as a consequence deserving of special recognition. Recipients of the award shall receive an automatic exemption under section 8A(b).

(b) USE OF AWARD.—A company or organization that is a recipient of an award under subsection (a) and that agrees to help other American companies or organizations improve their occupational safety and health may publicize its receipt of such award and use the award in its advertising.

(c) CATEGORIES IN WHICH AWARD MAY BE GIVEN.—

(1) CATEGORIES.—Subject to paragraph (2), separate awards shall be made to qualifying organizations and companies in each of the following categories:

(A) Small businesses.

(B) Other companies or their subsidiaries.

(C) Companies that primarily perform construction work.

(2) CHANGE IN LIST.—The Secretary of Labor may at any time expand, subdivide, or otherwise modify the list of categories within which awards may be made under paragraph (1) and may establish separate awards for other organizations and companies including units of government, upon a determination that the objectives of this section would be better served thereby, except that any such expansion, subdivision, modification, or establishment shall not be effective unless the Secretary of Labor has submitted a detailed description thereof to the Congress and a period of 30 days has elapsed since the submission.

(d) CRITERIA FOR QUALIFICATION.—An organization or company may qualify for an award under subsection (a) only if such organization or company—

(1) applies to the Secretary of Labor in writing for the award;

(2) permits a rigorous evaluation of the occupational safety and health operations of such organization or company; and

(3) meets such requirements and specifications as the Secretary of Labor determines to be appropriate to achieve the objectives of this section.

In applying paragraph (3) with respect to any organization or company, the Secretary of Labor shall rely upon an intensive evaluation of the occupational safety and health operation. The examination should encompass all aspects of the current occupational safety and health practice of such organization or company. The award shall be given only to organizations and companies that have made outstanding improvements in the occupational safety and health practices of such organizations and companies and that demonstrate effective occupational safety and health practices through the training and involvement of all levels of personnel.

(e) INFORMATION TRANSFER PROGRAM.—The Secretary of Labor shall ensure that all program participants receive the complete results of their evaluations described under subsection (d)(2), as well as detailed explanations of all suggestions for improvements. The Director shall also provide information about the awards and the successful safety and health improvement strategies and programs of the award-winning participants to all participants and other appropriate groups.

(f) FUNDING.—The Secretary of Labor is authorized to seek and accept gifts from public and private sources to carry out the program under this section.

(g) REPORT.—Not later than 3 years after the date of the enactment of this Act, the Secretary of Labor shall prepare and submit to the President and the Congress, a report on the progress, findings, and conclusions of activities conducted pursuant to this section along with recommendations for possible modifications thereof.

Mr. HATCH. Mr. President, I am pleased to join Senator NANCY KASSEBAUM, ranking member of the Senate Labor and Human Resources Committee, today in introducing the Occupational Safety and Health Reform Act.

As I have commented repeatedly over the years, the goal of a safe and healthful workplace is not a Democrat versus Republican issue any more than it is an employer versus employee issue. We all agree that safety in American workplaces is a priority that we should all support and promote.

There is significant disagreement, however, on the merits of different approaches to achieving this goal.

The OSHA reform initiative that Senator KASSEBAUM and I are introducing today focuses on providing incentives rather than on imposing bigger fines and more mandates, and it encourages employers to proactively address workplace safety and health needs. It provides, for example, that employers using certified health and safety consultants—either through OSHA's onsite consultation program or as part of an insurance carrier's loss control program—to conduct health and safety audits, are exempt from regular OSHA inspections. Employers with better than average safety records and approved health and safety programs are also exempt.

These and other provisions seek to focus resources where they are most needed and where they can do the most good. The principal emphasis should be on real workplace hazards; not on minor paperwork violations. No workplace accident that I know of has ever been prevented by filing forms.

Mr. President, I believe that this bill is a major step toward improving health and safety in American workplaces. It is a commonsense approach, and I hope my colleagues will support it.

By Mr. MOYNIHAN (for himself, Mr. MITCHELL, Mr. BRADLEY, Mr. BREAUX, Mr. DASCHLE, Mr. PRYOR, Mr. RIEGLE, Mr. ROCKEFELLER, Mrs. BOXER, Mr. FORD, and Ms. MOSELEY-BRAUN):

S. 1951. A bill to establish a comprehensive system of reemployment services, training and income support for permanently laid off workers, to facilitate the establishment of one-stop career centers to serve as a common point of access to employment, edu-

cation and training information and services, to develop an effective national labor market information system, and for other purposes.

THE REEMPLOYMENT ACT OF 1994

• Mr. MOYNIHAN. Mr. President, on Tuesday of this week a Message from the President, transmitting the proposed Reemployment Act of 1994, was referred to the Committee on Finance. Today I am joined by my colleagues, Senators BRADLEY, BREAUX, DASCHLE, PRYOR, RIEGLE, ROCKEFELLER, BOXER, FORD, and MOSELEY-BRAUN, in introducing the President's bill. This is the bill that Secretary of Labor Robert Reich has described as "converting the unemployment system into a genuine reemployment system."

The history of the unemployment system as we know it today goes back to June 29, 1934, when President Franklin Delano Roosevelt signed Executive Order 6757, establishing a Committee on Economic Security. In that Executive Order the President charged the Committee with making recommendations on safeguards "against misfortunes which cannot be wholly eliminated in this man-made world of ours."

Just six months later, on January 15, 1935, this Committee on Economic Security, ably headed by Secretary of Labor Frances Perkins, transmitted to the President a report setting forth a series of recommendations that formed the basis for the Social Security Act of 1935, and for the social insurance system that we have today.

One of the cornerstones of the Committee's proposals was for a program of unemployment insurance. As the Committee described it, unemployment insurance should permit a worker who is ordinarily steadily employed to draw a cash benefit for a limited period of unemployment "during which there is expectation that he will soon be reemployed."

"Normally," the report noted, "the insured worker will return to his old job or find other work before his right to benefits is exhausted."

That was the vision of Frances Perkins and those who worked with her. But they frankly admitted that their plan was experimental. They stated forthrightly in the report that their plan would "secure the much-needed experience necessary for the development of a more nearly perfect system."

They were anticipating change.

And there have been some changes in the unemployment program since it was enacted. One major change was the establishment of the extended benefits program in 1970 to deal with periods of more prolonged unemployment caused by recession.

But over the years the unemployment insurance system has largely been ignored. It has served well many millions of unemployed American workers. But Administrations past, and the Congress, have not been appropriately diligent in periodically reexamining the system to make sure it is functioning appropriately, and accommodating to changes in the economy. Few would argue that we have achieved that "more nearly perfect system" that Secretary Perkins anticipated it would become.

We are fortunate now to have a President and a Secretary of Labor who recognize the fundamental importance of the unemployment system for the economic well-being of American workers and their families.

As Secretary Reich has noted, in recent years, because of technological and other changes in the economy, more and more workers are losing their old jobs, not temporarily, but permanently. Data for 1993 show that nearly eight of every ten unemployed job losers did not expect to return to their old jobs.

That is why President Clinton and Secretary Reich speak of the need to transform the unemployment system into a system of reemployment, a system that will help permanently dislocated workers make the transition to new employment.

That is a challenging task, but one that President Roosevelt and Secretary Perkins would be pleased has been assumed, these 60 years later.

Mr. President, I want to commend the President and Secretary Reich for their leadership on this important issue. I look forward to working with the Administration as this legislation moves forward.

I ask unanimous consent that the text of the President's message and a section-by-section analysis of the bill prepared by the Administration be printed in the RECORD.

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

To the Congress of the United States:

I am pleased to transmit today for your immediate consideration and prompt enactment the "Reemployment Act of 1994". Also transmitted is a section-by-section analysis. This legislation is vital to help Americans find new jobs and build sustainable careers.

Our current set of programs was designed to meet the different needs of an early economy. People looking for help today confront a confusing, overlapping, and duplicative tangle of programs, services, and rules. Job seekers—whether unemployed or looking for better jobs—have a difficult time getting the information they need: What benefits and services are available to them? Where can they get good quality training? What do they need to know to find and hold good jobs and to build sustainable careers?

The underlying problem is the lack of a coherent employment and training system. Instead, we have disconnected, category-based programs—each with distinct eligibility requirements, operating cycles, and program standards. We need a true system of lifelong learning—not the current hodgepodge of programs, some of which work, and some of which don't. The legislation I am transmitting today is an important first step in building this system.

We need to build a reemployment system because our current unemployment system no longer delivers what many American workers need. In the past, when a worker lost a job, he or she often returned to that job as soon as the business cycle picked up again and the company was ready to rehire. The unemployment system was designed to tide workers over during temporary dry spells. Today, when a worker loses a job, that job often is gone forever.

Our economy has generated new jobs. In 1993 alone, 1.7 million new private sector jobs were created—more than in the previous 4 years combined. While the jobs exist, the pathway to them aren't always clear.

The Reemployment Act of 1994 strives to fix this. It is based on evidence of what works for getting workers into new and better jobs. Programs that work are customer-driven, offering customized service, quality information, and meaningful choices. Programs that work provide job search assistance to help dislocated workers become reemployed rapidly, feature skill training connected to real job opportunities, and offer support services to make long-term training practical for those who need it.

The Act reflects six key principles:

First is universal access and program consolidation. The current patchwork of dislocated worker programs is categorical, inefficient, and confusing. The Reemployment Act of 1994 will consolidate six separate programs into an integrated service system that focuses on what workers need to get their next job, not the reason why they lost their last job.

Second is high-quality reemployment services. Most dislocated workers want and need only information and some basic help in assessing their skills and planning and conducting their job search. These services are relatively simple and inexpensive, and they have been shown to pay off handsomely in reducing jobless spells.

Third is high-quality labor market information, which must be a key component of any reemployment effort. The labor market information component of the Reemployment Act of 1994 will knit together various job data systems and show the way to new jobs through expanding access to good data on where jobs are and what skills they require.

Fourth is one-stop service. At a recent conference that I attended on "What is Working" in reemployment efforts, a common experience of workers was the difficulty of getting good information on available services. Instead of forcing customers to waste their time and try their patience going from office to office, the new system will require States to coordinate services for dislocated workers through career centers. It allows States to compete for funds to develop a more comprehensive network of one-stop career centers to serve under one roof anyone who needs help getting a first, new, or better job, and to streamline access to a wide range of job training and employment programs.

The fifth principle of the legislation is effective retraining for those workers who need it to get a new job. Some workers need retraining. The Reemployment Act of 1994 will also provide workers financial support when they need it to let them complete meaningful retraining programs.

Sixth is accountability. The Reemployment Act of 1994 aims to restructure the incentives facing service providers to begin focusing on workers as customers. Providers who deliver high-quality services for the customer and achieve positive outcomes will

prosper in the new system. Those who fail to do so will see their funding dry up.

The Reemployment Act of 1994 will create a new comprehensive reemployment system that will enhance service, improve access, and assist Americans in finding good new jobs. This is a responsible proposal that is fully offset over the next 5 years.

I urge the Congress to give this legislation prompt and favorable consideration so that Americans will have available a new, comprehensive reemployment system that works for everyone.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 15, 1994.*

REEMPLOYMENT ACT OF 1994—SECTION-BY-SECTION ANALYSIS

The Reemployment Act of 1994 is the first step in building a coherent, integrated reemployment system for the Nation. The current unemployment system, designed in a different time for a fundamentally different economy, is premised on the expectation that laid-off workers would return to their former jobs following periodic cyclical downturns in the economy. Today, millions of workers are finding their jobs imperiled by global economic integration and technological change. Many of them do not have the skills necessary for reemployment in good jobs to replace the ones they have lost.

Workers looking for help in making workforce transitions currently face a duplicative tangle of programs, services and rules. Students, workers, and the unemployed have a difficult time getting information on the benefits and services that are available, where they can get high-quality training, and what they need to know to find and hold good jobs and build sustainable careers.

The underlying problem is the lack of a coherent employment and training system. The Reemployment Act of 1994 will address this need by:

Establishing a comprehensive system for reemployment services, training, and income support for permanently laid-off workers;

Facilitating the establishment of one-stop career centers that will serve as a common point of access to employment, education and training information and services;

Developing an effective national labor market information system; and

Providing additional flexibility for States in payment of unemployment insurance benefits.

Title I of the Reemployment Act of 1994 would establish a comprehensive program for reemployment of dislocated workers—those who are permanently laid off or are long-term unemployed. This title would consolidate and replace six current programs that serve various categories of dislocated workers. All workers currently eligible under existing programs would be covered. The program would be administered through a State and substate delivery system. State Dislocated Worker Units would carry out rapid response activities at the site of dislocations, substate grantees would receive and administer funds, and Career Centers provide a comprehensive array of reemployment services to dislocated workers. Career Centers would make available to all eligible dislocated workers a set of basic services, including job search assistance. Intensive reemployment services would be made available to dislocated workers who are not able to find jobs through the basic services. Each worker receiving intensive services would have a reemployment plan developed jointly by the individual and a career counselor which identifies an employment goal and a combination of services designed to achieve the goal.

Education and training services will be available to workers who need new or higher-level skills to obtain employment. To help them make decisions, workers will have information about the quality of services and the local economy, as well as an understanding of their career objectives. Income support beyond regular UI payments will be available for most dislocated workers to enable them to participate in long-term training. The duration of income support payments will be based on the length of training needed, and on the job tenure the individual had in the last job.

Title I also establishes performance standards and quality assurance systems. A customer service compact is to be developed among the parties administering title I programs. The Secretary is also to establish performance standards for substate grantees and Career Centers, and substate grantees are to establish methods for obtaining feedback from customers—individuals and employers—on the effectiveness and quality of services they have received. Eligibility requirements are established for providers of education and training services which include the provision of performance-based information to preclude ineffective service providers from receiving Federal funds and to assist customers in choosing effective services.

Title II of the Reemployment Act of 1994 extends the focus of the unemployment insurance program beyond its original purpose of ensuring a source of income to workers who were temporarily out of work and creates new and active options which workers and employers may avail themselves to help ease the often-rapid and unsettling pace of labor market transition and change. First and foremost, this proposal will provide income support beyond unemployment insurance benefits to permanently laid-off workers who need and decide to retrain for new jobs and occupations which will offer them a more secure future. Second, this proposal offers new flexibility in the basic unemployment insurance program so that if States so chose, a short-time compensation program would be available to compensate employees who are working reduced hours for an employer who is attempting to avert a layoff or closure. In addition, the proposal would offer a new unemployment insurance option to laid-off workers in the form of reemployment bonuses for those who quickly find new jobs.

Title III of the Reemployment Act establishes a program to encourage States to develop and implement Statewide networks of one-stop career centers, which will provide a common point of access to employment, education and training information and services to students, workers and employers. The centers would make services available under employment and training programs administered by the Department of Labor and other human resource programs that choose to participate.

Key components of the voluntary one-stop career centers systems are as follows: The chief local elected official in each substate area designated by the Governor is to establish a workforce investment board, which is to plan, set policy and oversee the one-stop career center system in that area (but not administer career centers). One-stop career centers may be established through a consortium of the Employment Service and other employment and training programs, or through a competitive process, called the multiple independent operator option. In either case, career centers are issued a charter by the Board that identifies the number and location of the centers.

One-stop career centers must make available to the public free of charge a set of basic services. Intensive services are made available pursuant to an operating agreement between participating programs. The centers also provide specialized services to employers. Programs that are to participate in the operation of the centers are the title I comprehensive dislocated workers program, the Employment Service, the Veterans' Employment Service, JTPA title II programs, unemployment insurance programs, and the Senior Community Service Employment Program. Other human resource programs, such as JOBS, may also participate. Quality assurance is built into the one-stop career center system through the establishment of performance standards and customer feedback mechanisms.

Other components of the one-stop career center system are the establishment of a State Human Resource Investment Council authorized under JTPA, and a customer service compact, involving all parties that administer the one-stop system. States that wish to establish one-stop career center systems may apply to the Secretary for competitive grants to assist in the planning and development of the one-stop system, and for competitive grants to assist in the implementation of the one-stop system. States may also apply for waivers of Federal statutory and regulatory requirements to implement one-stop systems.

Title IV establishes a National Labor Market Information System that builds upon and strengthens existing capabilities at the Federal, State and local levels.

Title V amends title II of the Job Training Partnership Act to add a new part D, "Reinvention Labs". This new part allows wavier of Federal statutory or regulatory provisions to encourage innovative program designs for serving economically disadvantaged youth and adults, and to provide service delivery areas with increased flexibility in operating job training programs in exchange for higher levels of accountability for results.

Together, these provisions will begin to build a reemployment system that is coherent, comprehensive, customer-driven, accountable, and based on evidence of what works in employment and training.

Section 1 of the bill provides that this Act is entitled the "Reemployment Act of 1994."

Section 2 contains the Table of Contents.

Section 3 contains the statement of Findings and Purpose of the Act. The findings are that: in recent years the nature of job uncertainty and job loss has changed; a substantial number of Americans lose jobs because of structural changes in the economy rather than cyclical downturns; job uncertainty and dislocation carry substantial emotional and financial costs to the nation; Americans seeking first jobs, new jobs, or better jobs confront an economy in continuous transition and must have access to new skills and better job and career information; our current worker adjustment policies were designed for an earlier economy and often do not equip Americans to prosper in the current and emerging atmosphere of constant change; the primary governmental response to job loss—the unemployment insurance system—is not designed to build re-employment security; the current governmental response to dislocation is a patchwork of categorical programs; job search assistance and

retraining are not available to all who need it and income support is typically not available to facilitate training; there is a lack of reliable labor market information; and administrative and regulatory obstacles hamper State and local efforts to establish comprehensive reemployment systems.

The purpose of the Act is to: begin the transformation of the unemployment system into a comprehensive, universal, high-quality reemployment system; consolidate current categorical dislocated worker programs into a comprehensive program for all permanently laid-off workers, regardless of the cause of the dislocation; facilitate long-term training for permanently laid-off workers who want and need it; provide customer-centered, high-quality employment and training services that assist dislocated workers in making informed career and training choices; build on innovative State and local efforts, to begin to streamline employment and training programs into a comprehensive, high-quality, nationwide system of one-stop career center networks which provide access to all Americans who want and need new, better and first jobs; and create a National Labor Market Information System that gives high-quality and timely data on the local economy, labor market and other occupational information to employers, employees, and training providers.

Section 4 authorizes appropriations for the Act. The authorization for Title I (Comprehensive Program for Worker Reemployment) is for $1.465 billion for fiscal year 1995 and for such sums as may be necessary for succeeding fiscal years. For Title III and Title IV (One-Stop Career Center System and National Labor Market Information System, respectively), the authorization is for $250 million for each of fiscal years 1995 through 1999, and for such sums as may be necessary for fiscal years 2000 through 2003.

Section 5 provides definitions for basic terms used in the Act. The following terms are defined: career center; community-based organizations; economic development agencies; Governor; labor market area; local elected official; nontraditional employment; one-stop career center; private industry council; Secretary; service delivery area; service provider; State; State council; State Human Resource Investment Council; substate area; substate grantee; and unit of general local government.

Title I of the bill establishes the Comprehensive Program for Worker Reemployment.

Section 101 provides for the allotment of funds. Section 101(a) requires that 75 percent of the funds appropriated each fiscal year for this title be allotted to the States. The remaining 25 percent is reserved for the Secretary to carry out the national activities in Part B and for allocations to the Commonwealth of the Northern Mariana Islands and the territories.

Section 101(b) requires that the allotment to the States be based one-third on the relative number of unemployed individuals, one-third on the relative number of unemployed individuals, one-third on the relative number of unemployed persons in excess of 4.5 percent, and one-third on the relative number of individuals unemployed for more than 26 weeks. This is the same formula that is currently used under title III of the Job Training Partnership Act, except that the long-term unemployed factor under the new program is based on more than 26 weeks of unemployment (to conform to the eligibility section) rather than 15 weeks. Unlike JTPA, this formula contains hold-harmless and stop-gain provisions specifying that no State may receive less than 90 percent or more than 130 percent of the previous year's allotment percentage.

Subsection (b) requires, as does JTPA, that as soon as satisfactory data are available, allotments to the States are to be based 25 percent on the relative number of dislocated workers residing in each state and 25 percent based on each of the three unemployment factors described above.

Section 101(c) allows the Governor to reserve up to 30 percent of the State's allotment to carry out State activities and responsibilities authorized under this title. Of this amount, up to 5 percent may be used for State Grants for Job Retention Projects under section 116, not more than 15 percent may be used for program administration, and not more than 20 percent may be used for the combined costs of program administration and technical assistance.

Section 101(d) requires the Governor to allot the remainder of the State allotment (a minimum of 70% of the State allotment) to substate areas under a formula determined by the Governor, which is to include the factors described above, and additional objective and measurable factors that the Governor determines are appropriate. The Governor's formula may be amended only once for each program year. Substate allocations are also subject to a cost limitation of 15 percent for administration.

Section 101(e) reserves a small amount of the Secretary's reserve fund (0.3 percent) for allocation to the Commonwealth of the Northern Marina Islands and the territories.

Section 101(f) reserves the remainder of the Secretary's funds for national activities. For each of fiscal years 1995-1999, a minimum of 80 percent is earmarked for National Discretionary Grants under section 131 and Disaster Relief Employment Assistance under section 132; and not more than 20 percent may be expended for evaluation, research, and demonstrations under section 133 and capacity building, staff development and training, and technical assistance under section 134. In program year 2000 and succeeding program years, the distribution of funds among national activities changes to a minimum of 85 percent for National Discretionary Grants and Disaster Relief Employment Assistance, and not more than 15 percent for evaluation, research, demonstrations, capacity building, staff development and training, and technical assistance.

Section 102 requires the Secretary, beginning in program year 1996, to recapture unexpended, formula-funded State allotments upon a determination that the unexpended balance of the State allotment at the end of the prior program year exceeds 20 percent of the prior year's allotment. The recapture also includes the unexpended balance of a State allotment from any other previous program year. Recapture may be accomplished by reducing the State allotment for the subsequent program year by an equal amount. All recaptured funds will be used for national discretionary grants.

Section 103 provides the eligibility requirements for services under the new worker reemployment program.

Section 103(a) establishes that an eligible individual is a person who: (1) has been permanently laid off from full-time, part-time or seasonal (including farmworkers and fishermen) employment within the preceding 12-month period or has received notice that he/she will be permanently laid off, and is either unlikely to obtain employment in the same or similar occupation due to obsolete skills or a lack of job opportunities, or the layoff was due to any permanent closure or any substantial layoff at a plant, facility or enterprise; (2) is employed at a facility where the employer has given public notice that the facility will be closed within one year, and the individual is unlikely to remain employed with the same employer at another location or retire from the labor force; (3) was self-employed (including farmers, fishermen and ranchers) and is unemployed due to local economic conditions or because of a natural disaster; (4) is long-term unemployed; (5) is certified as eligible under the transitional program for certification of trade-impacted workers under part D of title II; or (6) was, pursuant to regulations established by the Secretary, identified and referred to the program by a State unemployment insurance worker profiling system.

Section 103(b) provides that displaced homemakers who were displaced within the preceding 12 months, are unemployed, and meet the other service-related requirements are eligible to receive basic services, and may receive other title I services to the extent the Governor determines such additional services are appropriate.

Section 103(c) defines terms for purposes of this section. "Permanently laid off" is defined as a layoff under which a recall is not expected within 26 weeks. "Long-term unemployed" refers to a period of unemployment defined by the Governor of not less than 27 weeks. "Displaced homemakers" are defined the same as in section 4(29) of the Job Training Partnership Act.

Part A of title I establishes a State and substate delivery system for the worker reemployment program.

Section 111 specifies that the State is responsible for developing and operating administrative and management systems that ensure proper fiscal control and accountability, consistent with both the requirements of Part E and the accomplishment of the objectives of this title.

Section 112 contains provisions for a State dislocated worker unit and its required functions.

Section 112(a) requires each Governor to designate or establish a State dislocated worker unit to carry out the rapid response, information collection and dissemination, program support, and coordination functions.

Section 112(b) describes each of the unit's functions. First, rapid response activities include: (1) receiving notices provided under the Worker Adjustment and Retraining Notification Act (WARN) and collecting information on other sites where permanent closures and layoffs affect 50 or more workers; (2) establishing contact with representatives of the employer, affected workers and affected unions, and affected substate grantees, within 48 hours of notice or identification of these closures and layoffs; (3) providing assistance on site (i.e., at or near the closure or layoff location) within 5 days (unless representatives of affected workers agree to defer start-up), including information and assistance in accessing programs and services, providing appropriate emergency reemployment services, and providing basic reemployment services in a group setting; (4) promoting the formation of worker-management transition assistance committees by: first, providing immediate assistance in creation of the committee, including financial assistance for start-up costs, providing a list of individuals from which the committee chairperson may be selected, and assisting in selection of worker representa-

tives in absence of union; and second, providing technical assistance in developing a strategy for assessing the employment and training needs of each affected worker and obtaining necessary services and assistance, such as advice and information on sources of assistance, and serving as liaison with public and private services and programs; and (5) preparing an action plan, which may include assisting in the provision of reemployment and training services, including group counseling, preliminary assessments, and labor market information, and in planning for the establishment of on-site transition centers described in section 115(c).

With regard to information collection and dissemination activities, the State dislocated worker unit's specific role is: to provide to employers and employees Statewide information on the WARN Act, the Act's requirements, and the eligibility requirements, services and benefits available under this title; to collect information related to economic dislocation—including potential closings and layoffs and impacts of those to which the unit has responded, and on Statewide programs and resources for services to affected workers; to provide the economic dislocation information to Governor to assist in providing an information base for effective program management, review, and evaluation; and to disseminate information Statewide on the State dislocated worker unit's services and activities.

The State dislocated worker unit's program support functions are to provide technical assistance and advice to substate grantees, work with employers and representatives of employees in promoting labor-management cooperation to achieve program objectives, and assist each local community affected by a mass layoff or plant closing in developing and implementing an adjustment plan, including assistance in obtaining State economic development assistance.

The unit's coordination role is to exchange information and coordinate programs with: economic development agencies and section 116 job retention projects to identify potential layoffs, avert plant closings and mass layoffs and accelerate dislocated workers' reemployment; State education, training and social services programs; State labor federations; State-level general purpose business organizations; and all other programs available to assist dislocated workers, including the Employment Service, UI system, one-stop career centers established under Title III of this Act, and student financial aid programs.

Section 112(c) requires the State dislocated worker unit to coordinate its actions with the relevant substate grantees and career centers.

Section 112(d) requires that the worker-management transition assistance committees ordinarily include (but are not limited to): shared and equal participation by workers and their representatives, and management, and participation from community representatives as appropriate; shared employer and State financial participation, using funds from this title for operating expenses; joint selection by worker and management representatives of the committee of a chairperson to guide and oversee committee activities, provide advice and leadership, and prepare a report on committee activities (the chairperson or members of the chairperson's immediate family cannot be employed or under contract with labor or management at the site); and operation under a formal agreement which may be terminated at will by workers or management and for cause by the Governor.

Section 112(e) authorizes the Governor to provide rapid response activities to layoffs of less than 50 workers if the Governor determines that the layoffs have a significant adverse economic impact on a local community.

Where there is an impending permanent closure or substantial layoff and other resources are not expeditiously available, section 112(f) authorizes the State to provide funds for a preliminary assessment of the advisability of a buyout and continued operation of the plant by a company or group, including the workers.

Section 112(g) prohibits the State from transferring the responsibility for the State dislocated worker unit's rapid response function to another entity, but permits agreements, grants, contracts, or other arrangements with a career center or other entity for rapid response assistance services.

Section 112(h) requires Federal oversight of the State administration and the quality of rapid response assistance services, authorizes the Secretary to establish performance standards relating to the State's provision of rapid response services, and requires the Secretary to implement appropriate corrective action if performance is determined to be inadequate.

Section 113 provides for the development and maintenance of State and local labor market information (LMI) systems. Section 113(a) requires the Governor to identify, or develop and maintain a comprehensive LMI system in the State that (1) promotes the collection, use, exchange and dissemination of quality LMI that will enhance the employment opportunities available to permanently laid off workers and other individuals seeking employment; and (2) provides support for needed improvements in LMI systems.

Section 113(b) and (c) link the contents of and standards for LMI in this section to those prescribed in title IV of this Act.

Section 113(d) requires the Governor to ensure, to the extent feasible, that automated technology will be used in data collection and dissemination; the State dislocated worker unit, the substate grantee, and career centers have timely access to quality LMI; administrative records are designed to reduce paperwork; and available administrative data and surveys are shared or consolidated to reduce duplication of record keeping.

Section 113(e) requires the Governor to designate an agent within the State to be responsible for oversight and management of a Statewide comprehensive labor market and occupational information system. This agent is to be responsible for providing training and technical assistance to collect and disseminate information through programs under this title, providing funding for the State share of the cooperative agreements authorized in title IV to implement the national LMI strategy, and funding research, evaluation and demonstration projects to improve the Statewide LMI system.

Section 113(f) provides that the Governor is to coordinate the activities carried out under title I with LMI carried out in the State pursuant to other Federal laws, and with the national LMI program in title IV. The Governor is authorized to use LMI funds under other Federal laws to maintain the State LMI system.

Section 113(g) requires the Governor to identify and utilize cost-effective methods for obtaining the labor market information and data. This may include access to earnings records, State employment security records, AFDC records, education records, and similar records, with appropriate safeguards to protect the confidentiality of the information obtained. The Governor is also to publish and make available labor market and occupational supply and demand information and individualized career information to public agencies, employers, and other users of this information.

Section 114 requires the Governor to coordinate worker reemployment programs with the retraining income support program authorized under title II and the State worker profiling system. Coordination with the profiling system is to include methods for ensuring the prompt referral, in accordance with the Secretary's regulations, of UI claimants profiled as dislocated workers to career centers, and the sharing of information.

Section 115 authorizes State supplementary grants for areas of special need. In areas of a State experiencing substantial increases in the number of eligible dislocated workers due to plant or base closures and mass layoffs, State grants may be awarded to provide to workers the full range of services authorized under section 119. Entities eligible to receive these grants include substate grantees in the affected areas, employers and employer associations, transition assistance committees and other employer-employee groups, representatives of employees, industry consortia, and State agencies. The Governor may, after formal consultation with the area substate grantee, also use grant funds to establish an on-site centers, including on-site transition centers specified below, to provide services. Operations of any on-site center must be coordinated with area career centers. Specific authority is provided for grants for temporary on-site transition centers at plant and base closure or mass layoff sites that meet certain conditions. These include that such centers would: be operated with the approval and participation of employers and workers and their representatives, including worker-management transition assistance committees; include substantial funding from non-public sources; and provide the full range of reemployment services directly or through contracts, such as contracts with outplacement agencies. Center activities would be coordinated with the local career centers and workers could receive services at either the transition or career centers.

Secton 116 authorizes State grants for job retention projects. The Governor, after consultation with unions representing affected workers, may award grants to projects providing services to upgrade the skills of employed workers who are at risk of being permanently laid off, and projects assisting the retraining of employed workers to facilitate business conversion or restructuring (e.g., to utilize new manufacturing technology or transform to a high-performance workplace) to avert substantial layoffs or plant closings. A 100 percent match of the grant is required, and is to be provided by a combination of State funds (from funds other than federal funds) and funds provided by the affected employers or businesses. As indicated above, a maximum of 5 percent of the State reserve funds may be used for these projects.

Section 117 establishes the substate administrative structure for the program.

Section 117(a) provides for the designation of substate areas for the delivery of program services. It requires the Governor, after consultation with the State council and local elected officials, to designate substate areas.

It also requires that each service delivery area under the Job Training Partnership Act be included in a substate area and prohibits the division of a service delivery area among substate areas. The designation process must also take into consideration the Statewide availability of services, the capability to coordinate service deliver with other job training, human services and economic development programs, and the geographic boundaries of labor market areas in the State. Subject to the above requirements, a service delivery area with a population of 200,000 or more that requests designation, any two or more contiguous service delivery areas with an aggregate population of 200,000 or more that request designation, and any concentrated employment program grantee for a rural area authorized under section 101 of the Job Training Partnership Act must be designated as a substate area, except that a request from the contiguous service delivery areas may be denied if the Governor determines the designation would be inconsistent with the effective delivery of services to workers in State labor market areas or would not otherwise be appropriate to carry out this program. Substate areas established under the EDWAA program, which is one the programs this title replaces, could be designated if they otherwise meet the requirements of this section. The section prohibits the designation of any area with a population under 200,000 as a substate area unless it is a JTPA rural concentrated employment program grantee. The Governor is authorized to award incentive grants to encourage the formation of substate areas based on labor market areas. Substate area designations may not be revised more than once every 4 years.

Section 117(b) provides for the designation of a substate grantee for each substate area for a 4-year period. The designation is based on agreement among the Governor, area local elected official(s), and area private industry council(s). Absent agreement, the Governor selects the substate grantee. Entities eligible for designation as substate grantee include: area PICs; SDA grant recipients or administrative entities; private nonprofit organizations; units of local government, or agencies thereof, in the substate area; local offices of State agencies; other public agencies, such as community colleges and area vocational schools; and consortia of the above.

Section 117(c) establishes the functions of substate grantees. Substate grantees are to receive and administer funds allocated to the substate area, including administration of payments to service providers of education and training services in accordance with section 119(d)(2); administer the process for selection of career center operators established in section 118; oversee and monitor the area program and coordinate the operation of career centers in the substate area; and prepare and publish biennially a plan describing proposed program activities and objectives in the substate area.

When a substate grantee desires to be selected to operate a career center, the process for selecting career center operators in that area must be administered by the PIC(s). If the substate grantee is the PIC, the Governor administers the selection process. Where substate grantees operate career centers, the career center oversight function is to be performed by the Governor.

Section 118 provides for the establishment of career centers. The substate grantee is required to establish one or more career centers in the substate area. The career center is to be the point of access for eligible individuals to the services provided under section 119.

Section 118(c) describes the career center selection process. Any entity or consortium of entities located in the substate area may apply for selection as a career center operator. The entities may include Employment Service offices, SDA grant recipients or administrative entities under JTPA, substate grantees under this title, community colleges and area vocational schools, community-based and other private nonprofit organizations, and other interested private for-profit and public organizations and entities.

After consultation with the Governor and local elected officials, the substate grantee is required to publish a public notice informing individuals and organizations in the substate area of: the estimated number of career centers to be established in the substate area, information on application procedures, selection criteria for career center operators, and other information the substate grantee considers relevant to the selection of operators and administration of the centers.

The substate grantee, consistent with guidelines issued by the Secretary, is required to use objective criteria and performance measures in assessing the applications. Applicants must demonstrate the ability to operate a career center that would: provide the services described in section 119; use automated systems to facilitate information exchange among career centers; meet the performance standards prescribed pursuant to section 152; meet the fiscal requirements of Part E of this title; objectively and equitably administer the process of referring participants to education and training services; and meet any other requirements the substate grantee determines appropriate. While overall costs may be taken into consideration in the selection process, the level of wages and benefits paid to nonmanagerial employees by an applicant is not to be a factor in the selection process.

Career center operators will be selected by the substate grantee once every 4 years.

Substate grantees are to review at least annually the education and training referral practices of any career center operator that concurrently provides education and training services to program participants. Should the substate grantee find a pattern of inappropriate referrals to education and training services, the substate grantee may require the center operator to cease provision of these services to program participants as a condition for continuing as center operator, or may terminate the agreement to operate a center.

Section 119 describes the services that are to be provided to eligible individuals. The services are grouped into 6 categories: basic reemployment services, intensive reemployment services, education and training services, retraining income support, supportive services, and supplemental wage allowances for older workers.

Section 119(b) requires each career center to make available to eligible individuals the following basic reemployment services: outreach to inform individuals of and encourage use of employment and training and placement opportunities for individuals with limited English proficiency and individuals with disabilities; intake and eligibility determination for assistance for this program; orientation to information and services available through the center; assistance in filing an initial UI claim; a general assessment of the individual's skill levels (including appropriate testing) and service needs, which may include basic and occupational skills, prior work experience, employability, interests, aptitudes, and supportive service needs; local, regional and national labor market information, including job vacancy listings and local occupations in demand and related earnings and skill requirements; job search assistance (including resume and interview preparation, and workshops); job referral and placement assistance such as job search training; information on education and job training programs—including eligibility requirements, services provided, the availability and quality of the programs, and student financial assistance available—and referrals as appropriate; assistance in evaluating individual's eligibility for any other DOL-administered employment and training programs; information collected under performance standards and quality assurance requirements; information on programs and providers of dependent care and other supportive services available locally; group counseling, including peer counseling, available jointly with immediate family members, on stress management and financial management; and solicitation and acceptance of job orders of area employers and referral of appropriate applicants.

Section 119(c) describes the intensive reemployment services each career center is to make available to eligible individuals who have received but are not able to find jobs through the basic reemployment services. The intensive services are: comprehensive and specialized assessment of an individual's skill levels and service needs, such as diagnostic testing, and in-depth interviewing and evaluation to identify employment barriers and appropriate employment goals; the development of an individual reemployment plan which identifies the employment goal, including appropriate nontraditional employment, achievement objectives and the appropriate combination of services to achieve the goal; individual counseling and career planning, including peer counseling and counseling and planning for nontraditional employment opportunities; assistance in selection of education and training providers and in obtaining income support, including student financial assistance; case management for those receiving education, training and supportive services; job development; out-of-area job search allowances; relocation allowances; and follow-up counseling for those placed in training or employment.

The section further requires that the reemployment plan be both developed and signed jointly by the individual and a career counselor, and that there be a review of the individual's progress in meeting the objectives in the plan. Should the parties disagree regarding the plan's content, appeal of the career counselor's recommendation is available to the individual under the grievance procedure in section 164. The employment goal in the plan must relate to employment in an occupation in demand either locally or in another area to which the individual is willing to relocate.

The out-of-area job search allowance may not exceed 90 percent of the costs of necessary job search expenses, up to a maximum payment specified by the Secretary in regulations. The allowance is payable only if the search is to obtain a job within the United States and the career center determines the individual cannot reasonably be expected to find suitable employment in the individual's local commuting area.

The relocation allowance is payable only for relocation expenses incurred within the

United States and only if the career center determines the individual cannot reasonably be expected to find suitable employment in the individual's local commuting area, and the individual has obtained suitable employment with reasonable prospects for long-term duration in the relocation area, or has received a bona fide employment offer and is totally separated from employment at commencement of the relocation. The amount of the relocation allowance may not exceed the total of: 90 percent of reasonable and necessary expenses, specified by the Secretary in regulations, incurred in moving the individual, any family and household effects; and a lump sum equivalent to 3 times the individual's preceding average weekly wage, up to a maximum payment specified by the Secretary in regulations.

Section 119(d) contains provisions for education and training services. Each career center is required to make available a list of eligible providers of basic skills training (including remedial education, literacy training, and English-as-a-second language instruction), classroom and on-the-job occupational skills training; and other skills-based education and training considered appropriate, which may include entrepreneurial training and skills training for high performance work organizations, such as problem solving skills and those related to the use of new technologies. Eligible providers of education and training services are those meeting the requirements of section 154.

When an individual has a jointly executed individual reemployment plan that specifies that education and training services are necessary to the person's reemployment, the individual, in consultation with a career counselor, is to select a service provider from the list of eligible providers. The career center then refers the person to the provider and arranges for payment to be made to the provider by the substate grantee.

Education and training services may also be provided under a contract between the substate grantee and an eligible service provider if the services are customized to meet the needs of a specific eligible group in the substate area or are for on-the-job training.

Education and training costs payable under this title are capped at $4,750 per individual over any 12-month period, and may not exceed 104 weeks in a 5-year period. Funds provided under the program for education and training may be supplemented with funds from other sources such as Pell grants, student loans or work assistance under the Higher Education Act, and other student financial aid. It is intended that an eligible individual receive funds for training under this title before applying for Federal student financial assistance, and the amounts provided by this program will be calculated in determining an individual's eligibility for such assistance.

For purposes of the income support program under title II, the career centers are considered an agency certified by the Secretary to develop a reemployment plan. Eligible individuals participating in education and training services under this title are also deemed to be in approved training for purposes of the unemployment compensation program.

Section 119(e) establishes a retaining income support program for certain individuals eligible for the comprehensive reemployment program. For program years 1995 through 1999, workers who qualify for income support under title II (those with three or more years of tenure with the layoff employer and those certified as trade-impacted) would be referred to that program. Workers with at least one but less than three years of tenure would receive income support under this title. Beginning in program year 2000, all workers with one or more years of tenure will qualify for retraining income support under title II and will be referred to that program for such support. With respect to the transitional income support program under this title, permanently laid-off individuals will be provided up to 26 weeks of income support at the UI benefit level under this title to enable them to participate in education and training if the individual: had at least one and less than three years of tenure with the layoff employer; was entitled or would have been entitled to unemployment compensation under State or Federal law, has exhausted all rights to UI to which the person was or would have been entitled, and does not have an unexpired waiting period; was enrolled in education or training by the 16th week of the permanent layoff or 14th week after being informed the layoff will exceed 6 months; and is participating and making satisfactory progress in education and training under this title (including any week which includes a break from training not exceeding 28 days which is provided under the program). The 16-week and 14-week enrollment requirements may be extended up to 30 days if the Secretary determines there are extenuating circumstances such as cancellation of a course or a later first available enrollment date that justify the extension.

This subsection includes several special rules that provide that continuous employment would include periodic interruptions resulting from sickness, maternity leave, military service, representation of a labor organization, and temporary layoffs up to a specified number of weeks. In addition, employment with a single employer is to include all employment covered by multiemployer plans, obtained through a single hiring hall, employment with a successor and predecessor employer in cases of a merger or acquisition, and employment under a leasing arrangement.

The retraining income support payment will be offset by the extended benefits or other Federal supplemental compensation program to which the individual is or would have been entitled, any weekly training income support provided under another Federal program, or earned income that exceeds 50 percent of the individual's weekly UI benefit. This last provision establishes a national standard for disregarding income that would allow for the part-time employment of individuals while they are participating in the program.

Under a cost-reimbursable agreement, the income support payments will be administered by the State agency which administers the unemployment compensation program. The career center will assist individuals in education or training in applying for retraining income support under this title or under title II, as appropriate. Individuals not eligible for income support under either program, and needing income support to participate in training, will also be assisted in applying for other appropriate resources, including student financial aid.

The career center is to inform individuals determined eligible of the availability and requirements relating to income support, particularly the requirement that an individual be enrolled in training by the 16th week of unemployment in order to qualify. The substate grantee is also to make arrangements with the State UI agency to make this information, along with other information about the program, available to claimants.

Section 119(f) requires that the supportive services be made available when the individual reemployment plan identifies the need for such services to enable the individuals's participation in intensive reemployment services or education and training services. The services may include, but are not limited to, transportation, dependent care, meals, health care, temporary shelter, needs-related payments, drug and alcohol abuse counseling and referral, family counseling, and other similar services. At the option of the career center, supportive services may also be made available to individuals participating in basic reemployment services. These services may be paid directly by the center, to a service provider, or through arrangements with appropriate agencies.

Section 119(g) authorizes a supplemental wage allowance for older workers. An eligible individual who is age 55 or over may receive a supplemental wage allowance if the individual: accepts full-time employment at a weekly wage that is less than the prior wage, was unable to obtain higher-wage employment through the basic reemployment services available under this program, and agrees jointly with a career center counselor that the allowance is the most effective adjustment option available. The allowance is payable for up to 52 weeks and equals three-quarters of the difference between the weekly wage received in a reemployment job and 80 percent of the individual's preceding average weekly wage. It may not exceed 50 percent of the regular weekly UI benefit level. The allowance is to be administered on a cost-reimbursable basis through a substate grantee agreement with the State unemployment compensation agency. An individual who has received a certificate of continuing eligibility may not subsequently receive a supplemental wage allowance.

Section 120 authorizes certificates of continuing eligibility. A career center may issue a certificate for continuing eligibility to individuals who are accepting new employment at a significantly lower wage than their previous wage or in an occupation significantly different from their previous occupation. The certificate will specify a period not to exceed 104 weeks within which the worker will remain eligible for reemployment services and for retraining income support payments under this program or under title II. The individual's continuing eligibility for such support will be based on his or her UI status at the time the certificate is received rather than at the time the individual is held harmless. The requirements relating to enrollment in training to be eligible for income support remain applicable except that the 16- and 14-week periods start with the individual's separation from this new, subsequent employment.

Part B of title I defines Federal responsibilities. Section 131 establishes a National Discretionary Grant Program. Section 131(a) specifies that the national grants are to address large scale economic dislocations resulting from plant closures, base closures, or mass layoffs.

Section 131(b) states that the services provided under the national grant program are to be the same types of services as those provided by career centers in substate areas. Grants may be awarded to such projects as those assisting industry-wide dislocations, multistate dislocations, and dislocations resulting from defense cutbacks, international trade, environmental laws and regulations, or special circumstances in the State. The Secretary may also award grants for projects that provide comprehensive planning serv-

ices to assist communities in responding to an economic dislocation. In addition, grants may be awarded for on-site transition centers described in section 115(c)(2).

Section 131(c) contains the administrative provisions governing the national discretionary grant program. To receive a grant, an eligible entity must submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary determines is appropriate. Entities that are eligible to receive grants are States, substate grantees under this program, employers and employer associations, worker-management transition assistance committees, representatives of employees, community development corporations and community-based organizations, and industry consortia.

Section 132 authorizes Disaster Relief Employment Assistance. Funds appropriated to carry out this section are to be made available by the Secretary to the Governor of any State within which is located an area which has suffered an emergency or a major disaster. The provisions of section 132 currently are contained in part J of title IV of the Job Training Partnership Act. The eligibility provisions now contained in part J have been revised to specify that notwithstanding the general eligibility requirements for this program, an individual is eligible for disaster employment if the individual is unemployed (whether permanently or temporarily) as a consequence of the disaster. In addition, there are other technical changes in the provisions now in part J.

Section 133 authorizes the Secretary to conduct evaluations, research and demonstrations. Section 133(a) specifies that the Secretary shall provide for the continuing evaluation of title I programs, including their cost-effectiveness in achieving the purposes of the title. Such evaluations must utilize recognized statistical methods and techniques of the behavioral and social sciences, including methodologies that control for self selection, where indicated. The evaluations may include cost benefit analyses, impact analyses, analyses of the extent to which title I programs meet the needs of various demographic groups, and the effectiveness of delivery systems used by the various programs. Also required are evaluations of the effectiveness of title I programs with respect to the statutory goals, the performance standards established by the Secretary, and the extent to which the programs enhance participant employment and earnings, reduce income support costs, improve participants' employment competencies compared to a non-participant control group, and, to the extent feasible, increase the level of total employment beyond that in the absence of the programs.

Section 133(b) requires the Secretary to establish a research program that relates to addressing economic dislocation, facilitating the transition of permanently laid off workers to reemployment, and upgrading the skills of employed workers. Section 133(b)(2) requires the Secretary to develop and maintain statistical data relating to permanent layoffs and plant closings, and to publish a report based on such data as soon as practicable after the end of each calendar year. This provision is currently contained in section 461(e) of the Job Training Partnership Act.

Section 133(c) requires the Secretary to conduct a program of demonstration projects to develop and improve the methods for addressing economic dislocation and promoting worker adjustment. Projects that may be funded include those that upgrade the skills of employed workers who are at risk of being permanently laid off, and those that assist in the conversion or restructuring of businesses in order to avert plant closings or substantial layoffs. Demonstration projects are limited to three years' duration and each project must contain an evaluation component.

Section 134 requires the Secretary to provide staff training and technical assistance to States, substate grantees, career centers, communities, business and labor organizations, service providers, industry consortia, and other entities. Such training and technical assistance may be provided through grants, contracts or other arrangements, and is intended to enhance the capacity of these parties to deliver effective adjustment assistance services and to avert plant closings or substantial layoffs. The assistance may include development of management information systems, customized training programs, and dissemination of computer-accessed learning systems. Training and technical assistance provided under this section must be coordinated with the activities of the Capacity Building and Information and Dissemination Network established under section 453 of the Job Training Partnership Act.

Section 135 provides Federal by-pass authority for operation of the program. If a State chooses not to participate in the program, the Secretary is to use the funds that would be allotted to the State to provide services to eligible workers in that State.

Part C of title I establishes performance standards and quality assurance systems.

Section 151 requires the Secretary to establish a process within each State to promote the development of a customer service compact among the parties administering title I programs: the Secretary, the Governor, each substate grantee, and each career center. The compact is an informal agreement rather than a formal legal document. It is to identify the shared goals and values that will govern the administration of the program, the respective roles and responsibilities of each party, methods for ensuring that the satisfaction of participants with services received is a primary consideration in the administration of the program, and other matters on which there is agreement. This compact reflects a new customer-driven view of the relationship between the local, State and Federal partners in providing employment and training services. It is a pledge to deliver quality customer services, and is part of the process to continuously develop customer-based performance measures and improve performance. Each year, the partners will meet to discuss goals and strategies for serving their customers in the coming year.

Section 152 establishes performance standards for title I. Section 152(a) requires the Secretary, after consulting with the Secretary of Education, Governors, substate grantees, and career centers, to prescribe separate performance standards for substate grantees and career centers. The standards are to be based on factors the Secretary determines are appropriate, and may include (1) placement; (2) the acquisition of skills based on the skill standards and certification system endorsed by the National Skill Standards Board established under the Goals 2000: Educate America Act; (3) participant and employer satisfaction with services provided and employment outcomes; (4) employer satisfaction with the job performance of the individuals placed; and (5) the quality of services to hard-to-serve populations, such as low-income and older workers.

Section 152(b) requires each Governor to prescribe adjustments to the Secretary's standards, within parameters established by the Secretary and after consultation with substate grantees and career centers. Such adjustments must be based on (1) economic, geographic and demographic factors, and (2) characteristics of the population to be served.

Section 152(c) specifies that the Governor is to provide technical assistance to substate grantees and career centers that fail to meet performance standards under uniform criteria prescribed by the Secretary. Governors must report annually to the Secretary on the final performance standards and performance for each substate grantee and career center, as well as the technical assistance the Governor plans and has provided. If a substate grantee fails to meet performance standards for two consecutive program years, the Governor must terminate the grantee agreement and designate another entity as the substate grantee. Similarly, the substate grantee must terminate the career center agreement and select another entity as a career center operator if the center has failed to meet standards for two consecutive years. Subsection (c) provides substate grantees and career centers with an appeal process to the Secretary regarding such terminations.

Section 152(d) specifies that Governors are to award incentive grants, out of the Governor's reserved funds, to substate grantees and career centers exceeding performance standards. Incentive grants are to be used by substate grantees and career centers to enhance or expand services.

Section 153 requires that each substate grantee establish methods for obtaining feedback from customers—individuals and employers—on the effectiveness and quality of the services they have received and of the service providers. Surveys, interviews and focus groups may be used to obtain this feedback. The information obtained must be analyzed by the substate grantee on a regular basis, and a summary of the information and the analysis is to be provided to the career center for use in improving its administration of title I programs and aiding customer choice in selecting eligible service providers.

Section 154 establishes eligibility requirements for providers of education and training services. The purpose of such requirements is to provide individual customers with information on the performance of service providers that will assist them in choosing types of services and where to obtain those services, and to preclude ineffective service providers from receiving Federal funds.

Section 154(a) states that in order to be eligible to receive title I funds, an education and training service provider must be eligible to participate in title IV of the Higher Education Act or be determined to be eligible under the alternative eligibility procedures in subsection (b). Such provider must also provide the performance-based information required in subsection (c).

Section 154(b) requires the Governor to establish an alternative eligibility procedure for education and training providers that desire to be funded under this Act, but are not eligible under the Higher Education Act. This procedure must establish minimum levels of performance and be based on factors and guidelines developed by the Secretary, after consultation with the Secretary of Education. The factors must be comparable

to those that are used to determine an institution of higher education's eligibility to participate in title IV programs. If the participation of an institution of higher education in programs under title IV of the Higher Education Act is terminated, the institution may not receive funds under the Reemployment Act for a period of two years.

Section 154(c) describes the types of performance-based information that must be submitted by all service providers (except for on-the-job training) in order to qualify under this section. Such information is to be identified by the Secretary in consultation with the Secretary of Education and may include program completion rates, licensure rates, placement and retention in employment rates, the percentage of graduates who meet skill standards and certification requirements, and the percentage of students who obtain employment in an occupation related to the provider's program. Governors may prescribe additional performance-based information to be submitted by providers. It is intended that the Secretary will closely coordinate with the Secretary of Education to promote consistency in the information requested of service providers under this program and under the Higher Education Act.

Section 154(d) specifies how the system of eligibility requirements is to be administered. Each State must designate a State agency with responsibility for compiling a list of eligible providers and performance-based information and disseminating this list to substate entities and career centers in the State. Service providers desiring to receive title I funds must submit the performance-based information described above to the designated State agency at such time and in such form as the agency requires. The designated State agency may provide technical assistance to providers in developing the required information, including facilitating the use of State administrative records.

If the State agency determines that information concerning a provider is inaccurate, the provider is disqualified from receiving title I funds for two years, unless the provider can demonstrate that the information was provided in good faith. The Governor must establish a procedure for service providers to appeal disqualification. The procedure must provide an opportunity for a hearing and prescribe appropriate time limits to ensure prompt resolution of the appeal.

The Secretary of Labor must also consult with the Secretary of Education regarding the eligibility of institutions of higher education and other providers of education and training under the Reemployment Act and the Higher Education Act.

Section 154(e) specifies that providers of on-the-job training are not subject to the eligibility requirements described in this section, but the substate grantee is required to collect performance-based information required by the Secretary from on-the-job training providers and disseminate this information to career centers.

Part D of title I contains a variety of requirements generally applicable to all program under title I. These provisions are adapted almost exclusively from the provisions contained in part C of the Job Training Partnership Act and also incorporate a labor consultation provision from section 311 of JTPA.

Section 161 contains general program requirements. First, it prohibits the use of funds under this title to induce, encourage, or assist relocations if the move results in the loss of employment at the original site. In addition, funds cannot be used for 120 days for on-the-job training, customized or skill training, or company specific assessment of job applicants or employees for an establishment that has relocated, if the relocation led to loss of employment at the original site. The Secretary must investigate allegations that funds under this title have been improperly used. Where the Secretary determines a violation by a State, substate area, or substate grantee, repayments of misspent funds to the Treasury is required. The Secretary is also required to collect an additional amount equal to the repayment unless the violators demonstrate they neither knew nor could have known the funds were improperly used, and these funds would be provided to the title I program.

Second, the section requires that efforts be made to develop programs under this title to encourage occupational development, upward mobility, the development of new careers, and to overcome sex-stereotyping in non-traditional employment.

Third, the section authorizes joint agreements or contracts between substate grantees to pay or share education, training, placement or supportive services costs under this title.

Fourth, the section established limitations on OJT. Payments to employers for OJT may not exceed the average of 50 percent of wages paid to program participants. In addition, OJT is limited to the period generally necessary to acquire skills related to the occupation, but is not to exceed 6 months. OJT contracts must specify the type and duration of training, and OJT contracts with brokers must include additional information on services to the client by the broker and the employers. Contracts are prohibited with employers who have exhibited a pattern of not providing OJT participants with regular employment after the training period with wages and benefits comparable to other employees.

Fifth, charging an individual a fee for the placement or referral of that individual in or to a training program under this title is prohibited.

The section also contains provisions that prohibit subsidy of private for-profit employment; cover the retention of program income by public and nonprofit entities; specify notification and consultation requirements; permit cooperative agreements between States; prohibit funding for public service employment except for disaster relief employment assistance; prohibit funding for employment generating and related activities except for disaster relief employment assistance; and cover Federal real property requirements.

Section 162 provides standards for the wages to be paid to participants in training.

Section 163 provides labor standards relating to general working conditions; health and safety standards; workers' compensation; equitable treatment; prohibition of displacement; relationship with organized labor, including the requirement that programs under title providing services to a substantial number of labor organization members will be established only after full consultation with the organization.

Section 164 provides for grievance procedures and the remedies available to grievants.

Part E of title I contains fiscal administrative provisions governing title I. These provisions are adapted from the provisions contained in part D of title I of the Job Training Partnership Act. This part assumes that the Office of Management and Budget Circulars A-102 and A-87, governing administrative requirements and cost principles applicable to Federal grant programs, will not apply to title I. Rather, the provisions of part E, many of which are similar to the Circulars, will apply. Currently, these Circulars do not apply to title II or title III of the Job Training Partnership Act.

Section 171(a) directs that appropriations under title I for any fiscal year shall be available for obligation only on the basis of a program year, which begins on July 1 in the fiscal year for which the appropriation is made.

Section 171(b) authorizes recipients to expend funds obligated in a program year either during that program year or the two succeeding program years.

Section 172 contains procedural requirements regarding the publication of formula allocations and allotments, and any discretionary allocation formula.

Section 173 authorizes the Secretary to monitor all recipients of financial assistance under title I, and to conduct investigations to determine compliance with the title and implementing regulations.

Section 174(a) contains requirements for States to follow in establishing fiscal controls and fund accounting procedures necessary to assure the proper disbursal of, and accounting for Federal funds paid to recipients under title I.

Section 174(b) contains the requirements and procedures to follow in the event the Governor determines that there is a substantial violation of the Act or its regulations.

Section 174(c) specifies requirements for repayment of funds by recipients of amounts found not to have been expended in accordance with title I.

Section 174(d) establishes liability of recipients for repayment of funds, and specifies conditions for the Secretary's imposition of sanctions against a recipient.

Section 174(e) gives the Secretary emergency authority to terminate or suspend financial assistance, when it is deemed necessary to protect the integrity of funds or ensure the proper operation of the program.

Section 174(f) requires the Secretary to take action or order corrective measures with respect to participants who have been discharged or discriminated against, or who have filed a complaint or been denied a benefit.

Section 174(g) specifies that the remedies under section 174 are not to be exclusive remedies.

Section 175 requires each recipient of financial assistance to maintain records on funds, participants and programs, and keep such records for the inspection of the Secretary, the Inspector General, and the Comptroller General. The section also specifies the responsibilities of fund recipients for maintaining management information systems, financial records, and monitoring the performance of service providers. Each Governor must establish record retention requirements.

Section 176 establishes procedures for administrative adjudication to be used whenever any applicant for financial assistance is dissatisfied because the Secretary has made a determination not to award such assistance.

Section 177(a) makes programs under title I subject to the nondiscrimination provisions of the Age Discrimination Act of 1975, Section 504 of the Rehabilitation Act, title IX of the Education Amendments of 1972, and title VI of the Civil Rights Act of 1964. Section 177(a) also prohibits discrimination under title I on the basis of race, color, religion,

sex, national origin, age, disability, or political affiliation or belief; prohibits employment of participants on the construction, operation or maintenance of religious facilities; prohibits discrimination against participants in title I because of their status as participants; and allows participation in title I programs of certain aliens and refugees.

Section 177(b) establishes procedures to be used by the Secretary whenever the Secretary determines that a State or other recipient has failed to comply with a provision of law or regulation governing nondiscrimination.

Section 177(c) authorizes the Attorney General to bring civil action in any appropriate U.S. district court for appropriate relief in discrimination cases.

Section 178 provides for review in the courts of appeals with respect to the Secretary's final determinations to award or not award financial assistance, terminate assistance, withhold funds, or otherwise sanction a recipient, or if any interested party is dissatisfied with or aggrieved by any final action of the Secretary.

Section 179 authorizes the Secretary to prescribe rules and regulations, accept gifts to carry out title I programs, allocate or spend funds, and utilizes services and facilities of other Federal, State, or substate agencies. Section 179 also prohibits financial assistance to be used for political activities.

Section 180 specifies that no authority to enter into contracts or financial assistance agreements under title I shall be effective except to the extent or in such amount as are provided in advance in appropriation Acts.

Section 181 amends section 665 of title 18, United States Code, to provide criminal penalties for anyone who knowingly enrolls an ineligible participant, embezzles or steals any money, assets or property of a program assisted under title I, or who willfully obstructs or impedes a Federal investigation conducted under title I.

Section 182 provides that, upon enactment of this Act, references in other statutes to the Job Training Partnership Act shall be deemed also to refer to the Reemployment Act of 1994.

Part F contains miscellaneous provisions relating to title I.

Section 191 establishes July 1, 1995 as the effective date of title I.

Section 192 terminates the EDWAA program (sections 301–324 of the Job Training Partnership Act (JTPA), the Defense Conversion Adjustment Program, the Defense Diversification Program, and the Clean Air Employment transition Assistance Program on July 1, 1995. Funds authorized under these programs will be permitted to be expended until they are exhausted.

The Disaster Relief Employment Assistance Program, Title IV–J of JTPA and the mass layoff study provisions in section 462(e) of JTPA (which are transferred to this Act) are also terminated on July 1, 1995.

Section 193 provides the Secretary with general authority to establish rules and procedures to provide for an orderly transition from the terminated programs to the comprehensive program established under title I.

Title II contains retraining income support and unemployment compensation flexibility provisions. Part A contains the provisions which would establish a system of retraining income support for unemployed individuals in long-term training.

Section 201 would establish the retraining income support program. The program is designed to assist permanently laid-off individuals who are participating in training programs after those individuals have exhausted all unemployment compensation to which they may have been entitled under State or Federal unemployment compensation laws.

Section 202 would require, subject to the availability of funds in the account established by part B of the title, payment of retraining income support to individuals who met the eligibility requirements of subsections (a), (b) and (c). Subsection (a) describes those requirements for individuals who have three years or more of work with the employer from which the individual was laid-off. Subsection (b) describes the eligibility requirements for individuals who have been determined to be adversely affected due to international trade under a temporary certification procedure established by part D of the title. Subsection (c) would extend eligibility, beginning in program year 2000, for retraining income support to individuals who have at least one year, but less than three years, of employment with the employer from which they were laid-off and to individuals who have worked for a previous employer in the occupation for one year or more and in the industry of the job from which they were laid off.

Subsection (a) would become effective for weeks beginning after July 1, 1995. Subsection (b) would be effective between July 1, 1995 and before October 1, 1999. Subsection (c) would become effective for weeks beginning after September 30, 1999.

In general, the eligibility requirements are intended to provides retraining income support to individuals who have (1) been permanently laid off (as defined in section 203), (2) received (or would have received had they applied) unemployment compensation as a result of the layoff, (3) exhausted all rights to unemployment compensation (or would have exhausted had they applied), and (4) are participating and making satisfactory progress in an approved education or training program as part of a reemployment plan developed for the individual by an agency certified by the Secretary to develop such plans.

In addition, the bill would generally require individuals to be enrolled in an education or training program by the later of the 16th week after the permanent layoff or by the 14th week after he, or she, is aware that the layoff is permanent in order to qualify for retraining income support. In situations where there were extenuating circumstances that justified a delay in enrolling in such a program, individuals would be able to get a 30 day extension from the enrollment date requirement. In addition, individuals who have been issued a certificate of continuing eligibility under section 120 would have until the sixteenth week after their separation from the subsequent employment to enroll in training.

Subsection (d) would provide that periods of temporary layoff, of up to 26 weeks, would be counted in determining the length of employment with the layoff employer. In addition, subsection (d) describes other non-work periods that would be included in determining the length of employment with the layoff employer. These include the following: up to 7 weeks in any one-year period of employer-authorized leave or in service as a full-time labor representative; up to 12 weeks in a one-year period for conditions that are described in section 102 of the Family and Medical Leave Act of 1993; and up to 26 weeks in any one-year period for a compensable disability under worker's compensation or for call-up for active duty in the Armed Forces of the United States.

Subsection (e) would make it clear that for the purpose of determining an individual's length of tenure with an employer, all jobs worked by an individual that are covered by a multi-employer pension plan defined in ERISA, and all jobs worked that were obtained through a single hiring hall, would be considered employment for the same employer. In addition, the subsection would include as employment for the same employer all employment for a predecessor employer or a joint employer. As a result of the inclusion of employment for a predecessor employer, employees who work for a business that has been the subject of a merger, sale or spinoff would not have their job tenure reduced as a result of that transaction. As a result of the inclusion of employment for joint employers, employees who are leased to another employer would suffer no diminution of their job tenure as a result of the leasing.

Subsection (f) would provide that brief breaks of up to twenty-eight days, from an education or training program, providing the individual was participating in the program before the break and the break is provided under the program, would be treated as a period in training. As a result, an individual could continue to receive retraining income support during such a break.

Section 203 would set the weekly retraining income support amount payable to an eligible individual at the amount equal to the most recent benefit amount payable to the individual for a week of total unemployment under the State's unemployment compensation law. That amount would be reduced, dollar for dollar, by any training income support provided for that same week under another Federal program. The weekly amount would also be reduced dollar for dollar by an income earned by the individual in employment that exceeds half of the individual's weekly retraining income support.

Section 204 would set the maximum amount of retraining income support that is payable to an individual. Under subsection (a), individuals who are either eligible for retraining income support under section 202(a), or would have been eligible for income support under the trade adjustment assistance program, would be eligible for up to 52 weeks of retraining income support in a 104 week period beginning with the date of permanent layoff. Under subsection (b), individuals with at least one, but less than three, years of work with the same layoff employer (or with at least one year with an employer immediately preceding employment with the layoff employer in the same occupation), would be limited to 26 weeks of retraining income support within a 78 week period beginning with the date of permanent layoff. Both subsections (a) and (b) would reduce the amount of retraining support by the amount the individual has received from extended or emergency unemployment compensation.

Subsection (c) would prohibit the payment of retraining income support to an individual who is receiving remuneration from an on-the-job training program.

Subsection (d) would address the rare situation where an individual becomes eligible for extended unemployment compensation after he, or she, has received the maximum amount of retraining income support. In such a case, the number of weeks of extended benefits would be reduced by the number of weeks that the individual was entitled to retraining income support.

Section 205 would authorize the Secretary to enter into agreements with the States to

pay retraining income support to eligible individuals. Such agreements would, among other things, require the States to notify applicants that participation in an education and training program is a requirement for the receipt of retraining income support and to provide for a system of voluntary withholding of Federal individual income tax.

Section 206 would require the Secretary to establish a system to pay retraining income support to individuals in a State where there is no agreement for the payment of such support with the State.

Section 207 would limit the liability of public officials in making payments under this title.

Section 208 describes the procedures which would have to be followed in cases of fraud and overpayment. Under subsection (a), individuals who receive overpayments would be liable to repay the amount overpaid. However, repayment could be waived if it were determined that the payment was made without fault on the part of the individual and that requiring repayment would be contrary to equity and good conscience. The Secretary could require a State to recover any overpayment by deducting such overpayment from any other unemployment compensation payable to the individual under State or Federal law, as long as the amount deducted would not exceed 50 percent of the amount otherwise payable.

Subsection (b) would define fraud and would specify that an individual who has been found to have committed such would, in addition to any other penalties provided by law, be ineligible for any further payments of retraining income support.

Subsection (c) would provide that no repayments or deductions could be made until notice and a fair hearing have been provided to the individual and the determination has become final. Under subsection (d) amounts recovered would be returned to the Retraining Income Support Account which would be established by section 221.

Section 209 would provide for a penalty of a fine of $1000 or imprisonment for not more than a year, or both, for anyone who makes a false statement of a material fact or who fails to disclose a material fact for the purpose of obtaining or increasing any retraining income support payment.

Section 210 would define the terms specific to part A of the bill.

Section 211 would authorize the Secretary of Labor to prescribe such regulations as may be necessary to carry out part A.

Section 212 would provide that the provisions of part A become effective on July 1, 1995.

Subpart B establishes a Retraining Income Support Account. Section 221 would amend Title IX of the Social Security Act to include a new section 911 establish a Retraining Income Support Account as a separate book account in the Unemployment Trust Fund. For fiscal years 1996 through 2000, this new account would be funded from an annually escalating fraction of the proceeds of the 0.2 percent Federal surtax collected under section 3301 of the Internal Revenue Code. Beginning in fiscal year 2001, the entire 0.2 percent will be directly deposited into the account. The flow of funds to other Federal accounts (ESAA, EUCA, FUA) would not be affected by transfer of funds to this account, and the account would not participate in the borrowing among Federal accounts required by section 910. At all times spending for retraining income support would be capped at the amount of funds in the account.

The new section 911 of the Social Security Act would provide for a permanent appropriation of the funds in the Retraining Income Support Account. This section would also provide for the transfer of funds to the States that have entered into agreements to pay retraining income support. Under the section, the Secretary from time to time would transfer funds for the payment of that support. All money received by a State under this section would have to be used solely for the payment of retraining income support, except that deductions from a payment would be allowed for the purpose of paying health insurance or withholding Federal individual income tax if the recipient of the payment so elected. Any funds not so used in accordance with these provisions would be returned to the Retraining Income Support Account.

Section 222 would amend section 901(c) of the Social Security Act to permit payment from the Employment Security Administration Account (ESAA) for administrative expenses incurred by States in retraining income support payments.

Section 223 sets forth conforming amendments to the Social Security Act and the Internal Revenue Code. Subsection (a) would amend section 905 the Social Security Act to adjust the funding of the Extended Unemployment Compensation Account to take into account the funding of the Retraining Income Support Account. Subsection (b) would amend section 3302 of the Internal Revenue Code to reduce the credit employers in a particular State receive for contributions to a State unemployment fund by 7.5 percent if such State did not enter an agreement under section 205 to administer a program for the payment of retraining income support, or did not fulfill its commitments under such an agreement.

Part C contains the changes in the Tax Code that are necessary for financing the costs of the retraining income support program.

Section 231 would provide for a permanent extension of the 0.2 percent surtax that is scheduled to expire at the end of calendar 1998. For budget purposes, the retraining income support program is primarily financed by program offsets until fiscal year 2000. In that and succeeding fiscal years, the program will be financed entirely by the FUTA surtax.

Section 232 would amend the Tax Code to require States to allow individuals receiving unemployment compensation or retraining income support to have Federal individual income tax withheld at a rate of 15 percent from such compensation on a voluntary basis. States would be required to conform their unemployment compensation laws to provide for voluntary withholding by January 1, 1996. Conforming amendments would be made to allow the use of trust fund monies to pay for the withholding of Federal individual income tax.

Part D provides for the integration of trade-impacted workers into the Comprehensive Reemployment System established under title I and part A of title II of this Act.

Section 241 would phase out both the Trade Adjustment Assistance program and the NAFTA Transitional Adjustment Assistance program. Under subsection (b), those individuals receiving assistance under these programs before July 1, 1995 would be able to receive the balance of their benefits.

Section 242 would establish a transitional certification program for trade-impacted individuals. Subsection (a) establishes within the Department of Labor a temporary, transitional certification program. Upon certification, trade-impacted workers would be eligible for services under the comprehensive reemployment program authorized by title I and income support under part A of title II. The certification process would be the same as is carried out under the current TAA program.

Subsection (b) sets forth the components of the transitional certification program. Paragraph (1) sets forth the eligibility requirements for certifying a group of workers. Paragraph (2) establishes a petition process by which groups of workers may petition for certification. Paragraph (3) details the process by which the Secretary is to make a determination on such a petition, and excludes those whose last layoff from an impacted firm was more than one year before the date of the petition on which the certification was granted. In addition, paragraph (3) would require the Secretary to publish a summary of the determination in the Federal Register, and also authorizes the Secretary to terminate certifications for firms or subdivisions where layoffs from those entities are no longer attributable to foreign trade. Paragraph (4) would give the Secretary the power to subpena witnesses and documents necessary for the making of such a determination.

Subsection (c) limits the filing period for petitions for certification under the transitional program to the period after June 30, 1995 and before July 1, 1999.

Part E includes amendments to the Federal Unemployment Tax Act which would permit States to amend their laws to pay unemployment compensation under a short-time compensation program to an individual who is working reduced hours for the employer, and to pay reemployment bonuses to certain individuals.

Section 251 is basically a technical amendment which would redefine the current definition of short-time compensation program as it was defined in Title IV of the Unemployment Compensation Amendments of 1992 (P.L. 102-318) and include that definition in section 3306(u) of the Federal Unemployment Tax Act. The short-time compensation program is designed to avert layoffs. Under the program, a worker's hours are reduced in lieu of a layoff and the worker is eligible for unemployment compensation based on the proportion of such reduction.

Section 252 would permit States to amend their laws to offer reemployment bonuses equal to no more than four times the individual's weekly amount of unemployment compensation to individuals who are: unemployed; eligible for unemployment compensation, determined as likely to exhaust their unemployment compensation; and who find full-time employment within no more than 12 weeks from the date of filing their initial claim for unemployment compensation. In addition, the new employment must be with an employer other than the one with whom the individual was employed prior to receiving unemployment compensation, and the new employment must continue for at least four months. A State would only be allowed to use this program if it did not add any additional costs to the Unemployment Trust Fund and if the State has a plan for implementing the program that is approved by the Secretary.

Appropriate conforming amendments would also be made to the withdrawal standards in section 3304(a)(4) of the Federal Unemployment Tax Act and section 303(a)(5) of the Social Security Act.

Section 253 would remove the sunset provision from the Self-Employment Assistance

Program, which provides self-employment allowances in lieu of unemployment compensation to assist unemployed workers in starting businesses and becoming self-employed. The sunset provision discourages States from developing the supportive program, including entrepreneurial training, that is to accompany the self-employment effort.

Section 254 provides that the provisions of title II take effect on the date of enactment.

Title III of the bill would establish a program to encourage States to develop and implement Statewide networks of one-stop career centers. These networks would provide a common point of access to employment, education and training information and services to students, workers, and employers. The centers would make services available under employment and training programs administered by the Secretary and would encourage the participation of other Federal, State and local human resource programs.

Section 301 describes the purposes of title III. These include: establishing a national program of grants and waivers of Federal statutory and regulatory requirements to provide States with the opportunity to develop and implement one-stop career center networks; providing seed money to encourage a flexible, nationwide system of one-stop career centers; promoting universal access to a comprehensive menu of quality employment, education and training information and services; encouraging a customer-oriented approach to the provision of services, including features to enhance customer choice and ensure that the satisfaction of individuals with services received is a primary consideration in the administration of the program; establishing a governance structure composed of State, local and Federal partners to ensure common goals, planning, service coordination and oversight of the networks; and providing State and local areas with increased flexibility in the administration of employment and training programs in exchange for greater accountability for outcomes.

Part A of title III contains the components of the voluntary one-stop career center system. Section 311 identifies the seven basic components, which are: the establishment of a workforce investment board; the establishment of one-stop career centers; the provision of certain common services through the one-stop career centers; the participation of Federal employment and training programs; an agreement between all affected parties regarding the operation of the centers; quality assurance systems, including performance standards; and the establishment of a State Human Resource Investment Council.

Section 312 describes the establishment and functions of the workforce investment boards. Under section 312(a), the Governor is to designate one-stop service areas (OSSAs) within the State. The OSSAs are to be either the geographic boundaries of the labor market areas within the State (although no service delivery area or substate area may be subdivided among the OSSAs), the substate areas established under title I of the Act or a consortium of such areas, or the service delivery areas established under JTPA or a consortium of such areas. In order to promote planning and stability, OSSAs may not be redesignated more frequently than once every four years.

Under section 312(b), for each OSSA, the chief local elected official or officials is to establish a workforce investment board. The board is to be composed of five categories of members: first, representatives of private sector employers, who are to be a majority of the board and consist of owners, chief executives or chief managers of businesses; second, representatives of organized labor, and community-based organizations, who are to be at least 25 percent of the board membership and officers of their organizations; third, representatives of educational institutions; fourth, appropriate community leaders, such as leaders of economic development agencies, human service agencies and institutions, veterans' organizations and entities providing job training; and fifth, a chief local elected official, who is to be a non-voting member.

The employer representatives are to be nominated by general purpose business organizations. The labor representatives are to be nominated by recognized State and local labor federations, except that if the federations are unable to nominate a sufficient number of representatives, individual workers may be included. The elected official is to be selected from among the elected officials in the area by such officials. All other members are to be nominated by interested organizations.

The appointments are to be made by the chief local elected official, except if there is more than one unit of government in the OSSA the appointments are to be made in accordance with an agreement between the officials for such units. Absent such agreement, the Governor would appoint the members. The size of the board is to be initially determined by the chief local elected official or officials, and thereafter by the board itself. The members are to be appointed for fixed and staggered terms, and any vacancy is to be filled in the same manner as the original appointment. Any board member may be removed for cause.

The board is to elect a chairperson, from among members who are not public officials or the head of a public agency, for a period to be determined by the board. The chairperson is to appoint appropriate staff, who are not to serve concurrently as the staff of any of the participating programs. The staff may include an executive director.

The board is to be funded pursuant to the one-stop career center operating agreements, based on a budget requested by the board and approved by the chief local elected official. No member of the board may cast a vote that would provide direct financial benefits to that member.

A private industry council (PIC) may become a board with the approval of the chief elected officials if the PIC meets the composition requirements or is reconstituted to meet such requirements. A State Human Resource Investment Council may, in any case where the OSSA is the State, be reconstituted as the board.

The Governor is to certify that a board meets the requirements of this section.

Section 312(c) describes the six basic functions of the board. First, the board is to develop strategic plans and provide policy guidance to the workforce development programs in the OSSA. The strategic plan is to be consistent with the statewide strategic plan developed by the State Human Resource Investment Council and to include measurable objectives for improving the quality and effectiveness of workforce preparation, development, and training in the OSSA and methods for coordinating the programs to provide maximum coverage of the workforce, ensuring equitable access by population subgroups, and enhancing the delivery of services in the OSSA. Second, the board is to utilize available labor market information and other methods to identify available jobs and occupations in demand currently and in the future, the skill requirements relating to those jobs and occupations, and the education and training services available to develop such skills. This information is to be used by the board to develop goals and identify activities to be provided by the workforce development programs. Third, the board is to review and approve budgets for certain Department of Labor-administered employment and training programs and review and provide recommendations regarding the budgets of other programs participating in the one-stop career centers. Fourth, the board is to assume the policy-making functions of the PICs under title II of JTPA and of the Job Service Employer Committees. However, the board may not be the administrative entity for programs under JTPA (as are some PICs), and may not operate any other programs. Fifth, the board is to conduct oversight of implementation of the strategic plan it develops and of the overall performance (rather than day-to-day operations) of programs participating in the one-stop system. Finally, the board is to administer the procedures for establishing one-stop career centers described below.

Section 313 describes the two options for establishing one-stop career centers. Section 313(a) provides that the Governor and the chief local elected official or officials are to jointly select either a consortium option or a multiple independent operator option to establish the centers.

Section 313(b) describes the consortium option. Under this option, the one-stop career centers in the OSSA are to be administered by a consortium that consists of the Employment Service, the substate grantee or grantees under title I of the Act, the administrative entity or entities under title II of JTPA, the State UI agency (unless such agency chooses not to participate), and one or more additional partners that is either a unit of government, a public or private service provider, or a consortium of such units and providers.

A consortium may not be designated to operate a one-stop career center system unless it meets criteria described below under the multiple operator option and agrees to provide for customer choice by operating two or more centers, by administering budget resources to reflect, at least in part, the extent to which each center is used by the public, and by providing equitable access to centers by segments of the population within the one-stop service area.

A consortium is also to identify to the board the procedures that would be used to integrate the administration of programs, such as procedures for cross-training of staff, collocation of facilities, and use of common forms and practices.

The Governor and chief local elected official or officials, in consultation with the workforce investment board, are to review each consortium's performance and once every four years to determine whether to renew the charter.

Section 313(c) described the multiple independent operator option. Under this option, the board is to select two or more entities to operate one-step career centers pursuant to an open selection process. Any entity or consortium of entities may apply to be selected as an operator, including employment service offices, career center operators under title I, service delivery areas or administrative entities under title II of JTPA, community colleges and area vocational schools, community-based organizations and other interested organizations.

There is a special rule under this selection option whereby if the Employment Service or a consortium including the Employment Service applies to be selected and meets the selection criteria, it must be selected as an operator.

The board is to publish information to notify organizations and individuals in the area of: the selection procedures, including the estimated number of one-stop career centers needed and the proposed number of operators to be selected; the application procedures; the criteria for selection; and other information the board deems relevant. In determining the number of one-stop career center operators to be selected, which is to be two or more (see single operator exception below), the board is to consider the size of the labor market, the number of individuals likely to use the centers, the number and capabilities of potential operators, and equitable access by segments of the population to the centers.

The selection criteria are to be issued by the board, consistent with guidelines provided by the Secretary, and based on objective criteria and measures. An applicant may not be selected as an operator (under either selection option) unless the applicant demonstrates to the satisfication of the board that it would: operate a center that would provide the specified common services; utilize automated information systems to exchange information among centers; meet performance standards; ensure effective fiscal and program management; administer the process of referring participants to education and training in an objective and equitable manner; and provide services on a nondiscriminatory basis.

Notwithstanding the requirement for two or more operators, if only one applicant meets the selection criteria, that applicant may be selected as the sole career center operator in the OSSA. This open selection process, under this option, is to be conducted once every four years.

The career centers established under either option are to be issued a charter by the board that will identify the number and location of one-stop centers in the OSSA and the entities operating the centers, provide for display of a national one-stop career center logo, and include such other conditions as the board determines is appropriate.

Section 313(e) contains "honest broker" provisions for one-stop career center operators that concurrently provide education and training services to title I participants. If the workforce investment board, in an annual review, determines that such center has engaged in a pattern of inappropriate referrals to the education and training services of the operator, the Board may terminate the charter of the center or require the operator to cease providing services to participants as a condition for continuing to operate the center.

Section 314 describes the services to be provided through the one-stop career centers. Section 314(a) describes the basic services which are to be made available to the public by each center free of charge. These twelve services are: outreach, including efforts to expand awareness of training and placement opportunities for limited-English proficient individuals, disadvantaged youth and adults, and individuals with disabilities; intake and orientation to the center; assistance in filing an initial unemployment compensation claim; a preliminary assessment of skill levels and service needs; local, regional and national labor market information, including job vacancies, local occupations in demand and the earnings and skill requirements for such occupations; job search assistance; job referrals and job placement assistance; information relating to job training and education programs (including student financial assistance), including the quality and requirements of such programs, and appropriate referrals to such programs; information collected pursuant to the performance standards and customer feedback requirements; assistance in evaluating whether an individual is likely to be eligible for any participating programs; information on programs and providers of dependent care and other supportive services; and soliciting and accepting job orders submitted by employers and referring individuals in accordance with such orders.

Section 314(b) describes the intensive services that are to be provided by the center in accordance with the operating agreement and which must be made available to title I participants who are unable to obtain employment through the basic services. These twelve services are: comprehensive and specialized assessments of skill levels and service needs, including diagnostic testing and in-depth interviewing; the development of individual reemployment plans identifying the employment goal, achievement objectives, and the appropriate combination of services for an individual to achieve the goal; individualized counseling and career planning, including peer counseling and counseling and planning relating to nontraditional employment opportunities; group counseling, including peer counseling which may be available to individuals jointly with immediate family members, and may include counseling on stress management and financial management, and which shall be a basic service for participants in title I under this Act; case management and periodic review of progress toward the employment goal; job development; out-of-area job search allowances; relocation allowances; follow-up counseling; assistance in the selection of education and training providers; assistance in obtaining income support to enable an individual to participate in training; and supportive services.

Section 314(c) describes specialized employer services which may be provided. These are: customized screening and referral of individuals for employment; customized assessment of the skill levels of current employees; analysis of an employer's workforce skill needs; and other specialized services.

Section 314(d) authorizes the one-stop career centers to provide such other additional services as are specified in the operating agreement.

Section 314(e) authorizes a one-stop career center to charge fees for the intensive services, specialized employer services, and the additional services described above if the board approves the fees. However, no fees may be charged for any service an individual is eligible to receive free of charge from a participating program unless there are no funds available under the program to provide those services. All income received from the fees by a public or private non-profit center operator are to be used to expand or enhance the services provided through the centers.

Section 315 identifies the programs that are to participate in the operation of the one-stop career centers. Section 315(a) provides that the programs that are to make basic services available to participants through the one-stop centers are: programs under title I; programs under the Wagner-Peyser Act; programs under title II of JTPA; the Veterans' Employment Service; the Senior Community Service Employment program under title V of the Older Americans Act; and programs authorized under Federal and State UI laws.

Of these programs, title I programs are to provide basic and intensive services through one-stop centers (which are to replace the career centers established under that title). The Wagner-Peyser Act program is to make applicable basic and intensive services available only through the centers. The Veterans Employment Service is to make applicable basic and intensive services available through the centers, but may also provide such services at other locations. All other identified programs may make basic services available through other locations and providers in addition to making them available through the centers. All identified programs may provide additional services through the centers in accordance with the operating agreement.

Section 315(b) provides that other human resource programs may also provide services through the centers and become a party agreement if the board, the local elected official or officials, the Governor and executive officer of other participating programs concur. These programs may include the Job Opportunities and Basic Skills (JOBS) program, the Food Stamp Employment and Training program, the Job Corps, veterans training programs under title IV-C of JTPA, the Perkins Vocational and Applied Technology Education Act programs, Adult Education Act programs, Vocational Rehabilitation Act programs, and programs under the School-to-Work Opportunities Act.

Section 316 describes the operating agreements that are to govern the administration of the one-stop career center system in the OSSA. The operators are to enter into a written agreement with the board and participating programs covering the operation of the centers. The Governor and chief local elected official or officials must approve the agreement and are to oversee the development of the agreement, ensure that it meets applicable requirements, and monitor its implementation.

Section 316(b) describes the contents of the agreement. It is to identify: the services to be provided by the centers and the extent to which the participating programs will provide services through the centers; methods for the referral of individuals by the centers to appropriate services and programs; the financial and nonfinancial contributions to be made to the centers by the participating programs, which are to be based on factors including the number of participants served by the centers and the quality of the services; the financial liability of the respective parties relating to the funds contributed by the participating programs; the financial contributions to be made for the administration of the workforce investment board by each participating program; methods of administration and oversight; a description of how services are to be provided, such as the methods for assessing the skills of individuals; procedures to ensure the utilization of a common local job bank; procedures to be used to ensure compliance with the statutory and regulatory requirements of the participating programs; the duration of the agreement and procedures for amendment; and other provisions the parties deem appropriate.

Section 316(c) requires the parties to the written agreement (center operators, the workforce investment board, and participating programs) to develop an annual budget for the one-stop career centers and the workforce investment board. The budget for

the board is subject to the approval of the local elected official, and the one-stop career center budgets are subject to the approval of both the local elected official and the Governor.

Section 317 describes the quality assurance systems relating to the performance of the centers and workforce investment boards. Section 317(a) describes the performance standards system. The Secretary is to prescribe separate performance standards for the centers and boards. The standards for centers are to be based on factors the Secretary determines are appropriate. These factors may include: placement, retention and earnings of participants in unsubsidized employment; the provision of services to hard-to-serve populations; the acquisition of skills based on skill standards and the certification system established and endorsed under the Goals 2000: Educate America Act; the satisfaction of participants with services provided and employment outcomes; the satisfaction of employers with the job performance of individuals placed; and measures of cost efficiency. The standards for workforce investment board are to be based on the number of job openings received and the proportion of employers listing such openings, the number of job openings filled, and the overall performance of career centers in the one-stop service area. The Governor is to adjust the performance standards for centers and boards, within parameters established by the Secretary, based on economic, geographic and demographic factors in the State and local areas and the characteristics of the population to be served.

The Secretary is to establish uniform criteria for determining whether a one-stop career center of workforce investment board fails to meet performance standards. The Governor is to provide technical assistance to one-stop career centers and boards failing to meet performance standards and is to report annually to the Secretary on the performance of each center and board and the technical assistance to be provided. If a center fails to meet the performance standards for two consecutive years, the board is to revoke the charter of the center. If the center is operated under the consortium option, the board is to select another entity to operate the center pursuant to the multiple independent operator selection process. If the center operator was selected pursuant to that open selection process, then another operator is to be selected pursuant to that same process. If a board continues to fail to meet performance standards for two consecutive years, the Governor must notify the Secretary and the board, and must replace the members of the board, direct the board to replace staff, direct the board to replace the chairperson, or take other appropriate action. The board's revocation of a charter may be appealed by an operator to the Governor and then to the Secretary. A board may similarly appeal any sanctions imposed by the Governor.

Section 317(b) describes the customer feedback process that is to be in place to ensure that each center is responsive to the needs of the individuals receiving services. Under this subsection, the board is to establish methods for obtaining, on a regular basis, information from individuals and employers receiving services through a center on the effectiveness and quality of the services. The feedback mechanisms may include surveys, interviews, focus groups and other techniques. The board is to analyze the information obtained and provide a summary of the information and the analysis to the center for use in improving the quality of services.

Section 318 provides for the establishment of a State Human Resource Investment Council (HRIC) as part of the one-stop career center system. Such councils are authorized under title VII of JTPA and are intended to consolidate separate advisory entities to provide the Governor with a source of coordinated and comprehensive advice relating to the administration of Federal human resource programs in the State. Those human resource program include JTPA, Perkins Vocational Education, Adult Education Act programs, JOBS, and the Food Stamp Employment and Training programs.

Under this section, the State must establish a HRIC and the HRIC is to identify the human investment needs in the State and recommend to the Governor goals for meeting those needs, recommend to the Governor goals for the development and coordination of the human resource system in the State, prepare and recommend to the Governor a strategic plan for accomplishing the goals, and monitor the implementation and evaluating the effectiveness of the plan (such plan is an optional activity under JTPA). In addition, the HRIC is to advise the Governor with respect to all aspects of the development and implementation of the one-stop career center system. Such advice would relate to assessing the labor market, economic and workforce development needs in the State, the designation of OSSAs, measures to evaluate the effectiveness of the workforce investment boards and to facilitate the provision of resources and technical assistance to the boards, developing a mechanism for waiving State statutory and regulatory requirements that would impede the one-stop system, and developing a strategy for collecting information to evaluate the effectiveness of the system and workforce investment programs in the State.

Part B of title III authorizes grants and waivers to promote the development and implementation of the one-stop career center system.

Section 331 authorizes planning and development grants. Section 331(a) authorizes the Secretary to establish a program of competitive grants to the States to assist in the planning and development of a comprehensive Statewide network of one-stop career centers.

Section 331(b) provides that a State desiring a grant is to submit an application to the Secretary at the time, in the manner, and containing the information specified by the Secretary. The application is, at a minimum, to include a timetable and estimated amount of funds needed to plan and develop the one-stop career center system in the State and to describe the manner in which the Governor, local elected officials, representatives of employees and voluntary organizations, community and business leaders, representatives of affected programs and service providers will work together in the planning and development process.

Section 331(c) authorizes the planning grant funds to be used for activities including: identifying and establishing an appropriate State administrative structure; establishing broad-based partnerships to participate in the one-stop system; developing plans to establish the workforce investment boards and the State Human Resource Investment Council; developing the process for selecting and chartering centers; supporting local planning efforts; initiating pilot programs to test components of the system, such as designing common intake forms; analyzing State and local labor markets to assist in the design of the system; analyzing current statutory and regulatory impediments to the establishment of the one-stop system and preparing waiver requests; preparing the Statewide implementation plan required as part of the application for an implementation grant; and other related activities.

Section 332 authorizes State implementation grants. Section 332(a) authorizes the Secretary to establish a program of competitive grants to States to assist in the implementation of the Statewide one-stop career center system.

Section 332(b) provides that any State desiring a grant is to submit, with the agreement of the local elected officials from the OSSAs that are scheduled to immediately begin implementation of the system, an application to Secretary in accordance with procedures specified by the Secretary. The application is, at a minimum, to contain: a plan for a comprehensive, statewide one-stop career center system that includes the seven basic components descried in part A; requests, if any, for waivers of Federal statutory or regulatory requirements necessary to implement the system; and other information specified by the Secretary.

The comprehensive State plan is to: designate a fiscal agent to be accountable for grant funds provided under this section; identify the OSSAs; identify the OSSAs that will immediately begin implementation and the implementation schedule for the remaining OSSAs in the State; identify the workforce development programs that will participate in the system; identify the selection process option that will be used in each OSSA; describe the performance standards the State intends to meet; describe the collaborative procedures to be used by the Governor, local elected officials and officials administering the participating programs; describe the procedures for ensuring the active involvement of all affected parties, including employers, educators, labor organizations, community-based organizations, service providers, and State and local human resource agencies; specify the manner in which States will ensure equitable opportunities for jobseekers, students and employees to receive services from the centers; describe the way in which existing one-stop initiatives, if any, will be integrated into the one-stop system; identify the administrative and management systems that will be used, and the resources that will be used to maintain the system after the grant funds are exhausted.

Section 332(c) specifies the factors which will be given special consideration in the evaluation of the State grant application. The factors are: the extent to which the State one-stop service areas are based on labor market areas, the number of Federal programs that will participate in the centers, inclusion of JOBS and Perkins vocational education programs in the one-stop system, the extent to which a State has already implemented components of the one-stop system described in part A, the proportion of the State's population that would be covered by one-stop service areas agreeing to immediate implementation, and the extent to which the State will supplement access to the one-stop career center services through methods such as kiosks in shopping centers, libraries, community colleges and other community organizations, and through personal telephones or computer lines.

Section 332(d) describes application review procedures. The Secretary determines whether to approve the State's plan. When the determination is positive, the Secretary further determines whether to do one or

more of the following: award an implementation grant; approve the State's request, if applicable, for a waiver; or inform the State of the opportunity to apply for further development funds, unless the State is receiving an implementation grant.

Section 332(e) prohibits the expenditure of grant funds for construction of new buildings.

Section 332(f) specifies that implementation grants are for a one-year period and are renewable for each of the two succeeding years if the Secretary determines the State is making satisfactory progress in implementing its plan.

Section 333 authorizes the waiver of Federal statutory and regulatory requirements that would impede implementation of the one-stop career center system. Section 333(a) provides that a State may, at any point during the development or implementation of the one-stop career center system, request that the Secretary waive statutory and regulatory requirements relating to certain employment and training programs administered by the Secretary of Labor.

Section 333(b) authorizes the Secretary to waive the requirements of the statutes and (with the concurrence of the Director of OMB) OMB circulars listed in subsection (c) and related regulations in response to a request from a State if four conditions are met. These conditions are that: the State submits a plan (containing information the Secretary requires) for a comprehensive statewide one-stop career center system that either includes the seven basic components described in part A (this plan may or may not be part of an application for an implementation grant) or, while not including all these components, demonstrates that the one-stop system will substantially achieve the objectives of the one-stop system; the Secretary determines that the requirement requested to be waived impedes the ability of the State to implement the system; the State waives or agrees to waive similar provisions of State law; and the State has provided an opportunity for the State council or the State Human Resource Investment Council and other interested entities and individuals to comment on the proposed waiver and included such comments with the request. The Secretary is to act promptly on each request and each waiver may be approved for a period of up to four years. This period may be extended if the Secretary determines that the waiver has been effective in assisting the State in implementing the one-stop system.

Section 333(c) identifies the six statutes that may be waived, which are: title I of this Act, JTPA, the Wagner-Peyser Act, title V of the Older Americans Act, title III of the Social Security Act (which provides for UI administrative grants to the States), and chapter 41 of title 38 (veterans employment programs). In addition, this section authorizes the Secretary to waive OMB circulars A-87 (relating to cost principles for State and local governments), A-102 (relating to grants and cooperative agreements with State and local governments), A-122 (relating to nonprofit organizations), and the regulations at 29 CFR 97 (relating to uniform administrative regulations for grants and cooperative agreements to State and local governments).

Section 333(d) provides that the Secretary may not waive any requirements of the statutes identified above that relate to: the basic purposes or goals of the affected programs; maintenance of effort; the formula allocation of funds; the eligibility of individuals; public health or safety, labor standards, civil rights, occupational safety and health or environmental protection; or prohibitions or restrictions relating to the construction of buildings or facilities.

Section 333(e) provides that the Secretary is to periodically review the performance of the States that have been granted waivers and is to terminate a waiver if the State's performance is inadequate or the State has failed to waive similar requirements of State law.

Section 333(f) provides that if there is sufficient information from waiver requests to identify provisions of the circulars or related regulations that consistently impede implementation of a one-stop system, the Secretary is to submit a plan to OMB to grant a general waiver for one-stop areas. The Director of OMB may approve the plan and authorize the Secretary to grant these general waivers if the Director determines the plan would not jeopardize the integrity of Federal funds and would be consistent with the objectives of title III.

Section 334 authorizes the pooling of administrative resources. During the implementation of a one-stop system, a State may, at any point, on behalf of one or more one-stop service areas, submit to the Secretary a plan for the pooling of administrative funds available under two or more of the mandatory participating programs. Under the State plan, each participating program may transfer administrative funds to the one-stop system and allocate the transferred amount to administrative costs at the time of transfer. No further allocation of the transferred funds would have to be made to the particular program. Administrative funds so transferred must be spend only for the administration of allowable activities under the one-stop career center system.

Notwithstanding section 31 U.S.C. 1301, which requires all funds to be allocated to the source of their appropriation, or other provisions of law, the Secretary may approve a State pooling plan if the Secretary determines the plan would not jeopardize the administration of the participating programs and would facilitate implementation of the one-stop system. Where pooling plans are approved, the Secretary is required to regularly review the performance of the applicable one-stop service areas and to rescind the approval if the Secretary determines the area's performance does not adequately justify continuation of the plan or there has been a significant adverse effect on the participating programs.

Section 334(c) provides that, upon approval of the Governor, real property purchased pursuant to UI administrative grants, the Reed Act, or the Wagner-Peyser Act before the effective date of this Act may be used for the one-stop career center. Under current law, such property may only be used for UI or ES programs, depending on the source of funds, and, if such property is to be used for any other purposes, it must be sold. This change will facilitate collocation and an effective one-stop setting. Except if otherwise provided in a pooling arrangement, there are certain limitations included on the future use of such funds to pay for property used by the one-stop center in order to protect the integrity of such funds.

Part C includes additional activities which support one-stop career center systems.

Section 351 provides for the development of a customer service compact. The Secretary is to establish within each one-stop state a process, which includes an annual meeting, involving all parties who administer the one-stop system—the Secretary, Governor, each workforce investment board, and each one-stop career center—to reach an informal agreement among the parties. The agreement is to relate to the shared goals and values that will govern administration of the system, the roles and responsibilities of each party in tailoring and strengthening participant services, methods to ensure that participant satisfaction with services is a primary consideration in administration of the one-stop system, and other appropriate matters.

Section 352 specifies additional State responsibilities for State implementing a one-stop career center system. These include developing and operating administrative and management systems that promote the effective operation of the system; monitoring compliance of the workforce investment boards with the requirements of this title; and providing any necessary technical assistance to workforce investment boards.

Section 353 defines additional Federal responsibilities. The Secretary is authorized to monitor all recipients of funds under the title for compliance with the title's provisions. The Secretary is required to provide staff training and technical assistance to improve the capacity of the full range of public and private partners in the one-stop system to develop and implement the system, and to integrate the capacity-building activities with the Information Dissemination Network established under section 453 of the Job Training Partnership Act. In addition, the Secretary is to develop a national logo and name for one-stop career centers wherever they are located. Finally, the Secretary is to provide for evaluation of the programs under this title, including their cost-effectiveness in achieving the intended purposes. The evaluations must use recognized statistical methods and techniques of the behavior and social sciences, including methods that control for self selection, where feasible, and may include analyses of the costs and benefits of programs, participant and community impacts, and the extent to which needs of various demographic groups are met, and the effectiveness of the various delivery systems.

Part D provides for the effective date of this title. Section 371 provides that the title is to take effect on July 1, 1995, except performance standards, which take effect July 1, 1996.

Title IV establishes a National Labor Market Information System that builds upon and strengthens existing capabilities at the Federal, State and local levels.

Section 401 states that it is the purpose of the title to provide for the development of a labor market information system that will provide locally-based, accurate, up-to-date, easily accessible, user-friendly labor market information, including comprehensive information on job openings, labor supply, occupational trends, wage rates and trends, skill requirements, and performance of programs providing requisite skills, and labor market data necessary for the effective allocation of resources.

Section 402 requires the Secretary to develop, in coordination with other Federal, State and local entities, a strategy to establish a national labor market information system. This strategy must be designed to fulfill the labor market information requirements of other specified Federal programs. In implementing the strategy, the Secretary is authorized to expend funds authorized under this title and funds otherwise available for such purposes, and to enter into intergovernmental cooperative agreements, award grants, and foster the creation of public-private partnerships. The Secretary is also authorized to conduct research and demonstration projects.

Section 403 contains the components of the national labor market information system. Section 403(a) specifies that the Secretary, in cooperation with Federal, State and local entities, and public-private partnerships, is to develop a national labor market information system that makes available the following information: information on the local economy, automated listings of job openings and job candidates, growth and replacement need projections, current supply of labor with specific occupational skills and experience, automated screening systems to determine candidate eligibility for services, consumer reports on local education and training providers, results of customer satisfaction measures for Career Centers, One-Stop Career Centers and other providers, national, State and substate profiles of industries, and automated occupational and career information and exploration systems.

Section 403(b) requires the Secretary to promulgate technical standards necessary to promote efficient exchange of information between the local, State and national levels, including standards to ensure that data are comparable.

Section 403(c) requires the Secretary, in consultation with the Secretary of Education, other Federal agencies and State and local governments, to set standards for consumer reports, and create a mechanism for collection and dissemination of the reports.

Section 403(d) requires the Secretary to provide for the evaluation of national labor market information procedures, products and services, including cost-effectiveness and the level of customer satisfaction. The evaluations may include analyses of the precision of estimates produced or collected, examination of the uses of the data, appropriateness of the uses, and relative data costs/benefits.

Section 404 requires the Secretary to coordinate the activities of Federal agencies responsible for the collection and dissemination of labor market information, and to ensure the appropriate dissemination of information that promotes improvement in the quality of labor market information.

Section 405 specifies that title IV will take effect on July 1, 1995.

Title V amends title II of the Job Training Partnership Act to establish a new part D, "Reinvention Labs", permitting the Secretary to waive Federal statutory or regulatory requirements relating to programs for the economically disadvantaged youth and adults in order to promote program innovations.

Section 501 adds the new Part D to title II of JTPA. The new section 281 of part D states that the purpose of the part is to encourage innovative program designs to enhance the provision of services to and outcomes for economically disadvantaged youth and adults, to develop knowledge relating to effective approaches to serving these groups, and to give service delivery areas (SDAs) greater flexibility in operating their programs in exchange for higher levels of accountability for results.

The new section 282 describes the process for applying for a waiver. Any SDA or consortium of SDAs that desires a waiver of statutory or regulatory requirements relating to parts A, B, or C of title II of JTPA must submit an application to the Secretary that includes a plan that incorporates innovative administrative, service delivery, or other program design components, measurable goals and outcomes to be achieved, the statutory and regulatory requirements to be waived and the rationale, assurances that the SDA and State will participate in a rigorous evaluation to determine whether the goals and outcomes have been achieved, and other components and information the Secretary determines are appropriate.

The new section 283 authorizes the Secretary to waive statutory or regulatory requirements if the Secretary determines they would impede the SDA in carrying out its plan, the SDA and State have provided interested entities and individuals an opportunity for comment and have submitted such comments to the Secretary, and the Secretary has approved the plan. The waivers may not alter the purposes or goals of the affected program; the formula allocation of funds under the program; eligibility requirements; any law respecting public health or safety, labor standards, civil rights, occupational safety or health, or environmental protection; or prohibitions or restrictions relating to construction of buildings or facilities. The Secretary is limited to approving 75 applications nationwide, and each waiver is limited to 2 years, except that the Secretary may extend the period of the waiver if it is determined the waiver has been effective in enabling the SDA to carry out the purposes of JTPA (but in no case may waivers remain in effect after a date that is 4 years after enactment of the Reemployment Act). The Secretary must periodically review the performance of SDAs receiving waivers, and must terminate the waiver if the performance of the SDA is inadequate to justify the waiver's continuation.

The new section 284 authorizes the Secretary to provide technical assistance in the development and implementation of the programs and requires the Secretary to conduct an evaluation of the program. The Secretary is to submit a report relating to the evaluation to the Congress not later than 5 years after enactment of this Act.

Section 502 makes a technical amendment to section 141(d)(3)(B) of JTPA to add postsecondary vocational institutions to the list of other postsecondary institutions that are exempt from breaking down costs for purposes of the JTPA program.

Section 503 provides that the Reinvention Lab provisions are to take effect on the date of enactment and to terminate 5 years thereafter. The technical amendment to the tuition definition would take effect on the date of enactment.●

● Mr. BRADLEY. Mr. President, as I said on the floor last fall, the world is undergoing four fundamental transformations: The end of the age of ideology, the explosion of world markets, the knowledge revolution, and the evolving connection between economic growth and debt—both public and private. Each of these transformations leads us to a more secure and prosperous future, but each transformation has also brought disruption, uncertainty, and job loss.

Government must embrace these transformations but must ensure that every worker has an economic security platform from which to weather the changes. Health care, a secure pension, and lifetime education. To provide the last plank of that platform, to enable workers to move securely from job to job, Senator MOYNIHAN and I today introduce the Reemployment Act on behalf of the President. The Reemployment Act will give every individual worker a new kind of security in the work force—a security that is rooted in skills, and in the lifelong opportunity to upgrade those skills. Lifelong education allows us to face all the transformations in our economy, whatever the cause, with confidence.

Without question, American workers do not believe the current system provides real security, and they are right. There are too many restrictions, too much confusion, and too few opportunities. Workers face a bureaucracy overwhelmed by paperwork requirements to classify workers into those who lost their jobs to defense cuts, imports, or for some other reason. The bureaucracy is so busy classifying workers and meeting the paperwork demands of all the disparate programs that they cannot respond to real needs. With the Reemployment Act, we will respond immediately when a plant closes, whether the plant is small or large, and we will guarantee training for every worker, whether the job is lost to technology, trade, corporate mergers, or just the natural cycle of creative destruction that makes capitalism work.

The bill has five parts: Services and training for all dislocated workers; income support during training; one-stop career centers; national labor market information system; and reinvention labs for job training for the economically disadvantaged.

The first component of the act provides a seamless program for reemployment of dislocated workers regardless of the cause of dislocation. Currently there are six dislocated worker programs: EDWAA [Economic Dislocation and Worker Adjustment Act]; Defense Conversion Adjustment; Clean Air Employment Transition Assistance; Defense Diversification Program; TAA [Trade Adjustment Assistance]; and NAFTA Transitional Adjustment Assistance. Six different programs that should provide security to dislocated workers. Six distinct programs that are currently unable to adequately serve the displaced worker population. The Reemployment Act of 1994 will consolidate these programs to provide greater outreach, individualized services, comprehensive reemployment services, and above all, quality training. This ambitious consolidated program, which will hold training providers accountable for results, draws largely on the lessons of State-level experiments, notably the Workforce Development Partnership Act in my own State of New Jersey.

The second part of the bill provides income support for all dislocated workers who are in training. The promise of a consolidated training program is empty if workers cannot take advantage of it. Today, many workers do not get the training they need because they cannot afford to spend a year doing nothing but going to school.

They need the training, the training is available, but they need to work, at any job they can get. Many dislocated workers are forced to take a job that pays much less than they were earning, and much less than they have the potential to earn with just some training on specific skills, such as moving from operating a lathe to operating a computer-assisted machine tool. To ensure that the potential of these workers is not wasted, successful programs use income support during training, along the lines of Trade Adjustment Assistance. This legislation ensures income support for anyone who has been working for three years, and aims to provide it if possible for any one who has been working for 1-3 years.

Trade Adjustment Assistance has been a model program in helping workers deal with just one of the economic transformations that has been putting jobs at risk. The Reemployment Act consolidates TAA, but it does it in the right way, by ensuring that anyone who would have been eligible for TAA, even if they hadn't been working for three years, will receive everything they would have received under TAA—training and income support. There have been some criticisms of TAA, particularly because of the number of workers who are permitted by waiver to receive income support without enrolling in training, but this legislation closes that loophole while broadening the reach of income support. I have one caveat about the administration's bill: Last year we enacted a special TAA program for workers dislocated as a result of NAFTA production shifts. While I believe that program should be consolidated along with the other five, I hope that NAFTA-dislocated workers have the same protection as TAA-eligible workers, even if they do not have 3 years on the job.

One-stop career centers, established by the third title of this bill, will provide information on employment opportunities, education and training information, and services for anyone who needs help getting a job will be under one roof. Although there are still some serious questions to be worked out about the role of workforce investment boards and other agencies, one-stop career centers have the potential to transform through competition the cold and aloof bureaucracy that is most workers' first encounter with Government services for dislocated workers. Title IV establishes a national labor market information system that will provide timely, accurate, up-to-date information on available employment opportunities. Finally, the bill also provides for reinvention labs for job training for the economically disadvantaged.

Together these five components—services and training for all dislocated workers; income support during training; one-stop career centers; national labor market information system; and reinvention labs for job training for the economically disadvantaged—will help to ensure that the 2.2 million full-time workers whose jobs are lost each year get back into the work force quickly, without losing income, and with higher skills and productivity.

Lifetime education must mean more than just the training programs that are available through these services. It has to mean that anyone, at any age, can get whatever they need to move to the higher level. Three years ago, I proposed self-reliance loans as a way for anyone to get an education and repay a percentage of the income they will gain from that education. I am pleased that this legislation builds on the idea of income-contingent loans to serve those who want more traditional education, or who have not been in the work force for 1 year.

We cannot survive with 40 percent of Americans with high wages, 40 percent with low wages, and 20 percent unemployable. The only sure way that America will provide its workers more jobs and higher wages is if they have higher skills. And the more American workers who have superior talents, the higher our productivity will be, and the faster the economy will grow. I believe this legislation will provide that economic security platform.●

● Mr. DODD. Mr. President, it gives me great pleasure to add my brief remarks upon the introduction of President Clinton's new job retraining initiative: The Reemployment Act of 1994.

I want to commend the President and Labor Secretary Robert Reich for their efforts on this proposal. Clearly we must rethink the way we serve dislocated workers, since the world has changed and good jobs are disappearing—not temporarily, but permanently. I am an original cosponsor of this measure. Although I view it only as a starting point, I believe it is a healthy first step toward addressing our structural unemployment problems.

I understand that the administration has relied on some outstanding models for the one-stop center concept, including one in Hamden, CT. This particular center happens to be working very well, and I am pleased that Secretary Reich was able to pay it a visit earlier this year.

However, let's not kid ourselves, Mr. President—the real issue is jobs. No matter how comprehensive our retraining programs are, they cannot succeed without real job growth.

In my own State of Connecticut, we have lost thousands of defense-related jobs—not hundreds, thousands. These are jobs that are not coming back. It seems to me that in cases such as these, with massive dislocations, the question is not about the quality of the job search or choosing the right training opportunity. In Connecticut, there simply aren't thousands of jobs in other fields waiting for them out there.

In this current round of layoffs, the workers are older—in their 40's and 50's—with 10 or 20 years on the job.

I recognize that in other parts of the country, the economy is improving, with new jobs being added. And I want to make it clear that I believe we ought to be doing all that we can to see to it that workers who are seeking help with job searches and retraining are getting the assistance that they need. But I also believe it would be a grave mistake to abandon what must be our primary mission—to stimulate job creation.

When I talk to people in Connecticut who are out of work, and I mention retraining, they frankly get angry with me.

Clearly, the Federal Government cannot supply all the jobs that are needed. We need to focus on developing a partnership with the private sector; for example, by helping to direct capital into job-starved areas. We know that there is capital out there, but it still is not reaching a large segment of small business, where most of the job growth in the past few years has occurred.

Unfortunately, past administrations put little faith in job retraining, insisting instead that job creation alone would ensure that all who wanted to work, could work. Well, I happen to agree with you, Secretary Reich, that without the necessary skills, many workers will continue to be shut out from good, high-paying jobs. But I would hate to see the pendulum swing too far the other way: By assuming that if we ready our work force for a new generation of jobs, those jobs will automatically appear on cue.

I think we simply must concentrate on both job retraining and job creation. The two should complement each other.

Mr. President, I know that the President and Secretary Reich are as committed to job growth as I am. And I want to reiterate my belief that we need to give workers the tools necessary to cope with the dynamic labor markets of the 21st century. I look forward to working with the administration on this most difficult and important challenge of adequately preparing our work force and seeing to it that the jobs will be there.

I thank you, Mr. President, for this opportunity to add my thoughts on this critically important issue.●

By Mr. JOHNSTON (for himself, Mr. MOYNIHAN, Mr. BREAUX, Mr. PELL, Mr. STEVENS, Mr. THURMOND, Mr. WARNER, Mr. GORTON, Mr. SHELBY, Mr. HOLLINGS, Mr. DECONCINI, Mr. BOND, Mr. CONRAD, and Mr. REID):

S. 1952. A bill to authorize the minting of coins to commemorate the 175th

anniversary of the founding of the U.S. Botanic Garden; to the Committee on Banking, Housing, and Urban Affairs.

U.S. BOTANIC GARDEN COMMEMORATIVE COIN ACT OF 1995

• Mr. JOHNSTON. Mr. President, one of Washington, DC's most historic institutions is poised to celebrate an important milestone. In 1995, the U.S. Botanic Garden will mark 175 years of fulfilling George Washington's vision of a botanic garden at the seat of Government.

The U.S. Botanic Garden is this country's oldest continuously operating botanic garden with a history almost as old as our Nation itself. Established in 1820, it is a valuable resource and a living library of permanent, international collections of tropical, subtropical, and desert plants. Its purpose as an educational display garden is to inform and educate visitors about the importance, and often irreplaceable value, of plants to the well-being of humankind and to the fragile environments that support all life.

The programs provided by the garden include opening its doors free of charge to thousands of visitors from all over the world 365 days a year, hosting group tours, and sponsoring horticultural, botanical, and environmental classes at no charge.

In recognition and celebration of this significant milestone in the life of our Capitol's closest neighbor on The Mall, several of my colleagues and I are proud to introduce legislation to authorize the minting of coins to commemorate the 175th Anniversary of the U.S. Botanic Garden. Proceeds from the sale of these coins will be paid to the National Fund for the U.S. Botanic Garden for the purpose of building the new National Garden at the U.S. Botanic Garden.

The Architect of the Capitol, under the supervision of the congressional Joint Committee on the Library, has been authorized by legislation passed by the Congress in 1988 to design and construct the National Garden. Under a contract with the National Fund for the U.S. Botanic Garden, the Architect has designated the fund, a charitable (501)(c)(3) organization, as the primary means for soliciting private contributions for that purpose.

The new National Garden will be a premier showcase for unusual, useful and ornamental plants that grow well in the Mid-Atlantic region. It will be built on a 3-acre site immediately adjacent to the Botanic Garden Conservatory, located on The Mall between Maryland and Independence Avenues. The three major features of the National Garden—the Environmental Learning Center, the Rose Garden, and the Water Garden—will provide a hands-on, living laboratory and a beautiful place to exhibit our national flower, the rose.

The National Garden will expand the U.S. Botanic Garden's ability to address the public's concern for the environment. It will examine, in formal and informal settings, natural habitats, and the interrelationships between plants, humankind, and nature. Through its collections, exhibits, displays, and educational programs, it will communicate a benevolent attitude toward nature and will illuminate for the visitor the ecological and environmental responsibilities of individuals and society. It will be equipped to serve all people, including those who are physically challenged.

Visitors will leave the National Garden with a heightened sense of stewardship and an understanding of their role and responsibility to preserve and protect for future generations. The National Garden will commemorate the bicentennial of the U.S. Congress and will be dedicated in 1995 in conjunction with the U.S. Botanic Garden's 175th anniversary.

Sales of this commemorative coin will be an essential part of a national, broad-based effort to raise the funds necessary to build the National Garden and ensure that the dream becomes reality. The coin presents an opportunity to invest in the future of the Botanic Garden and enhance George Washington's vision of the Botanic Garden as a place where people of all ages from every corner of the world can come to study, be inspired and enjoy. I urge my colleagues to support this important legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1952

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 "United States Botanic Garden Commemorative Coin Act of 1995".

SEC. 2. COIN SPECIFICATIONS.

(a) ONE-DOLLAR SILVER COINS.—

(1) ISSUANCE.—The Secretary of the Treasury (hereafter in this Act referred to as the "Secretary") shall issue not more than 500,000 $1 coins, which shall weigh 26.73 grams, have a diameter of 1.500 inches, and contain 90 percent silver and 10 percent copper.

(2) DESIGN.—The design of the coins issued under this Act shall be a rose, the national floral emblem, and a frontal view of the French facade of the United States Botanic Garden. On each coin there shall be a designation of the value of the coin, an inscription of the year "1995", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) LEGAL TENDER.—The coins issued under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

SEC. 3. SOURCES OF BULLION.

The Secretary shall obtain silver for the coins minted under this Act only from stockpiles established under the Strategic and Critical Materials Stock Piling Act.

SEC. 4. SELECTION OF DESIGN.

The design for the coins authorized by this Act shall be selected by the Secretary after consultation with the National Fund for the United States Botanic Garden 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.

SEC. 5. ISSUANCE OF COINS.

(a) QUALITY OF COINS.—Coins minted under this Act may be issued in uncirculated and proof qualities.

(b) 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 Act.

(c) PERIOD OF ISSUANCE.—The Secretary may issue coins minted under this Act during the period beginning on January 1, 1995, and ending on December 31, 1995.

SEC. 6. SALE OF COINS.

(a) SALE PRICE.—The coins authorized under this Act shall be sold by the Secretary at a price equal to the sum of the face value of the coins, the surcharge provided in subsection (d) with respect to such coins, and the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) BULK SALES.—The Secretary shall make bulk sales available at a reasonable discount.

(c) PREPAID ORDERS.—The Secretary shall accept prepaid orders for the coins authorized under this Act prior to the issuance of such coins. Sales under this subsection shall be at a reasonable discount.

(d) SURCHARGE REQUIRED.—All sales shall include a surcharge of $10 per coin.

SEC. 7. 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 Act. Nothing in this section shall relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

SEC. 8. DISTRIBUTION OF SURCHARGES.

All surcharges received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the National Fund for the United States Botanic Garden.

SEC. 9. AUDITS.

The Comptroller General shall have the right to examine such books, records, documents, and other data of the National Fund for the United States Botanic Garden as may be related to the expenditures of amounts paid under section 8.•

By Mr. EXON:

S.J. Res. 173. A joint resolution proposing an amendment to the Constitution relating to the election of the President and the Vice President of the United States; to the Committee on the Judiciary.

ELECTORAL COLLEGE CONSTITUTIONAL AMENDMENT

Mr. EXON. Mr. President, I am reintroducing my proposed constitutional amendment to eliminate the electoral college. I strongly believe in the principal of one person, one vote. Under the current system, the 11 most

populous States could theoretically pick the President, even if the losing Presidential candidate won the popular vote by a wide margin. In the lull between Presidential elections, this is an ideal time to consider this change.

Mr. President, I am pleased to offer again this amendment to the Constitution of the United States to eliminate the electoral college, to permit the direct election of the Presidential ticket and to assure that the American President has the support of the majority of those who vote.

Mr. President, I simply reference the situation that confronted us that all too quickly is forgotten about 18 months ago during the Presidential elections of 1992. You will remember at that time there was great concern in the country and great concern in the Congress about the fact that we had three prominent candidates for President of the United States. There were all kinds of concerns and discussions about different scenarios that might come to pass very easily and, therefore, the fact that no candidate would receive a sufficient number of electoral votes and the election of a President would be thrown into the House of Representatives.

It seems to me, Mr. President, therefore, that I would emphasize once again this is indeed time for a change.

I have offered this legislation in each Congress since 1988 and supported a similar bill offered by former Senator Birch Bayh of Indiana in 1979.

It is time to do away with the electoral college and make the votes of every citizen count. The electoral college is an anachronism, a relic, an antique, not appropriate for a democracy over two centuries old. The United States is now mature enough to elect its own President.

The American people also agree. Over the years, public opinion has consistently favored the direct election of the President.

The electoral college is an antidemocratic institution. With its winner-take-all tradition, votes for opposing candidates in each State are essentially eliminated from consideration.

Mr. President, it is a winner-take-all tradition because there is nothing to legally bind electors to vote any particular way. The electoral college could disregard the popular vote entirely and vote as they please.

Several times in American history, including in the 1988 election, one or two so-called faithless electors voted for candidates of their own choosing. In a close three-way race a coalition of faithless electors could create a great deal of mischief.

While an occasional faithless elector will not threaten the outcome of an election, three times in our Nation's history, Presidents were elected without a popular mandate.

The 1992 election was almost a classic case in point. When H. Ross Perot was a strong candidate, there was a real possibility that the election would be thrown into the House of Representatives and Senate. My colleagues may remember the fall of 1992 when the news media was in a frenzy and House Members were being asked constantly for whom they would pledge their votes if the election should be thrown into that Chamber.

This would be the most disruptive situation. An election would be thrown into the House of Representatives and the Senate when no candidate receives an electoral college majority. The House would pick the President from among the top 3 candidates, voting as 50 State delegations. The Senate would pick the Vice President from the top two candidates with each Senator having a single vote. Not only could the will of the people be thwarted, but the President and Vice President could be mixed and matched among the top three parties.

If the 1992 election had been thrown to the House of Representatives, a President Clinton could have been required to serve for 4 years with a Vice President Quayle or Stockdale.

Mr. President, the people should pick their President, not the electoral college or Congress. Yet, as recently as 1992, this type of chaos was a threat. The consequences for a future President, and the American people, would be hard to comprehend. But we know one thing—this situation must be avoided.

The electoral college is an institution which in theory could crush the will of the people. A Presidential ticket only needs to win the 11 largest States, even by the very narrowest margins, and lose all other States even by significant margins to be elected; regardless of the total popular vote.

The last Presidential election is a dramatic case in point of why a change is necessary. Although we averted the House selecting the President and Vice President, we elected a President and Vice President with less than a majority of the popular vote. That is not majority rule. Fundamental to a democracy, the electoral college system must go. I reintroduce this legislation as I have in the past because my concern about the present obvious faulted system of the electoral college. It is based on a strong belief in the principle of one person-one vote in the selection of our President.

The proposed constitutional amendment I introduce today eliminates the electoral college and allows the people to choose their President. Under this proposal, if no Presidential ticket should receive at least 50 percent of the popular vote and the majority of the vote in at least one-third of the States, a run-off election between the two highest vote-getters would be held.

This system will guarantee that the will of the people will prevail but at the same time will protect the Nation against the regional factionalism feared by our Founding Fathers.

I do not represent this proposed legislation to be the one and only way to bring more democracy to a Presidential election. The 1992 Presidential campaign brought the electoral college to the attention of many Americans for the very first time. I want to continue this national examination of our electoral process.

I am especially delighted that the Nebraska State Legislature led by Lincoln Senator Dianna Schimek reexamined the Presidential electoral process and enacted a reform which allocates electors on a proportional basis. The Nebraska system, like Maine, awards electors for each congressional district carried by a Presidential ticket and the winner of the State receives two bonus electors. While the new system in Nebraska did not change the outcome of the 1992 election, the system is inherently more democratic than the winner-take-all approach.

The Nebraska-Maine approach is a significant improvement in the current system. In my view a more democratic approach would be the change I recommend today.

Our Nation's constitutional history is one of granting increasing democratic power to the people. The Nation has never been satisfied with the democratic status quo. The direct election of the President simply continues America's long march to improve and strengthen her democracy.

I look forward to a continued national discussion and debate on the electoral college. I ask my colleagues to give this proposed constitutional amendment serious consideration.

Mr. President, I ask unanimous consent that the text of this proposed constitutional amendment be printed in the RECORD.

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

S.J. Res. 173

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

ARTICLE

"SECTION 1. The people of the several States and the District constituting the seat of government of the United States shall elect the President and Vice President. Each elector shall cast a single vote for two persons who shall have consented to the joining of their names as candidates for the offices of President and Vice President.

"SECTION 2. The electors of President and Vice President in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature, except that for the electors or Presi-

dent and Vice President, any State may prescribe by law less restrictive residence qualifications and for electors of President and Vice President the Congress may by law establish uniform resident qualification.

"SECTION 3. The persons joined as candidates for President and Vice President having the greatest number of votes shall be elected President and Vice President, if such number be at least 50 per centum of the whole number of votes cast and such number be derived from a majority of the number of votes cast in each State compromising at least one-third of the several States. If, after any such election, none of the persons joined as candidates for President and Vice President is elected pursuant to the preceding sentence, a runoff election shall be held within sixty days in which the choice of President and Vice President shall be made from the two pairs of persons joined as candidates for President and Vice President receiving the greatest number of votes in such runoff election shall be elected President and Vice President.

"SECTION 4. The times, places, and manner of holding such elections and entitlement to inclusion on the ballot shall be prescribed by law in each State; but the Congress may by law make or alter such regulations. The days for such elections shall be determined by Congress and shall be uniform throughout the United States. The Congress shall prescribe by law the times, places, and manner in which the results of such elections shall be ascertained and declared. No such election, other than a runoff election, shall be held later than the first Tuesday after the first Monday in November, and the results thereof shall be declared no later than thirty days after the date which the election occurs.

"SECTION 5. The Congress may by law provide for the case of the death, inability, or withdrawal of any candidate for President or Vice President before a President and Vice President have been elected, and for the case of the death of either the President-elect or the Vice President-elect.

By Mr. BIDEN (for himself, Mr. HATCH, Mr. CRAIG, Mr. DOMENICI, Mr. PRYOR, Mr. WOFFORD, Mr. GRAHAM, Mr. BRADLEY, Mr. LAUTENBERG, Mr. MACK and Mr. ROBB):

S.J. Res. 174. A joint resolution designating April 24 through April 30, 1994 as "National Crime Victims' Rights Week"; to the Committee on the Judiciary.

NATIONAL CRIME VICTIMS' RIGHTS WEEK

Mr. BIDEN. Mr. President, I rise today with my colleague Senator HATCH to introduce a joint resolution designating the week beginning April 25, 1994, as "National Crime Victims' Rights Week."

Every 22 minutes, an American is murdered. Every minute four women are battered, one woman is raped, six children are abused, and one person is robbed. There is no safe haven: We are not wholly safe on our streets or in our neighborhoods; our children are at risk in schools and on campuses; and even in what should be a sanctuary—the home—millions of Americans are attacked.

Behind each of the faceless statistics is a human face. These victims often suffer devastating psychological, physical, and financial hardships. They need and deserve quality care. They need and deserve services and support programs to help them recover from their tragedies.

Over 10,000 public and private agencies and organizations in the United States are dedicated to lessening the suffering of victims. Yet often, these victim assistance advocates—who work tirelessly on behalf of our Nation's victims—are not given proper recognition. Although they often go unthanked, they are not unappreciated. These people deserve our respect and encouragement for their valiant efforts.

This resolution pays tribute to the many men and women who give so much of their lives to help put back the lives of this Nation's crime victims.

Last year, Congress passed this resolution in recognition of victims and those who champion their rights with strong bipartisan support. I look forward to the same support this year. I ask all of my colleagues to join me in supporting this resolution.

Mr. President, I ask for unanimous consent that the full text of the resolution be printed in the RECORD.

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

S.J. RES. 174

Whereas public opinion polls clearly indicate that crime and violence is the number one concern among all U.S. citizens;

Whereas 6,400,000 violent crimes are committed each year in the United States;

Whereas every minute in the United States, four women are battered, one woman is raped, six children are abused, and one person is robbed;

Whereas there is a crucial need to provide crime victims with quality programs and services to help them recover from the devastating psychological, physical, emotional and financial hardships resulting from their victimization;

Whereas there are 10,000 public and private agencies and organizations in the United States that are dedicated to improving the plight of crime victims;

Whereas victims play an indispensable role in bringing offenders to justice and thus preventing further violence;

Whereas law abiding citizens are deserving of rights, resources, restoration and rehabilitation;

Whereas victim service providers, counselors and advocates should enjoy full support from all public and private institutions, entities and individuals in their efforts to render critical assistance to those whom our Nation failed to protect;

Whereas the Nation's victims' rights movement and allied professions deserve recognition for their tireless efforts on behalf of victims of crime and their struggle to reduce senseless violence in America; and

Whereas whether measured in dollars, domestic tranquillity, dread or death, crime represents the greatest threat to Americans and America. Therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 24–30, 1994, be designated as "National Crime Victims' Rights Week," and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate ceremonies and activities.

ADDITIONAL COSPONSORS

S. 21

At the request of Mrs. FEINSTEIN, the names of the Senator from Louisiana [Mr. JOHNSTON], the Senator from South Carolina [Mr. HOLLINGS], and the Senator from Arkansas [Mr. PRYOR] were added as cosponsors of S. 21, a bill to designate certain lands in the California Desert as wilderness, to establish Death Valley, Joshua Tree, and Mojave National Parks, and for other purposes.

S. 266

At the request of Mr. SIMON, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 266, a bill to provide for elementary and secondary school library media resources, technology enhancement, training and improvement.

S. 277

At the request of Mr. SIMON, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 277, a bill to authorize the establishment of the National African American Museum within the Smithsonian Institution.

S. 575

At the request of Mr. KENNEDY, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 575, a bill to amend the Occupational Safety and Health Act of 1970 to improve the provisions of such act with respect to the health and safety of employees, and for other purposes.

S. 1037

At the request of Mrs. MURRAY, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of S. 1037, a bill to amend the Civil Rights Act of 1991 with respect to the application of such act.

S. 1063

At the request of Mr. HATCH, the name of the Senator from Wyoming [Mr. WALLOP] was added as a cosponsor of S. 1063, a bill to amend the Employee Retirement Income Security Act of 1974 to clarify the treatment of a qualified football coaches plan.

S. 1275

At the request of Mr. RIEGLE, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 1275, a bill to facilitate the establishment of community development financial institutions.

S. 1288

At the request of Mr. AKAKA, the name of the Senator from Missouri [Mr. DANFORTH] was added as a cosponsor of S. 1288, a bill to provide for the coordination and implementation of a national aquaculture policy for the pri-

vate sector by the Secretary of Agriculture, to establish an aquaculture commercialization research program, and for other purposes.

S. 1696

At the request of Mr. HATFIELD, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 1696, a bill to amend the Military Selective Service Act to terminate the registration requirement and to terminate the activities of civilian local boards, civilian appeal boards, and similar local agencies of the Selective Service System.

S. 1814

At the request of Mr. DASCHLE, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 1814, a bill to amend the Internal Revenue Code of 1986 to provide that a taxpayer may elect to include in income crop insurance proceeds and disaster payments in the year of the disaster or in the following year.

S. 1838

At the request of Mr. SHELBY, the name of the Senator from Tennessee [Mr. MATHEWS] was added as a cosponsor of S. 1838, a bill to liberalize controls on the export of telecommunications equipment and technology in order to promote democracy and free communication and enhance economic competitiveness.

S. 1865

At the request of Mr. MCCAIN, the name of the Senator from Georgia [Mr. NUNN] was added as a cosponsor of S. 1865, a bill to amend title XIX of the Social Security Act to promote demonstrations by States of alternative methods of more efficiently delivering health care services through community health authorities.

S. 1885

At the request of Mr. DECONCINI, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 1885, a bill to amend the National Security Act of 1947 to provide a uniform framework for the classification and declassification of information in the interests of national security.

S. 1904

At the request of Mr. ROCKEFELLER, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 1904, a bill to amend title 38, United States Code, to improve the organization and procedures of the Board of Veterans' Appeals.

S. 1905

At the request of Mr. ROCKEFELLER, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 1905, a bill to improve the processing of benefits claims by the Department of Veterans Affairs.

S. 1908

At the request of Mr. ROCKEFELLER, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 1908, a bill to provide for a study of the processes and procedures of the Department of Veterans Affairs for the disposition of claims for veterans' benefits.

S. 1910

At the request of Mr. JOHNSTON, the names of the Senator from Mississippi [Mr. COCHRAN] and the Senator from Alabama [Mr. HEFLIN] were added as cosponsors of S. 1910, a bill to establish a national research program to improve the production and marketing of sweet potatoes and increase the consumption and use of sweet potatoes by domestic and foreign consumers, and for other purposes.

S. 1913

At the request of Mr. COCHRAN, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 1913, a bill to extend certain compliance dates for pesticide safety training and labeling requirements.

SENATE JOINT RESOLUTION 146

At the request of Mr. WOFFORD, the names of the Senator from California [Mrs. BOXER] and the Senator from Vermont [Mr. LEAHY] were added as cosponsors of Senate Joint Resolution 146, a joint resolution designating May 1, 1994, through May 7, 1994, as "National Walking Week".

SENATE RESOLUTION 170

At the request of Mr. CHAFEE, the names of the Senator from Idaho [Mr. CRAIG] and the Senator from Maryland [Mr. SARBANES] were added as cosponsors of Senate Resolution 170, a resolution to express the sense of the Senate that obstetrician-gynecologists should be included as primary care providers for women in Federal laws relating to the provision of health care.

AMENDMENTS SUBMITTED

COMMUNITY DEVELOPMENT BANKING AND FINANCIAL INSTITUTIONS ACT

ROTH (AND D'AMATO) AMENDMENT NO. 1533

Mr. ROTH (for himself and Mr. D'AMATO) proposed an amendment to amendment No. 1525 proposed by Mr. RIEGLE to the bill (S. 1275) to facilitate the establishment of community development financial institutions; as follows:

SEC. 404. EFFECTUATING THE PRINCIPLE OF NATIONAL TREATMENT FOR INSURERS AND REINSURERS.

(a) PURPOSE.—The purpose of this section is to encourage foreign countries to accord national treatment to United States insurers and reinsurers that operate or seek to operate in those countries.

(b) IDENTIFYING COUNTRIES THAT DENY NATIONAL TREATMENT TO UNITED STATES INSURERS OR REINSURERS.—The President or the President's designee shall identify whether and to what extent foreign countries deny national treatment to United States insurers or reinsurers—

(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 President deems appropriate.

(c) DETERMINING WHETHER DENIAL OF NATIONAL TREATMENT HAS SIGNIFICANT ADVERSE EFFECT.—

(1) IN GENERAL.—The President shall determine whether the denial of national treatment to United States insurers or reinsurers 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 insurers or reinsurers, and in determining the effect of any such denial on such insurers or reinsurers, the President 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 insurers or reinsurers operate or seek to operate in those markets;

(B) the extent to which United States insurers or reinsurers 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 insurers or reinsurers 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 effects of the regulatory policies of the foreign country on—

(i) the licensing policies of the insurance regulator of that country;

(ii) capital requirements applicable in that country;

(iii) restrictions on acquisitions or joint ventures and operations thereof by insurers or reinsurers in that country; and

(iv) restrictions on the operation and establishment of branches in that country.

(d) PUBLICATION OF DETERMINATION.—

(1) IN GENERAL.—If the President determines under subsection (c) that the denial of national treatment to United States insurers or reinsurers by a foreign country has a significant adverse effect on such organizations, the President—

(A) may, after initiating negotiations in accordance with subsection (f) publish that determination in the Federal Register;

(B) shall, not less frequently than annually, in consultation with any department or agency that the President deems appropriate, review each such determination to determine whether it should be rescinded; and

(C) shall inform State insurance commissioners of the publication of that determination.

(2) EXCEPTION FOR COUNTRIES THAT ARE PARTIES TO CERTAIN AGREEMENTS GOVERNING FINANCIAL SERVICES.—Paragrah (1) shall not apply to a foreign country to the extent that any authority under that paragraph would permit action to be taken that would be inconsistent with a bilateral or multilateral agreement including any dispute resolution

procedures contained in such agreement that governs financial services, including insurance, 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) ACTIONS BY THE PRESIDENT.—

(A) IN GENERAL.—The President may recommend to the state insurance commissioners that they deny a foreign insurer's or reinsurer's request for authorization which is 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 President determines that—

(i) such action would assist the United States in negotiations to eliminate discrimination against United States insurers or reinsurers;

(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.—If the President delegates his authority under Sec. 4(b), the designee's authority under subparagraph (A) shall be exercised according to the specific direction (if any) of the President.

(C) COMPLIANCE EXCEPTIONS.—If the state insurance commissioners do not act within 90 days on the President's recommendations in subsection (A), or if the President determines that the procedure outlined in subsection (A) is either inappropriate or impractical to achieve the purpose of this section, the President may take such action as he or she considers necessary and appropriate to encourage foreign countries to accord national treatment to United States insurers and reinsurers that operate or seek to operate in those countries.

(2) STANDARDS FOR EXERCISE OF DISCRETION.—In exercising any discretion under subsection (e), the President shall consider, with respect to an insurer or reinsurer, branch, or other affiliated entity that is a person of a foreign country and is operating in the United States—

(A) the extent to which the foreign country is progressing toward according national treatment to United States insurers or reinsurers; and

(B) whether the foreign country permits United States insurers or reinsurers to expand their activities in that country, even if that country determined that the United States did not accord national treatment to the insurers or reinsurers of that country.

(f) NEGOTIATIONS.—

(1) IN GENERAL.—The President—

(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 insurers or reinsurers to ensure that the foreign country accords national treatment to such insurers or reinsurers.

(2) EXCEPTIONS.—Paragraphs (1) does not require the President to initiate negotiations with a foreign country if the President—

(A) determines that the negotiations—

(i) would be so unlikely to result in progress toward according national treatment to United States insurers and reinsurers 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 appropriate Senate and House committees.

(g) REPORT.—

(1) CONTENTS OF REPORT.—Not later than December 1, 1994, and biennially thereafter, the President 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 President 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.

(h) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) INSURER.—The term "insurer" means a party to a contract of insurance who assumes the risk and undertakes to indemnify the insured, or pay a certain sum on the happening of a specified contingency.

(2) NATIONAL TREATMENT.—A foreign country accords "national treatment" to United States insurers and reinsurers if it offers them the same competitive opportunities (including effective market access) as are available to its domestic insurers or reinsurers.

(3) 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).

(4) PRESIDENT.—The term "President" means the President of the United States or the President's designee.

(5) REINSURER.—The term "reinsurer" means an insurer which contracts to indemnify a ceding insurer for all or part of a risk originally undertaken by the ceding insurer.

(6) REQUEST FOR AUTHORIZATION.—The term "request for authorization" means—

(A) an application, registration, notice, or other request to commence engaging in the business of insurance in a state; or

(B) an application, registration, notice, or other request for renewal of authorization to engage in the business of insurance in a state.

GRAMM AMENDMENT NO. 1534

Mr. D'AMATO (for Mr. GRAMM) proposed an amendment to amendment No. 1525 proposed by Mr. RIEGLE to the bill S. 1275, supra; as follows:

Beginning on page 5, line 17 of the amendment, strike all after "SERVICES." through page 6, line 2, and insert in lieu thereof the following: "—Paragraph (1) shall not apply to a foreign country to the extent that any authority under that paragraph would permit action to be taken that would be inconsistent with a bilateral or multilateral agreement (including any dispute resolution procedures contained in such agreement) that governs financial services that—

(A) the President entered into with that country; and

(B) the Senate and House of Representatives approved; before the date of enactment of this section.".

Beginning on page 16, line 23, strike all after "SERVICES." through page 17, line 7, and insert in lieu thereof the following: "—Paragraph (1) shall not apply to a foreign country to the extent that any authority under that paragraph would permit action to be taken that would be inconsistent with a bilateral or multilateral agreement (including any dispute resolution procedures contained in such agreement) that governs financial services that—

(A) the President entered into with that country; and

(B) the Senate and House of Representatives approved; before the date of enactment of this section.".

MACK AMENDMENT NO. 1535

Mr. RIEGLE (for Mr. MACK) proposed an amendment to amendment No. 1525 proposed by Mr. RIEGLE to the bill S. 1275, supra; as follows:

On page 31, line 7, of amendment No. 1525 add the following as a new Section 405:

SEC. 405. FEDERAL RESERVE REPORT ON THE FOREIGN BANK SUPERVISION ENHANCEMENT ACT OF 1991.

The Federal Reserve shall submit to the House and Senate Banking Committees within 60 days of enactment of this legislation a report on the Foreign Bank Supervision Enhancement Act of 1991 including:

(a) the number of applicants received and from what countries;

(b) the number of applications approved and from what countries;

(c) the amount of time taken on each application between receipt and approval or rejection of the application;

(d) other agencies involved in the approval process, how much time is taken by those agencies, and any problems encountered with these agencies;

(e) coordination of processing applications and length of time for processing between the regional bank's and the Federal Reserve Board's staffs;

(f) efforts to define consolidated home country supervision on an international basis, and;

(g) suggestions for streamlining the process.

RIEGLE (AND D'AMATO) AMENDMENT NO. 1536

Mr. RIEGLE (for himself and Mr. D'AMATO) proposed an amendment to the bill S. 1275, supra; as follows:

At the appropriate place in title III of the bill, insert the following:

SEC. . CLARIFICATION OF PROVISION RELATING TO ADMINISTRATIVE AUTONOMY.

Section 3(b)(3) of the Home Owners' Loan Act (12 U.S.C. 1462a) is amended by striking everything after "Director" and inserting in lieu thereof "(including agency rulemaking proceedings and enforcement actions) unless otherwise specifically provided by law.".

KERRY (AND OTHERS) AMENDMENT NO. 1537

Mr. KERRY (for himself, Mr. DASCHLE, Mrs. MURRAY, Ms. MOSELEY-BRAUN, Mr. KOHL, and Mr. METZENBAUM) proposed an amendment to the bill S. 1275, supra; as follows:

On page 160, after line 12, insert the following new title:

TITLE IV—NATIONAL FLOOD INSURANCE REFORM

SEC. 401. SHORT TITLE.

This title may be cited as the "National Flood Insurance Reform Act of 1994".

SEC. 402. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) the 4 principal objectives of the National Flood Insurance Program are to limit increasing flood control and disaster relief expenditures, to provide a prefunded mechanism to more fully indemnify victims of flood-related disasters, to limit unwise development in floodplains, and to provide affordable Federal flood insurance for structures located in areas of special flood hazards;

(2) since 1968, the National Flood Insurance Program has somewhat reduced the need for taxpayer funded disaster assistance and has been a factor in motivating local government mitigation efforts, but the National Flood Insurance Program has also contributed to additional coastal development by subsidizing building in hazardous eroding areas, thereby encouraging imprudent land use in such areas;

(3) the 2,600,000 flood insurance policies currently in effect represent nearly $246,000,000,000 of taxpayer-backed insurance, creating the risk of substantial losses to the United States Treasury in the event of a catastrophic flood event;

(4) more than 70 percent of National Flood Insurance Program policyholders are located in coastal communities, with 2.5 percent of policyholders located in the most hazardous coastal flood zones, many in eroding areas, representing the greatest risk to the National Flood Insurance Fund;

(5) the National Flood Insurance Fund is currently borrowing from the United States Treasury, adding to the Federal deficit;

(6) the borrowing authority of $1,000,000,000 given to the Federal Emergency Management Agency under the National Flood Insurance Program is much less than the $3,500,000,000 probable maximum loss to the Program in any given year;

(7) repetitively damaged properties represent a substantial problem for the National Flood Insurance Program, with over 40 percent of all flood insurance claims made on properties that have been damaged more than once;

(8) the current cost of Federal flood insurance to property owners in eroding coastal areas is far below the actuarial risk of loss;

(9) the National Flood Insurance Program has failed to take into account long term erosion in setting premium rates, providing a hidden subsidy of erosion risks, because the National Flood Insurance Program has paid claims for erosion damage although the risk is not a component of the rate structure for flood insurance;

(10) reforms in the National Flood Insurance Program are essential to increase participation in the Program, make the Program more actuarially sound, decrease the risk of losses to the United States Treasury, reduce subsidies that encourage economically costly and environmentally hazardous development in eroding areas; and address the problem of properties repetitively damaged by floods;

(11) a Federal flood insurance program that combines predisaster mitigation efforts together with an insurance and compliance program will reduce the physical and economic effects of flood-related damage on the Federal Government, State and local governments, and individuals;

(12) requiring regulated lending institutions, government agencies, and government-sponsored enterprises to make sure that flood insurance coverage is purchased on all properties in areas of special flood hazards in participating communities will increase compliance with the program, and increase the pool of funds, thereby decreasing the impact on the National Flood Insurance Fund of individual flood events;

(13) since coastal erosion hazard areas have not been identified or adequately considered for the purposes of insurance established under the National Flood Insurance Act of 1968, other areas in the National Flood Insurance Program have been forced to subsidize eroding coastal areas;

(14) identification of erosion hazard areas and erosion management can improve public safety, guide appropriate development, help reduce erosion losses to existing structures, and protect new structures from erosion losses, thereby reducing Federal, State, local, and private expenditures due to erosion;

(15) a community-based approach to mitigation and erosion management, to reduce losses in floodplains and to minimize adverse impacts on natural and beneficial floodplain functions, is the most comprehensive, effective, and cost-efficient method to reduce losses in floodplains and disaster assistance expenditures, and such benefits could be enhanced if combined with insurance protection for insured property owners to meet the increased reconstruction costs required by Federal, State, or local mitigation standards;

(16) the National Flood Insurance Program should not provide insurance on new construction in areas that will have eroded in 30 years or less for new residences, and 60 years or less for other forms of construction, and should instead leave such insurance to the private sector, except if States have adopted enforceable comprehensive programs limiting such construction within at least a 30-year erosion area;

(17) incentives in the form of reduced premium rates for flood insurance under the National Flood Insurance Program should be provided in communities that have adopted and enforced exemplary or particularly effective measures for comprehensive floodplain and erosion hazard area management; and

(18) these community-based, individual mitigation, and loss prevention methods and incentives should be incorporated into the National Flood Insurance Program.

SEC. 403. DECLARATION OF PURPOSE UNDER THE NATIONAL FLOOD INSURANCE ACT OF 1968.

Section 1302(e) of the National Flood Insurance Act of 1968 (42 U.S.C. 4001(e)) is amended—

(1) by redesignating paragraphs (3), (4), and (5), as paragraphs (4), (5), and (6), respectively; and

(2) by inserting after paragraph (2) the following: "(3) encourage State and local governments and Federal agencies to protect natural and beneficial floodplain functions that reduce flood-related losses,".

SEC. 404. DEFINITION.

As used in this title, the term "Director" means the Director of the Federal Emergency Management Agency.

Subtitle A—Definitions

SEC. 411. FLOOD DISASTER PROTECTION ACT OF 1973.

(a) IN GENERAL.—Section 3(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4003(a)) is amended—

(1) by striking paragraph (5) and inserting the following new paragraph:

"(5) 'Federal entity for lending regulation' means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Office of Thrift Supervision, the National Credit Union Administration Board, and the Farm Credit Administration, and with respect to a particular regulated lending institution means the entity primarily responsible for the supervision of the institution;";

(2) in paragraph (6), by striking the period at the end and inserting a semicolon; and

(3) by inserting after paragraph (6) the following new paragraphs:

"(7) 'regulated lending institution' means a bank, savings association, credit union, farm credit bank, Federal land bank association, production credit association, or similar institution subject to the supervision of a Federal entity for lending regulation;

"(8) 'Federal agency lender' means the Federal Housing Administration, the Farmers Home Administration, the Small Business Administration, and the Veterans' Administration, when such agency makes loans secured by improved real estate or a manufactured home; and

"(9) 'servicer' means a person who receives any scheduled periodic payments from a borrower pursuant to the terms of any loan secured by a lien on real property, and who makes the payments of principal and interest and such other payments with respect to the amounts received from the borrower as may be required.".

(b) CONFORMING AMENDMENTS.—

(1) REQUIREMENTS TO PURCHASE FLOOD INSURANCE.—Section 102(b) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(b)) is amended by striking "(b) Each Federal instrumentality responsible for the supervision, approval, regulation, or insuring of banks, savings and loan associations, or similar institutions shall by regulation direct such institutions" and inserting the following:

"(b) FLOOD INSURANCE PURCHASE REQUIREMENTS.—Each Federal entity for lending regulation shall by regulation direct regulated lending institutions".

(2) EFFECT OF NONPARTICIPATION IN FLOOD INSURANCE PROGRAM.—Section 202(b) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4106(b)) is amended by striking "Federal instrumentality described in such section shall by regulation require the institutions" and inserting "Federal entity for lending regulation (with respect to regulated lending institutions)".

SEC. 412. NATIONAL FLOOD INSURANCE ACT OF 1968.

(a) IN GENERAL.—Section 1370(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4121(a)) is amended—

(1) in paragraph (5), by striking "and" at the end;

(2) in paragraph (6), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(7) the term 'Federal entity for lending regulation' means the Board of Governors of

the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Office of Thrift Supervision, and the National Credit Union Administration Board, and with respect to a particular regulated lending institution, means the entity primarily responsible for the supervision of the institution;

"(8) the term 'regulated lending institution' means a bank, savings association, credit union, farm credit bank, Federal land bank association, production credit association, or similar institution subject to the supervision of a Federal entity for lending regulation;

"(9) the term 'Federal agency lender' means the Federal Housing Administration, the Farmers Home Administration, the Small Business Administration, and the Veterans' Administration, when such agency makes loans secured by improved real estate or a manufactured home;

"(10) the term 'natural and beneficial floodplain functions' means—

"(A) the functions associated with the natural or relatively undisturbed floodplain that moderate flooding, retain flood waters, reduce erosion and sedimentation, and mitigate the effects of waves and storm surge from storms; and

"(B) ancillary beneficial functions, including maintenance of water quality, recharge of ground water, and provision of fish and wildlife habitats;

"(11) the term 'shoreline recession' means a net landward movement of the shoreline caused by erosion, avulsion, or sea level rise over a specified period of time;

"(12) the term 'erosion hazard area' means, based on erosion rate information and other historical data available, an area where shoreline recession is likely to result in damage to or loss of buildings and infrastructure within a 60-year period;

"(13) the term 'erosion control measures' means a community's efforts to control erosion through nonstructural and structural projects;

"(14) the term 'baseline reference feature' means a fixed, identifiable, and prevalent physical or mapped feature of a shoreline from which shoreline recession shall be measured;

"(15) the term 'readily movable structure' means a permanent structure of less than 5,000 square feet that is sited and built to accomplish relocation;

"(16) the term 'repetitive loss structure' means an insured property that has incurred flood-related damage on 2 occasions during a 10-year period ending on the date of the event for which a second claim is made, in which the cost of repair, on the average, equaled or exceeded 25 percent of the value of the structure at the time of each flood event;

"(17) the term 'cost of compliance with land use and control measures' means the cost of elevating a structure so that the structure is in compliance with the minimum performance standards adopted by the State or community pursuant to section 1315 of the National Flood Insurance Act of 1968, or the cost of relocation, demolition, or floodproofing of the structure; and

"(18) the term 'servicer' means any person who receives any scheduled periodic payments from a borrower pursuant to the terms of any loan secured by a lien on real property, and who makes the payments of principal and interest and such other payments with respect to the amounts received from the borrower as may be required.".

(b) CONFORMING AMENDMENT.—Section 1322(d) of the National Flood Insurance Act of 1968 (42 U.S.C. 4029(d)) is amended by striking "federally supervised, approved, regulated or insured financial institution" and inserting "regulated lending institution".

Subtitle B—Compliance and Increased Participation

SEC. 421. EXPANDED FLOOD INSURANCE PURCHASE REQUIREMENTS.

(a) IN GENERAL.—Section 102(b) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(b)), as amended by section 411(b)(1), is amended—

(1) by striking "Each Federal entity" and inserting the following:

"(1) IN GENERAL.—Each Federal entity";

(2) by inserting before "shall by regulation" the following: "(after consultation and coordination with the Federal Financial Institutions Examination Council established under the Federal Financial Institutions Examination Council Act of 1974)"; and

(3) by adding at the end the following new paragraphs:

"(2) PROCEDURES IMPLEMENTED BY FNMA, FHLMC, AND FAMC.—The Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Federal Agricultural Mortgage Corporation shall implement procedures reasonably designed to assure that each loan that is—

"(A) secured by improved real estate or a manufactured home located in an area that has been identified at the time of the origination of the loan by the Director as an area of special flood hazards and in which flood insurance is available under the National Flood Insurance Act of 1968; and

"(B) purchased by any such entity;

is covered for the term of the loan by flood insurance in the amount provided in paragraph (1).

"(3) PROCEDURES IMPLEMENTED BY FEDERAL AGENCY LENDERS.—Each Federal agency lender shall implement procedures reasonably designed to assure that all property—

"(A) that secures loans that the Federal agency lender makes, increases, extends, or renews; and

"(B) that is improved by real estate or a manufactured home located in an area that has been identified at the time of the origination of the loan by the Director as an area of special flood hazards and in which flood insurance is available under the National Flood Insurance Act of 1968;

is covered for the term of the loan by flood insurance in the amount provided in paragraph (1).".

(b) EFFECTIVE DATE.—The provisions of this section shall apply to all transactions occurring after the expiration of the 1-year period beginning on the date of enactment of this title.

SEC. 422. ESCROW OF FLOOD INSURANCE PAYMENTS.

(a) IN GENERAL.—Section 102 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a) is amended by adding at the end the following new subsection:

"(d) ESCROW OF FLOOD INSURANCE PAYMENTS.—

"(1) BY REGULATED LENDING INSTITUTIONS.—Each Federal entity for lending regulation, after consultation and coordination with the Federal Financial Institutions Examination Council, shall by regulation require that, if a regulated lending institution requires the escrowing of taxes, insurance premiums, fees, or any other charges for a loan secured by residential real estate or manufactured homes, all charges for flood insurance under this title for the property shall be paid by the borrower to the institution for the duration of the period during which the regulated lending institution maintains an escrow account. Upon receipt of a notice from the Director or the provider of the insurance that insurance premiums, fees, or other charges are due, the institution shall pay from the escrow account to the provider of the insurance the amount of insurance premiums, fees, or other charges owed.

"(2) BY FEDERAL AGENCY LENDERS.—If a Federal agency lender requires the escrowing of taxes, insurance premiums, fees, or any other charges, then any charges for flood insurance under this title for the residential real estate or the manufactured home shall be paid by the borrower to the Federal agency lender for the duration of the period during which the Federal agency lender maintains an escrow account. Upon receipt of a notice from the Director or the provider of the insurance that insurance premiums, fees, or other charges are due, the Federal agency lender shall pay from the escrow account to the provider of the insurance the amount of insurance premiums, fees or other charges owed.

"(3) APPLICABILITY OF REAL ESTATE SETTLEMENT PROCEDURES ACT.—Escrow accounts used to collect flood insurance premiums, fees, or other charges under this subsection shall be subject to the provisions of section 10 of the Real Estate Settlement Procedures Act of 1974.".

(b) APPLICABILITY.—Section 102(d) of the Flood Disaster Protection Act of 1973, as added by subsection (a), shall apply with respect to any loan made, increased, extended, or renewed after the expiration of the 1-year period beginning on the date of enactment of this title.

SEC. 423. NOTICE REQUIREMENTS.

Section 1364 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104a) is amended to read as follows:

"SEC. 1364. NOTICE REQUIREMENTS.

"(a) LENDING INSTITUTIONS.—Each Federal entity for lending regulation, after consultation and coordination with the Federal Financial Institutions Examination Council, shall by regulation require that before a regulated lending institution makes, increases, extends, or renews a loan secured by improved real estate or a manufactured home located in an area that has been identified by the Director as an area of special flood hazards, the institution shall notify the borrower of the special flood hazards and of the need to purchase and maintain flood insurance.

"(b) FEDERAL AGENCY LENDERS.—Before a Federal agency lender makes, increases, extends, or renews a loan secured by improved real estate or a manufactured home located in an area that has been identified by the Director as an area of special flood hazards, the Federal agency lender shall notify the borrower of the special flood hazards and of the need to purchase and maintain flood insurance.

"(c) PARTICIPATING COMMUNITIES.—The Director shall by regulation require each participating community, upon receiving the semiannual list prepared by the Director of all revisions to and updates of flood insurance rate maps made during the preceding 6 months, to determine whether any properties in their community have been affected, and to provide annual notice by mail, notice by publication, notice on tax assessments, or notice by other reasonable method, to regulated lending institutions that are known to lend in the community, and to the owners of all properties newly determined to be, or no longer to be, in an area of special flood hazards, of the flood insurance purchase requirements under section 102(b).

"(d) CONTENTS OF NOTICE.—Notification required by this section shall include a warning, in a form to be established by the Director, stating that the real estate or manufactured home securing the loan is located in an area of special flood hazards, a description of the flood insurance purchase requirements under section 102(b), a statement that flood insurance coverage may be purchased under the National Flood Insurance Program and may also be available from private insurers, and any other information that the Director considers necessary to carry out the purposes of the National Flood Insurance Program.".

SEC. 424. PLACEMENT OF FLOOD INSURANCE BY REGULATED LENDING INSTITUTION, FEDERAL AGENCY LENDER, OR SERVICER.

(a) REQUIRED ACTIONS BY LENDER.—Section 102 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a), as amended by section 422(a), is amended by adding at the end the following new subsection:

"(e) REQUIRED ACTIONS BY LENDER.—

"(1) NOTIFICATION TO BORROWER OF LACK OF COVERAGE.—If, at the time of origination or at any other time during the term of a loan secured by improved real estate or by a manufactured home located in an area that has been identified by the Director as an area of special flood hazards and in which flood insurance is available under this title, a regulated lending institution, Federal agency lender, or servicer determines that the building or manufactured home and any personal property securing the loan held or serviced by the regulated lending institution, Federal agency lender, or servicer is not covered by flood insurance, in an amount not less than the amount required by subsection (b)(1), the regulated lending institution, Federal agency lender, or servicer shall notify the borrower, in a form to be established by the Director, that the borrower should obtain, at the borrower's expense, an amount of flood insurance that is not less than the amount required by subsection (b)(1), for the term of the loan. If, not later than 45 days after receiving such notification, the borrower fails to purchase such flood insurance, the regulated lending institution, Federal agency lender, or servicer shall purchase the insurance on behalf of the borrower and may charge the borrower for the cost of premiums and fees incurred by the regulated lending institution, Federal agency lender, or servicer in purchasing the insurance.

"(2) REVIEW.—

"(A) BY THE DIRECTOR.—A borrower may request, based upon the submission of supporting technical data, that the Director review a determination that the improved real estate or manufactured home securing the loan is located in an area of special flood hazards. Not later than 45 days after the Director receives the request, the Director shall review the determination and provide the borrower with a letter stating whether or not the property is in an area of special flood hazards. The determination of the Director shall be final.

"(B) INSURANCE NOT REQUIRED.—If a person is provided by the borrower with a letter issued by the Director pursuant to subparagraph (A) during the preceding 1-year period, stating that the property is not in an area of special flood hazards, such person shall have no obligation under this title to require the purchase of flood insurance on the property.".

(b) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), section 102(e) of the Flood Disaster Protection Act of 1973, as added by subsection (a), shall apply to all loans outstanding on or after the date of enactment of this title.

(2) LOANS REGULATED BY THE FARM CREDIT ADMINISTRATION.—With respect to loans held by institutions regulated by the Farm Credit Administration, section 102(e) of the Flood Disaster Protection Act of 1973, as added by subsection (a), shall apply only to loans originating on or after the date of enactment of this title.

SEC. 425. STANDARD FLOOD HAZARD DETERMINATION FORMS.

(a) IN GENERAL.—Chapter III of the National Flood Insurance Act of 1968 (42 U.S.C. 4101 et seq.) is amended by adding at the end the following new section:

"SEC. 1365. STANDARD FLOOD HAZARD DETERMINATION FORMS.

"(a) DEVELOPMENT.—The Director, in consultation with the Federal entities for lending regulation, and after notice and comment, shall develop a standard flood hazard determination form (hereafter in this section referred to as the 'determination form') for use in connection with loans secured by improved real estate or a manufactured home located in an area of special flood hazards and in which flood insurance is available under this title. The determination form may be maintained in a printed, computerized, or electronic manner.

"(b) DESIGN AND CONTENTS.—The determination form shall state whether the property is in an area of special flood hazards, the risk premium rate classification established for the special flood hazard area in which the property is located, the complete map and panel numbers for the property, and the date of the map used for the determination. If the complete map and panel numbers for the property are not available because the property is not located in a community that is participating in the National Flood Insurance Program or because no map exists for the relevant area, the determination form shall so state.

"(c) REQUIRED USE.—Each Federal entity for lending regulation shall by regulation require the use of the determination form by regulated lending institutions. Each Federal agency lender shall by regulation provide for the use of the determination form. The Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Federal Agricultural Mortgage Corporation shall require use of the determination form by any person from whom they purchase loans.

"(d) GUARANTEES REGARDING INFORMATION.—In recording information on a determination form, a person may rely on information provided by a third party to the extent that the third party guarantees the accuracy of the information.

"(e) RELIANCE ON PREVIOUS DETERMINATION.—A person or institution increasing, extending, renewing, or purchasing a loan may rely on a previous determination as to whether property is in a special flood or erosion hazard area, if the previous determination was made not more than 5 years before the date of the transaction, and the basis for the previous determination has been set forth on a determination form.".

(b) APPLICABILITY.—Section 1365 of the National Flood Insurance Act of 1968, as added by subsection (a), shall apply to all loans originated on or after the expiration of the 6-month period beginning on the date the standard flood hazard determination form is finalized by the Director.

SEC. 426. EXAMINATIONS REGARDING COMPLIANCE BY REGULATED LENDING INSTITUTIONS.

(a) AMENDMENT TO FEDERAL DEPOSIT INSURANCE ACT.—Section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820) is amended by adding at the end the following new subsection:

"(h) FLOOD HAZARD INSURANCE COMPLIANCE BY INSURED DEPOSITORY INSTITUTIONS REQUIRED.—

"(1) EXAMINATIONS.—The appropriate Federal banking agency shall, during each scheduled on-site examination required by this section, determine whether the insured depository institution is complying with the requirements of the National Flood Insurance Program.

"(2) REPORT.—Not later than 1 year after the date of enactment of the National Flood Insurance Reform Act of 1994, and biannually thereafter for the next 4 years, each appropriate Federal banking agency shall submit a report to Congress on compliance by insured depository institutions with the requirements of the National Flood Insurance Program. The report shall include a description of the methods used to determine compliance, the number of institutions examined during the reporting year, a listing and total number of institutions found to be in noncompliance, actions taken to correct incidents of noncompliance, and an analysis of compliance, including a discussion of any trends, patterns, and problems, and recommendations regarding reasonable actions to improve the efficiency of the examinations processes.".

(b) AMENDMENT TO THE FEDERAL CREDIT UNION ACT.—Section 204 of the Federal Credit Union Act (12 U.S.C. 1784) is amended by adding at the end the following new subsection:

"(e) FLOOD HAZARD INSURANCE COMPLIANCE BY INSURED CREDIT UNIONS REQUIRED.—

"(1) EXAMINATION.—The Board shall, during each examination conducted under this section, determine whether the insured credit union is complying with the requirements of the National Flood Insurance Program.

"(2) REPORT.—Not later than 1 year after the date of enactment of the National Flood Insurance Reform Act of 1994, and biannually thereafter for the next 4 years, the Board shall submit a report to Congress on compliance by insured credit unions with the requirements of the National Flood Insurance Program. The report shall include a description of the methods used to determine compliance, the number of insured credit unions examined during the reporting year, a listing and total number of insured credit unions found to be in noncompliance, actions taken to correct incidents of noncompliance, and an analysis of compliance, including a discussion of any trends, patterns, and problems, and recommendations regarding reasonable actions to improve the efficiency of the examinations processes.".

SEC. 427. PENALTIES AND CORRECTIVE ACTIONS FOR FAILURE TO REQUIRE FLOOD INSURANCE, ESCROW, OR NOTIFY.

Section 102 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a), as amended by sections 422 and 424, is amended by adding at the end the following new subsections:

"(f) CIVIL PENALTIES.—

"(1) IN GENERAL.—A regulated lending institution that is found to have a pattern or practice of violating this section may be assessed a civil penalty by the appropriate Federal entity for lending regulation of not more than $350 for each such violation. A penalty under this subsection may be issued only after notice and an opportunity for a hearing on the record.

"(2) TOTAL AMOUNT.—The total amount of penalties assessed under this subsection against a single regulated lending institution for any calendar year may not exceed $100,000.

"(3) SALES OR TRANSFERS.—The subsequent sale or other transfer of a loan by a regulated lending institution that has committed a violation of this section shall not affect the liability of the transferring institution with respect to any penalty under this subsection. An institution shall not be liable for a violation relating to a loan committed by another institution that previously held the loan.

"(4) 3-YEAR LIMIT.—No penalty may be imposed under this subsection after the expiration of the 3-year period beginning on the date of the occurrence of the violation.

"(g) ADDITIONAL ACTIONS.—If a Federal entity for lending regulation determines—

"(1) that a regulated lending institution has demonstrated a pattern and practice of noncompliance in violation of the regulations issued pursuant to subsection (b) or subsection (d) or the notice requirements under section 1364 of the National Flood Insurance Act of 1968; and

"(2) that the regulated lending institution has not demonstrated measurable improvement in compliance despite the issuance of penalties under subsection (f);

the agency may require the regulated lending institution to take such remedial actions as are necessary to ensure that the regulated lending institution is in satisfactory compliance with the requirements of the National Flood Insurance Program.".

SEC. 428. FINANCIAL INSTITUTIONS EXAMINATION COUNCIL.

Section 1006 of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3305) is amended by adding at the end the following new subsection:

"(g) FLOOD INSURANCE.—The Council shall consult with and assist the Federal entities for lending regulation, as such term is defined in section 1370(a)(7) of the National Flood Insurance Act of 1968, in developing and coordinating uniform standards and requirements for use by regulated lending institutions under the National Flood Insurance Program.".

SEC. 429. CONFORMING AMENDMENT.

The section heading for section 102 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a) is amended to read as follows:

"FLOOD INSURANCE PURCHASE AND COMPLIANCE REQUIREMENTS AND ESCROW ACCOUNTS".

Subtitle C—Ratings and Incentives for Community Floodplain Management Programs

SEC. 431. COMMUNITY RATING SYSTEM AND INCENTIVES FOR COMMUNITY FLOODPLAIN MANAGEMENT.

(a) REQUIREMENT FOR PARTICIPATION IN FLOOD INSURANCE PROGRAM.—Section 1315 of the National Flood Insurance Act of 1968 (42 U.S.C. 4022) is amended—

(1) by striking the section heading and inserting the following:

"SEC. 1315. STATE AND LOCAL LAND USE CONTROLS.";

(2) by striking "After December" and inserting the following:

"(a) REQUIREMENT FOR PARTICIPATION IN FLOOD INSURANCE PROGRAM.—After December"; and

(3) by adding at the end the following new subsection:

"(b) COMMUNITY RATING SYSTEM AND INCENTIVES FOR COMMUNITY FLOODPLAIN MANAGEMENT.—

"(1) AUTHORITY AND GOALS.—The Director shall carry out a community rating system program to evaluate the measures adopted by communities voluntarily participating in the community rating system, to provide incentives for measures to reduce the risk of flood or erosion damage that exceed the criteria set forth in section 1361, to encourage adoption of more effective measures for floodplain and erosion management, and to promote the reduction of Federal flood insurance losses.

"(2) INCENTIVES.—The program shall provide incentives in the form of credits on premium rates for flood insurance coverage in communities that the Director determines have adopted and enforced measures to reduce the risk of flood and erosion damage that exceed the criteria set forth in section 1361. In providing incentives under this paragraph, the Director may provide for credits to flood insurance premium rates in communities that the Director determines have—

"(A) implemented measures to protect natural and beneficial floodplain functions; and

"(B) adopted erosion control measures.

"(3) CREDITS.—The credits on premium rates for flood insurance coverage shall be based on the estimated reduction in flood and erosion damage risks resulting from the measures adopted by the community under this program.".

(b) REPORTS.—Two years after the date of enactment of this title and biannually thereafter, the Director shall submit a report to the Congress regarding the program under section 1315(a) of the National Flood Insurance Act of 1968. Each report shall include an analysis of the cost-effectiveness and other accomplishments and shortcomings of the program and any recommendations of the Director for legislation regarding the program.

SEC. 432. FUNDING.

Section 1310(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4017(a)) is amended—

(1) in paragraph (4), by striking "and" at the end;

(2) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(3) by adding after paragraph (5) the following new paragraph:

"(6) for carrying out the program under section 1315(b);".

Subtitle D—Mitigation of Flood and Erosion Risks

SEC. 441. MITIGATION ASSISTANCE IN FEDERAL INSURANCE ADMINISTRATION.

Section 1105(a) of the Housing and Urban Development Act of 1968 (42 U.S.C. 4129) is amended—

(1) by striking "(a) There is hereby" and inserting the following:

"(a) ESTABLISHMENT.—There is hereby"; and

(2) by striking subsection (b) and inserting the following:

"(b) COORDINATION OF MITIGATION ACTIVITIES.—The Director shall coordinate all mitigation activities, including the administration of the program for mitigation assistance under section 1367. These activities shall include the development and implementation of various mitigation activities and techniques, the provision of advice and assistance regarding mitigation to States, communities, and individuals, including planning assistance under section 1367(d), coordination with other Federal flood and erosion mitigation efforts, and coordination with State and local governments and public and private agencies and organizations for collection and dissemination of information regarding erosion.".

SEC. 442. AUTHORIZATION OF NATIONAL FLOOD AND EROSION MITIGATION FUNDS UNDER SECTION 1362.

Chapter III of the National Flood Insurance Act of 1968 (42 U.S.C. 4101 et seq.), as amended by section 425, is amended by adding at the end the following new section:

"SEC. 1366. NATIONAL FLOOD AND EROSION MITIGATION PROGRAM.

"(a) EXPENDITURES.—For flood and erosion mitigation activities authorized under section 1367, the Director may expend from the National Flood Insurance Fund—

"(1) up to $10,000,000 in the fiscal year ending September 30, 1994;

"(2) up to $15,000,000 in the fiscal year ending September 30, 1995;

"(3) up to $20,000,000 in the fiscal year ending September 30, 1996;

"(4) up to $20,000,000 in each fiscal year thereafter; and

"(5) any amounts recaptured under section 1367(i).

"(b) REPORT.—Not later than 1 year after the date of enactment of the National Flood Insurance Reform Act of 1994 and biannually thereafter, the Director shall submit a report to the Congress describing the status of flood and erosion mitigation activities carried out with funds authorized under this section.".

SEC. 443. STATE AND COMMUNITY MITIGATION ASSISTANCE PROGRAM.

(a) IN GENERAL.—Chapter III of the National Flood Insurance Act of 1968 (42 U.S.C. 4101 et seq.), as amended by sections 425 and 442, is amended by adding at the end the following new section:

"SEC. 1367. STATE AND COMMUNITY MITIGATION ASSISTANCE.

"(a) AUTHORITY.—The Director shall develop and implement a financial assistance program with amounts made available under section 1366 to States and communities for planning and activities designed to reduce the risk of flood and erosion damage to insured structures.

"(b) MITIGATION PLAN REQUIREMENT.—To be eligible to receive financial mitigation assistance, a State or community shall develop, and have approved by the Director, a flood and erosion risk mitigation plan (hereafter in this section referred to as a 'mitigation plan'), that is consistent with the criteria established by the Director under section 1361. The mitigation plan shall include a comprehensive strategy for mitigation activities adopted by the State or community following a public hearing.

"(c) NOTIFICATION OF APPROVAL.—Not later than 120 days after the submission of a mitigation plan, the Director shall notify the State or community submitting the plan of the Director's approval or disapproval of the plan. If the Director does not approve a plan, the Director shall notify the State or community in writing of the reasons for such disapproval.

"(d) PLANNING ASSISTANCE.—

"(1) IN GENERAL.—The Director shall make planning assistance available to States and communities for developing mitigation plans.

"(2) FUNDING.—From any amounts made available for use under section 1366 of the National Flood Insurance Act of 1968 in any fiscal year, the Director may use not more than $1,500,000 to provide planning assistance grants to States or communities to develop mitigation plans under this subsection.

"(3) LIMITATIONS.—

"(A) TIMING.—A grant for planning assistance may be awarded to a State or community once every 5 years and each grant may cover a period of 1 to 3 years.

"(B) AMOUNT.—A grant for planning assistance may not exceed—

"(i) $150,000, to any State; or

"(ii) $50,000, to any community.

"(C) GEOGRAPHIC.—Not more than $300,000 may be awarded to any 1 State and all communities located in that State for planning assistance in each fiscal year.

"(e) ELIGIBLE MITIGATION ACTIVITIES.—The Director shall determine eligibility for assistance under this section for mitigation activities that shall be technically feasible and cost-effective. These activities may include—

"(1) elevation, relocation, demolition, or floodproofing of structures;

"(2) acquisition by States and communities of property substantially damaged by flood for public use as the Director determines is consistent with sound land management and use in such area; and

"(3) the provision of technical assistance by States to communities and individuals to conduct eligible mitigation activities.

"(f) LIMITATIONS ON MITIGATION ASSISTANCE.—

"(1) AMOUNT.—The amount of mitigation assistance provided under subsection (e) may not exceed in any 5-year period—

"(A) $10,000,000, to any State; or

"(B) $3,300,000, to any community.

"(2) GEOGRAPHIC.—Not more than $20,000,000 may be awarded to any 1 State and all communities located in that State for mitigation assistance in any 5-year period.

"(g) MATCHING REQUIREMENT.—The Director may provide mitigation assistance to a State or community in an amount not to exceed 3 times the amount that the State or community certifies, as the Director shall require, that the State or community will contribute from other funds to carry out mitigation planning under subsection (d) and eligible activities under subsection (e).

"(h) OVERSIGHT OF MITIGATION PLANS.—The Director shall conduct oversight of recipients of mitigation assistance to ensure that the mitigation assistance is used in compliance with approved plans.

"(i) RECAPTURE.—If the Director determines that a State or community that has received mitigation assistance has not carried out the mitigation activities as set forth in the mitigation plan, the Director shall recapture any unexpended amounts and deposit the amounts in the Fund.

"(j) DEFINITION OF COMMUNITY.—For purposes of this section, the term 'community' means a political subdivision that has zoning and building code jurisdiction over a particular area of special flood hazards, and that is participating in the National Flood Insurance Program.

"(k) PREFERENCES FOR MITIGATION GRANTS TO COMMUNITIES.—In providing mitigation grants to communities under this section, the Director shall give preference to communities that—

"(1) have the highest rates of participation by property owners in the Federal flood insurance program;

"(2) have qualified for credits on premium rates under section 1315(b); and

"(3) have experienced repetitive losses that have been most costly to the Fund.".

(b) REGULATIONS.—Not later than 6 months after date of enactment of this title, the Director shall issue regulations implementing section 1367 of the National Flood Insurance Act of 1968, as added by subsection (a).

SEC. 444. REPEAL OF PROGRAM FOR PURCHASE OF CERTAIN INSURED PROPERTIES.

(a) REPEAL.—Section 1362 of the National Flood Insurance Act of 1968 (42 U.S.C. 4103) is repealed.

(b) TRANSITION.—Notwithstanding the repeal under subsection (a), the Director may continue to purchase property under subsections (a) and (b) of section 1362 of the National Flood Insurance Act of 1968, as such section existed immediately before the date of enactment of this title, for a period of 1 year beginning on the date of enactment of this title.

SEC. 445. TERMINATION OF EROSION THREATENED STRUCTURES PROGRAM.

(a) IN GENERAL.—Section 1306 of the National Flood Insurance Act of 1968 (42 U.S.C. 4013) is amended by striking subsection (c).

(b) TRANSITION.—The Director may pay amounts under flood insurance contracts for demolition or relocation of structures as provided in section 1306(c) of the National Flood Insurance Act of 1968 (as in effect immediately before the date of enactment of this title) only during the 1-year period beginning on the date of enactment of this title.

SEC. 446. LIMITATIONS ON NEW FLOOD INSURANCE COVERAGE IN EROSION HAZARD AREAS.

The National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.) is amended by inserting after section 1313 the following new section:

"SEC. 1314. PROPERTIES LOCATED WITHIN 30-YEAR AND 60-YEAR EROSION HAZARD AREAS.

"(a) PROPERTIES LOCATED WITHIN 30-YEAR EROSION HAZARD AREA.—After the establishment of erosion hazard areas under section 1360(i), the Director may not make flood insurance available within a 30-year erosion hazard area with respect to any new—

"(1) construction; or

"(2) addition to an existing structure, if the structure is not readily movable.

"(b) PROPERTIES LOCATED WITHIN 60-YEAR EROSION HAZARD AREA AND OUTSIDE 30-YEAR EROSION HAZARD AREA.—After the establishment of erosion hazard areas under section 1360(i), the Director may not make flood insurance available with respect to any new—

"(1) nonresidential structure;

"(2) residential structure that is not readily movable; or

"(3) addition to an existing structure, if the addition makes the structure not readily movable;

that is constructed or relocated landward of the 30-year erosion hazard area and within the 60-year erosion hazard area established by the Director under such section.

"(c) STATE EROSION HAZARD MANAGEMENT PROGRAMS.—Notwithstanding subsections (a) and (b), if a State has adopted and put into effect an erosion management program which has enforceable provisions for the prohibition or restriction of new construction or additions to existing structures seaward of setback lines based upon estimated shoreline recession over a minimum of 30 years determined from a fixed baseline feature, the Director shall continue to make flood insurance available for new construction or additions to existing structures that are landward of the setback line established by the State or community, including new construction or additions to existing structures which may be lawfully permitted and constructed pursuant to exemptions or variances from State setback requirements in effect prior to the effective date of this section, and otherwise in conformance with all State and community standards for building design and erosion.".

SEC. 447. COORDINATION WITH COASTAL ZONE MANAGEMENT PROGRAMS.

(a) IN GENERAL.—In the implementation of this title and the amendments made pursuant to this title, the Director shall consult with the Under Secretary of Commerce for Oceans and Atmosphere and representatives from State coastal zone management programs to promote full coordination cf the erosion management provisions of the National Flood Insurance Act of 1968 as amended by this title, and the provisions of the Coastal Zone Management Act of 1972. The Director shall, to the greatest extent possible, utilize State management programs approved under the Coastal Zone Management Act of 1972 to facilitate development and implementation of regulations and guidelines for this title.

(b) ECONOMIC AND ENVIRONMENTAL IMPACT STUDY OF EROSION HAZARD AREAS.—Not later than 1 year after the date of enactment of this title, the Director, in coordination with the Under Secretary of Commerce for Oceans and Atmosphere, shall submit to the Congress a report assessing the economic and environmental impact of the establishment of actuarial rates in communities identified as having erosion hazard areas. The report shall include—

(1) a listing for each State of communities identified as having erosion hazard areas under section 1360(i) of the National Flood Insurance Act of 1968;

(2) an assessment of the economic impact of assessing actuarial rates in erosion hazard areas; and

(3) an assessment of the impact of the imposition of actuarial rates in erosion hazard areas on natural and beneficial floodplain functions within areas of special flood hazards.

(c) COORDINATION REPORT.—The Director and the Under Secretary of Commerce for Oceans and Atmosphere shall jointly prepare a report that details the proposed mechanisms for achieving the coordination required in subsection (a). This report shall be transmitted to the Congress not later than 1 year after the date of enactment of this title.

Subtitle E—Flood Insurance Task Force

SEC. 451. FLOOD INSURANCE INTERAGENCY TASK FORCE.

(a) ESTABLISHMENT.—There is established an interagency task force to be known as the Flood Insurance Task Force (hereafter in this title referred to as the "Task Force").

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Task Force shall consist of 13 members, who shall be the designees of—

(A) the Director;

(B) the Federal Housing Commissioner;

(C) the Secretary of Veterans Affairs;

(D) the Administrator of the Farmers Home Administration;

(E) the Administrator of the Small Business Administration;

(F) each member of the Federal Financial Institutions Examination Council;

(G) the chairman of the Board of Directors of the Federal Home Loan Mortgage Corporation;

(H) the chairman of the Board of Directors of the Federal National Mortgage Association; and

(I) the chairman of the Federal Agricultural Mortgage Corporation.

(2) QUALIFICATIONS.—Members of the Task Force shall be designated for membership on the Task Force by reason of demonstrated knowledge and competence regarding the National Flood Insurance Program.

(c) DUTIES.—The Task Force shall—

(1) make recommendations to the head of each Federal agency and corporation referred to under subsection (b)(1) regarding the establishment or adoption of standard-

ized enforcement procedures among such agencies and corporations responsible for enforcing compliance with the requirements under the National Flood Insurance Program to ensure the fullest possible compliance with such requirements;

(2) study the extent to which Federal agencies and the secondary mortgage market can provide assistance in ensuring compliance with the requirements under the National Flood Insurance Program;

(3) study the extent to which existing programs of Federal agencies and corporations for compliance with the requirements under the National Flood Insurance Program can serve as a model for other Federal agencies responsible for enforcing compliance, and submit to the Congress a report describing the study and any conclusions;

(4) study—

(A) the extent to which the flood insurance premium rate structure could be revised to—

(i) minimize existing premium rate subsidies;

(ii) reduce or eliminate disaster assistance payments in high-risk erosion areas;

(iii) incorporate premium rate adjustments for erosion hazards; and

(iv) account for catastrophic loss events; and

(B) how changes in the premium rate structure could potentially impact other Federal disaster assistance programs;

(5) propose strategies to establish an actuarial-based premium structure to account for all insurable risks identified under the National Flood Insurance Act of 1968, as amended by this title; and

(6) develop guidelines regarding enforcement and compliance procedures, based on the studies and findings of the Task Force and publishing the guidelines in a usable format.

(d) REPORTS.—Not later than 2 years after the date of enactment of this title, the Task Force shall transmit to the Congress a report describing its studies and any conclusions.

(e) COMPENSATION.—Members of the Task Force shall receive no additional compensation by reason of their service on the Task Force.

(f) CHAIRPERSON.—The Director shall appoint 1 member to serve as the chairperson of the Task Force (hereafter in this section referred to as the "Chairperson").

(g) MEETINGS AND ACTION.—The Task Force shall meet at the call of the Chairperson or a majority of the members of the Task Force and may take action by a vote of the majority of the members. The Federal Insurance Administrator shall coordinate and call the initial meeting of the Task Force.

(h) OFFICERS.—The Chairperson may appoint officers to carry out the duties of the Task Force under subsection (c).

(i) STAFF OF FEDERAL AGENCIES.—Upon the request of the Chairperson, the head of any of the Federal agencies and corporations referred to in subsection (b)(1) may detail, on a nonreimbursable basis, any of the personnel of the agency to the Task Force to assist the Task Force in carrying out its duties under this title.

(j) POWERS.—In carrying out this section, the Task Force may hold hearings, sit and act at times and places, take testimony, receive evidence and assistance, provide information, and conduct research as the Task Force considers appropriate.

(k) TERMINATION.—The Task Force shall terminate 2 years after the date on which all members of the Task Force have been designated under subsection (b)(1).

Subtitle F—Miscellaneous Provisions

SEC. 461. MAXIMUM FLOOD INSURANCE COVERAGE AMOUNTS.

(a) IN GENERAL.—Section 1306(b) of the National Flood Insurance Act of 1968 (42 U.S.C. 4013(b)) is amended—

(1) in paragraph (1)(A)—

(A) by inserting "and" at the end of clause (i); and

(B) by striking clause (iii);

(2) by striking subparagraph (B) of paragraph (1) and inserting the following new subparagraph:

"(B) in the case of any nonresidential property, including churches—

"(i) $100,000 aggregate liability for each structure; and

"(ii) $100,000 aggregate liability for any contents related to each structure;";

(3) by striking subparagraph (C) of paragraph (1);

(4) in paragraph (2), by striking "so as to enable" and all that follows through the end of the paragraph and inserting "up to an amount, including the limits specified in clause (i) of paragraph (1)(A), of $250,000 multiplied by the number of dwelling units in the building;";

(5) in paragraph (3), by striking "so as to enable" and all that follows through the end of the paragraph and inserting "up to an amount of $90,000 for any single-family dwelling and $240,000 for any residential structure containing more than one dwelling unit;"; and

(6) by striking paragraph (4) and inserting the following new paragraph:

"(4) in the case of any nonresidential property, including churches, additional flood insurance in excess of the limits specified in clauses (i) and (ii) of paragraph (1)(B) shall be made available to every insured upon renewal and every applicant for insurance up to an amount of $2,400,000 for each structure and $2,400,000 for any contents related to each structure; and".

(b) ACTUARIAL RISK PREMIUMS ON REPETITIVE LOSS STRUCTURES.—Section 1306(b) of the National Flood Insurance Act of 1968 (42 U.S.C. 4013(b)) is amended—

(1) in paragraph (5), by striking "and" at the end; and

(2) by striking paragraph (6) and inserting the following new paragraph:

"(6) upon determining that a property is a repetitive loss structure, and after making a payment to the insured under section 1304(e), the Director shall charge the applicable risk premium rate for flood insurance based on consideration of the risk involved and accepted actuarial principles under section 1307(a)(1), except that the Director may not increase the premium rate above the level authorized in paragraph (7); and".

(c) ANNUAL 10-PERCENT PREMIUM RATE INCREASE CAP.—Section 1306(b) of the National Flood Insurance Act of 1968 (42 U.S.C. 4013(b)) is amended by adding at the end the following:

"(7) the Director may not increase the premium rate applied to a structure in any 12-month period by more than 10 percent over the rate previously applied to that structure during the preceding 12-month period.".

(d) CONFORMING AMENDMENTS.—Section 1306(b)(5) of the National Flood Insurance Act of 1968 (42 U.S.C. 4013(b)(5)) is amended—

(1) by striking "(A), (B), or (C)" and inserting "(A) or (B)"; and

(2) by striking "(1)(C),".

SEC. 462. ADDITIONAL COVERAGE FOR COMPLIANCE WITH LAND USE AND CONTROL MEASURES.-

(a) IN GENERAL.—Section 1304 of the National Flood Insurance Act of 1968 (42 U.S.C. 4011) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection:

"(b) The national flood insurance program established pursuant to subsection (a) shall enable interested persons to purchase insurance to cover the cost of compliance with land use and control measures for—

"(1) properties that are repetitive loss structures;

"(2) properties that have flood damage in which the cost of repairs equals or exceeds 50 percent of the value of the structure at the time of the flood event; and

"(3) properties that have sustained flood damage on multiple occasions, if the Director determines that it is cost-effective and in the best interests of the National Flood Insurance Fund to require compliance with the land use and control measures.

The Director shall impose a surcharge on each insured of not more than $75 per policy to provide cost of compliance coverage in accordance with the provisions of this subsection.".

(b) APPLICABILITY.—The provisions of subsection (a) shall apply only to structures that sustain flood-related damage after the date of enactment of this title.

SEC. 463. FLOOD INSURANCE PROGRAM ARRANGEMENTS WITH PRIVATE INSURANCE ENTITIES.

Section 1345(b) of the National Flood Insurance Act of 1968 (42 U.S.C. 4081(b)) is amended by striking the period at the end and inserting the following: "and without regard to the provisions of the Federal Advisory Committee Act.".

SEC. 464. UPDATING OF FLOOD INSURANCE RATE MAPS AND IDENTIFICATION OF EROSION HAZARD AREAS.

(a) 5-YEAR UPDATES.—Section 1360 of the National Flood Insurance Act of 1968 (42 U.S.C. 4101) is amended by adding at the end the following new subsections:

"(e) ASSESSMENT OF NEED TO UPDATE AREAS.—

"(1) PERIODIC ASSESSMENTS.—Not less than once during each 5-year period (the first such period beginning on the date of enactment of the National Flood Insurance Reform Act of 1994), or more often as the Director determines necessary, the Director shall assess the need to revise and update each flood insurance rate map.

"(2) UPON REQUEST.—Upon the request of a State or community stating that a flood insurance rate map needs revision or updating, the Director shall review and update the flood insurance rate map for the State or community. The Director may require the State or community to pay a portion of the cost of updating the map.

"(f) AVAILABILITY.—To promote compliance with the requirements of this title, the Director shall make flood insurance rate maps and related information available free of charge to Federal agencies and to State agencies directly responsible for coordinating the National Flood Insurance Program and to appropriate representatives of communities participating in the National Flood Insurance Program, and at a reasonable cost to all other persons pursuant to section 1310.

"(g) NOTIFICATION.—The Director shall publish in the Federal Register or by other comparable method, notice of each revision

to or update of a flood insurance rate map, issued in the form of a Letter of Map Amendment or Letter of Map Revision. Each map revision or update shall become effective upon publication. Such comparable methods shall include all pertinent information, provide for regular and frequent distribution, and be at least as accessible to map users as the Federal Register. Notices published in the Federal Register, or otherwise, shall also include information on how to obtain copies of the revisions or updates.

"(h) AVAILABILITY.—On March 1 and October 1 of each year, the Director shall publish separately and make available in their entirety within a compendium, all revisions to and updates of flood insurance rate maps and all Letters of Map Amendment and Letters of Map Revision that were published in the Federal Register or distributed through other comparable methods during the preceding 6 months, free of charge, to Federal agencies, States, and communities participating in the National Flood Insurance Program pursuant to section 1310 and at cost to all other persons.".

(b) ASSESSMENT, IDENTIFICATION, AND MAPPING OF EROSION HAZARD AREAS.—Section 1360 of the National Flood Insurance Act of 1968 (42 U.S.C. 4101), as amended by subsection (a), is amended by adding at the end the following new subsection:

"(i) ASSESSMENT, IDENTIFICATION, AND MAPPING OF EROSION HAZARD AREAS.—

"(1) IN GENERAL.—Not later than 60 months after the date of enactment of the National Flood Insurance Reform Act of 1994, the Director shall, using erosion rate information and other historical data, or more reliable methods if available, assess, identify, and map all erosion hazard areas. In highly dynamic areas, such as areas adjacent to inlets, the Director may use other data or techniques in order to assess shoreline recession more precisely.

"(2) MAPPING PRIORITIES.—Not later than 2 years after the date of enactment of the National Flood Insurance Reform Act of 1994, the Director shall determine areas that are at greatest risk from erosion and assess, identify, and map the erosion hazard areas in these areas.

"(3) CONSIDERATION OF EROSION CONTROL MEASURES.—In identifying and mapping erosion hazard areas, the Director shall take into account the presence of erosion control measures if—

"(A) such measures are well-designed, well-maintained, and structurally sound, and do not adversely affect adjacent areas; and

"(B) the community provides adequate evidence of a commitment to long-term maintenance and financing of the measure.

"(4) TRANSITION.—Until the Director has assessed, identified, and mapped erosion rate data for a community, the community may obtain, review, and reasonably use erosion rate information or other historical data available from other Federal, State, or other sources in order to develop a mitigation plan.

"(5) STATE EROSION RATE DATA AND BASELINE REFERENCE FEATURES AND STATE AND COMMUNITY LOSS REDUCTION PROGRAMS.—The Director shall, to the maximum extent practicable, use State or community erosion rate data and baseline reference features in designating erosion hazard areas under this title.

"(6) EROSION HAZARDS.—On each flood insurance rate map established under this section, the Director shall publish erosion rates for areas that are subject to erosion hazards. These erosion rates shall be used to identify areas that are subject to erosion hazards within a 60-year period (hereafter referred to as the '60-year erosion hazard area'), and for areas that are subject to erosion hazards within a 30-year period (hereafter referred to as the '30-year erosion hazard area') as measured from a baseline reference feature. On each flood insurance rate map, the Director shall identify and provide legible demarcation of the baseline reference feature. The Director may also provide for legible demarcation of erosion hazard areas where map scale or other limitations allow for such demarcation.

"(7) REVISION OF EROSION HAZARD AREAS.—In revising the demarcation of the baseline reference feature and erosion rate data, the legible demarcation of erosion hazard areas, or geographical boundaries of erosion hazard areas, the Director shall give special consideration to—

"(A) areas (or subdivisions thereof) that are experiencing or have recently experienced erosion rates in excess of the erosion rate established under this section, due to storms, high lake levels, or other extraordinary events creating a dynamic change in the local erosion rate; and

"(B) areas in which community erosion control measures have been implemented or erosion rates established under this section have been significantly altered otherwise by manmade or induced activity.

"(8) REVIEW.—The Director shall consult with State and community governments in the determination of erosion hazard areas, and shall provide for a public review and appeals process comparable to the established review and appeals process for flood elevation determinations required under this title.".

SEC. 465. RIVERINE EROSION STUDY.

(a) STUDY.—The Director shall conduct a study to determine the most effective techniques for identifying and establishing riverine erosion rates and baseline reference features, and the best methods of community management of such hazards consistent with section 1361 of the National Flood Insurance Act of 1968. In conducting the study, the Director shall—

(1) investigate and assess existing and state-of-the-art technical methodologies for assessing riverine erosion;

(2) examine and evaluate natural riverine processes, environmental conditions, human-induced changes to the banks of rivers and streams, examples of erosion and likely causes, and examples of erosion control; and

(3) analyze riverine erosion management strategies, the technical standards, methods, and data necessary to support such strategies, and methods of administering such strategies through the National Flood Insurance Program.

(b) REPORT.—Not later than 2 years after the date of enactment of this title, the Director shall submit to the Congress a report regarding the findings and conclusions of the study under this section. The report shall include any recommendations of the Director regarding appropriate methods and approaches for identifying and determining riverine erosion hazard areas and management strategies relating to riverine erosion. Riverine erosion shall not be mapped prior to the date on which the report is submitted to the Congress in accordance with this section.

SEC. 466. TECHNICAL MAPPING ADVISORY COUNCIL.

(a) ESTABLISHMENT.—There is established a council to be known as the Technical Mapping Advisory Council (hereafter in this section referred to as the "Council").

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Council shall consist of the Director, or the Director's designee, and 12 additional members to be appointed by the Director or his designee, and shall include—

(A) the Under Secretary of Commerce for Oceans and Atmosphere (or his or her designee);

(B) a member of recognized surveying and mapping professional associations and organizations;

(C) a member of recognized professional engineering associations and organizations;

(D) a member of recognized professional associations or organizations representing flood hazard determination firms;

(E) a representative of the United States Geologic Survey;

(F) a representative of State geologic survey programs;

(G) a representative of State national flood insurance coordination offices;

(H) a representative of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation; and

(I) a representative of a regulated lending institution.

(2) QUALIFICATIONS.—Members of the Council shall be appointed based on their demonstrated knowledge and competence regarding surveying, cartography, remote sensing, geographic information systems, or the technical aspects of preparing and using flood insurance rate maps.

(c) DUTIES.—The Council shall—

(1) make recommendations to the Director on how to improve in a cost-effective manner the accuracy, general quality, ease of use, and distribution and dissemination of flood insurance rate maps;

(2) recommend to the Director mapping standards and guidelines for flood insurance rate maps; and

(3) transmit an annual report to the Director describing—

(A) the activities of the Council;

(B) an evaluation of the status and performance of flood insurance rate maps and mapping activities to revise and update flood insurance rate maps as established by the amendments made under section 464; and

(C) a summary of recommendations made by the Council to the Director.

(d) CHAIRPERSON.—The Director shall appoint 1 member to serve as the chairperson of the Council (hereafter in this section referred to as the "Chairperson").

(e) COORDINATION.—To ensure that the Council's recommendations are consistent to the maximum extent practicable with national digital spatial data collection and management standards, the Chairperson shall consult with the Chairperson of the Federal Geographic Data Committee (established pursuant to OMB Circular A-16).

(f) COMPENSATION.—Members of the Council shall receive no additional compensation by reason of their service on the Council.

(g) MEETINGS AND ACTIONS.—

(1) IN GENERAL.—The Council shall meet not less than twice each year at the request of the Chairperson or a majority of its members and may take action by a vote of the majority of the members.

(2) INITIAL MEETING.—The Director, or a person designated by the Director, shall request and coordinate the initial meeting of the Council.

(h) OFFICERS.—The Chairperson may appoint officers to assist in carrying out the duties of the Council under subsection (c).

(i) STAFF OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY.—Upon the request of

the Chairperson, the Director may detail, on a nonreimbursable basis, personnel of the Federal Emergency Management Agency to assist the Council in carrying out its duties.

(j) POWERS.—In carrying out this section, the Council may hold hearings, receive evidence and assistance, provide information, and conduct research as it considers appropriate.

(k) TERMINATION.—The Council shall terminate 5 years after the date on which all members of the Council have been appointed under subsection b)(1).

SEC. 467. FUNDING FOR INCREASED ADMINISTRATIVE AND OPERATIONAL RESPONSIBILITIES.

(a) AVAILABILITY OF FUND.—Section 1310(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4017(a)), as amended by section 432, is amended—

(1) in the matter preceding paragraph (1), by inserting "(except as otherwise provided)" after "without fiscal year limitation"; and

(2) by adding at the end the following new paragraphs:

"(7) for assessment and mapping of erosion hazard areas under section 1360(i), except that the fund shall be available for the purpose under this paragraph in an amount not to exceed an aggregate of $25,000,000 over the 5-year period beginning on the date of enactment of the National Flood Insurance Reform Act of 1994; and

"(8) for revising and updating flood insurance rate maps under section 1360(i), except that the fund shall be available for the purpose under this paragraph in an amount not to exceed $2,000,000, in each fiscal year beginning after the expiration of the 2-year period beginning on the date of enactment of the National Flood Insurance Reform Act of 1994.".

(b) CREDITS OF FUND.—Section 1310(b) of the National Flood Insurance Act of 1968 (42 U.S.C. 4017(b)) is amended—

(1) in paragraph (5), by striking "and" at the end;

(2) by redesignating paragraph (6) as paragraph (7); and

(3) by inserting after paragraph (5) the following new paragraph:

"(6) any penalties collected under section 102(f) of the Flood Disaster Protection Act of 1973; and".

SEC. 468. SEPARATE ACCOUNT FOR NATIONAL FLOOD INSURANCE FUND.

Section 1310(a) of the National Flood Insurance Act (42 U.S.C. 4017(a)) is amended by inserting before "which shall be available" the following: "which shall be maintained in the Treasury as an account separate from any other funds available to the Director, and".

SEC. 469. NONWAIVER OF FLOOD PURCHASE REQUIREMENT FOR RECIPIENTS OF FEDERAL DISASTER ASSISTANCE.

Section 311(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5154(b)) is amended by adding at the end the following: "The requirements of this subsection may not be waived under section 301.".

SEC. 470. INSURANCE WAITING PERIOD.

Section 1308 of the National Flood Insurance Act of 1968 (42 U.S.C. 4015) is amended by adding at the end the following new subsection:

"(e) WAITING PERIOD.—Coverage under a new flood insurance policy shall be effective upon the expiration of a waiting period prescribed by the Director. In no case shall the waiting period be fewer than 10 days following receipt of the initial premium for such policy by the Director.".

SEC. 471. IMPLEMENTATION REVIEW BY THE DIRECTOR.

Section 1320 of the National Flood Insurance Act of 1968 (42 U.S.C. 4027) is amended—

(1) by striking "The Director" and inserting "(a) IN GENERAL.—The Director"; and

(2) by adding at the end the following new subsection:

"(b) EFFECTS OF FLOOD INSURANCE PROGRAM.—The Director shall include, as part of the biennial report submitted under subsection (a), a chapter reporting on the effects on the flood insurance program observed through implementation of requirements under the National Flood Insurance Reform Act of 1994.".

SEC. 472. REGULATIONS.

The Director and the head of any appropriate Federal agency may each issue any regulations necessary to carry out the applicable provisions of this title and the applicable amendments made by this title.

MOYNIHAN (AND OTHERS) AMENDMENT NO. 1538

Mr. MOYNIHAN (Tlfor himself, Mr. BROWN, Mr. D'AMATO, Mr. PACKWOOD, Mr. DECONCINI, Mr. LAUTENBERG, Mr. SPECTER, Mr. SASSER, Mr. DOLE, Mr. BURNS, Mrs. FEINSTEIN, Mr. WOFFORD, Mr. REID, Mr. MACK, Mr. PRESSLER, Mr. COATS, Mrs. BOXER, Mr. MATHEWS, Mr. BRADLEY, Mr. FEINGOLD, Mr. KOHL, Mr. KERRY, Mr. ROTH, Mr. LEVIN, Mrs. HUTCHISON, Mr. BENNETT, and Mr. GORTON) proposed an amendment to the bill S. 1275, supra; as follows:

At the appropriate place in the bill, add the following new section—

"SEC. . UNITED NATIONS RESOLUTIONS CONCERNING JERUSALEM.

(a) FINDINGS.—The Congress finds that—

(1) For three thousand years Jerusalem has been the focal point of Jewish religious devotion;

(2) Jerusalem is also considered a holy city by the members of other religious faiths;

(3) The once thriving Jewish majority of the historic Old City of Jerusalem was driven out by force during the 1948 Arab-Israeli War;

(4) From 1948 to 1967, Jerusalem was a divided city and Israeli citizens of all faiths as well as Jewish citizens of all states were denied access to holy sites in the area controlled by Jordan;

(5) In 1967, Jerusalem was reunited during the conflict known as the Six Day War;

(6) Since 1967, Jerusalem has been a united city administered by Israel and persons of all religious faiths have been guaranteed full access to holy sites within the city;

(7) In 1990, the United States Senate and House of Representatives overwhelmingly adopted Senate Concurrent Resolution 106 and House Concurrent Resolution 290 declaring that Jerusalem, the capital of Israel, "must remain an undivided city";

(8) The Vice President has stated the Administration's intention not to "forget the meaning of Jerusalem";

(9) The Secretary of State recently reiterated U.S. opposition to attempts in the United Nations to refer to Jerusalem as "occupied territory";

(10) It is reported that the United Nations Security Council may consider a resolution condemning the Hebron massacre but which also refers to Jerusalem as "occupied" territory;

(b) SENSE OF CONGRESS.—Therefore, it is the sense of the Congress—

(1) That the Administration should be commended for its efforts not to "forget the meaning of Jerusalem" and to oppose attempts in the United Nations to refer to Jerusalem as "occupied" territory;

(2) That sacrificing core principles for short term objectives will ultimately retard, not advance, the peace process;

(3) That the United States should exercise its veto in the United Nations Security Council on any Security Council resolution that states or implies that Jerusalem is "occupied" territory.

RIEGLE (AND D'AMATO) AMENDMENT NOS. 1539–1540

Mr. RIEGLE (for himself and Mr. D'AMATO) proposed two amendments to the bill S. 1275, supra; as follows:

AMENDMENT NO. 1539

On page 99, beginning with line 22, strike all through page 100, line 19, and insert the following:

(a) PROHIBITED TRANSACTION EXEMPTION.—The Secretary of Labor, in consultation with the Secretary of the Treasury, may 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) pursuant to section 408(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1108(a)) and section 4975(c)(2) of the Internal Revenue Code of 1986.

(b) CONSIDERATION OF EXEMPTION REQUESTS.—The Secretary of Labor shall consider any request for exemption under subsection (a) within a reasonable period of time after receipt of such request.

Section 210 of the bill, as amended by amendment No. 1523, is further amended—

(1) in subsection (a)—

(A) by striking "account—" and inserting "account, as appropriate—";

(B) by striking "and" at the end of paragraph (2);

(C) by striking the period at the end of paragraph (3) and inserting "; and"; and

(B) by adding at the end the following:

"(4) such other tax policies as may be warranted."; and

(2) in subsection (b)—

(A) by striking "means any entity" and inserting "means an entity";

(B) by striking "any obligation (including any participation or certificate of beneficial ownership therein)" and inserting "obligations"; and

(C) by striking "that was originated" and inserting "that were originated".

AMENDMENT NO. 1540

At the appropriate place insert:

SEC. . AMENDMENT TO THE FEDERAL RESERVE ACT.

Sec. 11. Section 11 of the Federal Reserve Act (12 U.S.C. 248) is amended by inserting at the end thereof the following new subsection:

"(p) AUTHORITY.—The Board of Governors of the Federal Reserve System and the Federal Open Market Committee may each act in the Board's or the Committee's own name and through the Board's or the Committee'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 Board of Governors of the Federal Reserve System or the Federal Open Market Committee is a party.".

KERRY (AND OTHERS) AMENDMENT NO. 1541

Mr. KERRY (for himself, Mr. MACK, Mr. BOND, and Mr. D'AMATO) proposed an amendment to the bill S. 1275, supra; as follows:

On page 160, after line 12, insert the following new title:

TITLE IV—NATIONAL FLOOD INSURANCE REFORM

SEC. 401. SHORT TITLE.

This title may be cited as the "National Flood Insurance Reform Act of 1994".

SEC. 402. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) the 4 principal objectives of the National Flood Insurance Program are to limit increasing flood control and disaster relief expenditures, to provide a prefunded mechanism to more fully indemnify victims of flood-related disasters, to limit unwise development in floodplains, and to provide affordable Federal flood insurance for structures located in areas of special flood hazards;

(2) since 1968, the National Flood Insurance Program has reduced the need for taxpayer funded disaster assistance and has been a factor in motivating local government mitigation efforts.

(7) repetitively damaged properties represent a substantial problem for the National Flood Insurance Program, with over 40 percent of all flood insurance claims made on properties that have been damaged more than once;

(9) reforms in the National Flood Insurance Program are essential to increase participation in the Program, make the Program more actuarially sound, decrease the risk of losses to the United States Treasury, and address the problem of properties repetitively damaged by floods;

(10) a Federal flood insurance program that combines predisaster mitigation efforts together with an insurance and compliance program will reduce the physical and economic effects of flood-related damage on the Federal Government, State and local governments, and individuals;

(11) requiring regulated lending institutions, government agencies, and government-sponsored enterprises to make sure that flood insurance coverage is purchased on all properties in areas of special flood hazards in participating communities will increase compliance with the program, and increase the pool of funds, thereby decreasing the impact on the National Flood Insurance Fund of individual flood events;

(14) incentives in the form of reduced premium rates for flood insurance under the National Flood Insurance Program should be provided in communities that have adopted and enforced exemplary or particularly effective measures for comprehensive floodplain management; and

(15) these community-based, individual mitigation, and loss prevention methods and incentives should be incorporated into the National Flood Insurance Program.

SEC. 403. DECLARATION OF PURPOSE UNDER THE NATIONAL FLOOD INSURANCE ACT OF 1968.

Section 1302(e) of the National Flood Insurance Act of 1968 (42 U.S.C. 4001(e)) is amended—

(1) by redesignating paragraphs (3), (4), and (5), as paragraphs (4), (5), and (6), respectively; and

(2) by inserting after paragraph (2) the following: "(3) encourage State and local governments and Federal agencies to protect natural and beneficial floodplain functions that reduce flood-related losses,".

SEC. 404. DEFINITION.

As used in this title, the term "Director" means the Director of the Federal Emergency Management Agency.

Subtitle A—Definitions

SEC. 411. FLOOD DISASTER PROTECTION ACT OF 1973.

(a) IN GENERAL.—Section 3(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4003(a)) is amended—

(1) by striking paragraph (5) and inserting the following new paragraph:

"(5) 'Federal entity for lending regulation' means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Office of Thrift Supervision, the National Credit Union Administration Board, and the Farm Credit Administration, and with respect to a particular regulated lending institution means the entity primarily responsible for the supervision of the institution;";

(2) in paragraph (6), by striking the period at the end and inserting a semicolon; and

(3) by inserting after paragraph (6) the following new paragraphs:

"(7) 'regulated lending institution' means a bank, savings association, credit union, farm credit bank, Federal land bank association, production credit association, or similar institution subject to the supervision of a Federal entity for lending regulation;

"(8) 'Federal agency lender' means the Federal Housing Administration, the Farmers Home Administration, the Small Business Administration, and the Veterans' Administration, when such agency makes loans secured by improved real estate or a manufactured home; and

"(9) 'servicer' means a person who receives any scheduled periodic payments from a borrower pursuant to the terms of any loan secured by a lien on real property, and who makes the payments of principal and interest and such other payments with respect to the amounts received from the borrower as may be required.".

(b) CONFORMING AMENDMENTS.—

(1) REQUIREMENTS TO PURCHASE FLOOD INSURANCE.—Section 102(b) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(b)) is amended by striking "(b) Each Federal instrumentality responsible for the supervision, approval, regulation, or insuring of banks, savings and loan associations, or similar institutions shall by regulation direct such institutions" and inserting the following:

"(b) FLOOD INSURANCE PURCHASE REQUIREMENTS.—Each Federal entity for lending regulation shall by regulation direct regulated lending institutions".

(2) EFFECT OF NONPARTICIPATION IN FLOOD INSURANCE PROGRAM.—Section 202(b) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4106(b)) is amended by striking "Federal instrumentality described in such section shall by regulation require the institutions" and inserting "Federal entity for lending regulation (with respect to regulated lending institutions)".

SEC. 412. NATIONAL FLOOD INSURANCE ACT OF 1968.

(a) IN GENERAL.—Section 1370(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4121(a)) is amended—

(1) in paragraph (5), by striking "and" at the end;

(2) in paragraph (6), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(7) the term 'Federal entity for lending regulation' means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Office of Thrift Supervision, and the National Credit Union Administration Board, and with respect to a particular regulated lending institution, means the entity primarily responsible for the supervision of the institution;

"(8) the term 'regulated lending institution' means a bank, savings association, credit union, farm credit bank, Federal land bank association, production credit association, or similar institution subject to the supervision of a Federal entity for lending regulation;

"(9) the term 'Federal agency lender' means the Federal Housing Administration, the Farmers Home Administration, the Small Business Administration, and the Veterans' Administration, when such agency makes loans secured by improved real estate or a manufactured home;

"(10) the term 'natural and beneficial floodplain functions' means—

"(A) the functions associated with the natural or relatively undisturbed floodplain that moderate flooding, retain flood waters, reduce erosion and sedimentation, mitigate the effects of waves and storm surge from storms; and

"(B) ancillary beneficial functions, including maintenance of water quality and recharge of ground water that reduce flood related damage.

"(11) the term 'erosion control measures' means a community's efforts to control erosion through nonstructural and structural projects;

"(12) the term 'repetitive loss structure' means an insured property that has incurred flood-related damage on 2 occasions during a 10-year period ending on the date of the event for which a second claim is made, in which the cost of repair, on the average, equaled or exceeded 25 percent of the value of the structure at the time of each flood event;

"(13) the term 'cost of compliance with land use and control measures' means

(A) the cost of elevating or flood proofing a structure so that the structure is in compliance with the minimum performance standards adopted by the State or community pursuant to section 1315 of the National Flood Insurance Act of 1968, or

(B) the cost of relocation or demolition of the structure if the Director demonstrates that the structure will collapse or subside as a result of erosion within 30 years based on state erosion data.

"(14) the term 'servicer' means any person who receives any scheduled periodic payments from a borrower pursuant to the terms of any loan secured by a lien on real property, and who makes the payments of principal and interest and such other payments with respect to the amounts received from the borrower as may be required.".

(b) CONFORMING AMENDMENT.—Section 1322(d) of the National Flood Insurance Act of 1968 (42 U.S.C. 4029(d)) is amended by striking "federally supervised, approved, regulated or insured financial institution" and inserting "regulated lending institution".

SUBTITLE B—COMPLIANCE AND INCREASED PARTICIPATION

SEC. 421. EXPANDED FLOOD INSURANCE PURCHASE REQUIREMENTS.

(a) IN GENERAL.—Section 102(b) of the Flood Disaster Protection Act of 1973 (42

U.S.C. 4012a(b)), as amended by section 411(b)(1), is amended—

(1) by striking "Each Federal entity" and inserting the following:

"(1) IN GENERAL.—Each Federal entity";

(2) by inserting before "shall by regulation" the following: "(after consultation and coordination with the Federal Financial Institutions Examination Council established under the Federal Financial Institutions Examination Council Act of 1974)"; and

(3) by adding at the end the following new paragraphs:

"(2) PROCEDURES IMPLEMENTED BY FNMA, FHLMC, AND FAMC.—The Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Federal Agricultural Mortgage Corporation shall implement procedures reasonably designed to assure that each loan that is—

"(A) secured by improved real estate or a manufactured home located in an area that has been identified at the time of the origination of the loan by the Director as an area of special flood hazards and in which flood insurance is available under the National Flood Insurance Act of 1968; and

"(B) purchased by any such entity;

is covered for the term of the loan by flood insurance in the amount provided in paragraph (1).

"(3) PROCEDURES IMPLEMENTED BY FEDERAL AGENCY LENDERS.—Each Federal agency lender shall implement procedures reasonably designed to assure that all property—

"(A) that secures loans that the Federal agency lender makes, increases, extends, or renews; and

"(B) that is improved by real estate or a manufactured home located in an area that has been identified at the time of the origination of the loan by the Director as an area of special flood hazards and in which flood insurance is available under the National Flood Insurance Act of 1968;

is covered for the term of the loan by flood insurance in the amount provided in paragraph (1).

"(4) DEFINITION.—For purposes of this section property improved by real estate means insurable improvements on that property.".

(b) EFFECTIVE DATE.—The provisions of this section shall apply to all transactions occurring after the expiration of the 1-year period beginning on the date of enactment of this title.

SEC. 422. ESCROW OF FLOOD INSURANCE PAYMENTS.

(a) IN GENERAL.—Section 102 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a) is amended by adding at the end the following new subsection:

"(d) ESCROW OF FLOOD INSURANCE PAYMENTS.—

"(1) BY REGULATED LENDING INSTITUTIONS.—Each Federal entity for lending regulation, after consultation and coordination with the Federal Financial Institutions Examination Council, shall by regulation require that, if a regulated lending institution requires the escrowing of taxes, insurance premiums, fees, or any other charges for a loan secured by residential real estate or manufactured homes, all charges for flood insurance under this title for the property shall be paid by the borrower to the institution for the duration of the period during which the regulated lending institution maintains an escrow account. Upon receipt of a notice from the Director or the provider of the insurance that insurance premiums, fees, or other charges are due, the institution shall pay from the escrow account to the provider of the insurance the amount of insurance premiums, fees, or other charges owed.

"(2) BY FEDERAL AGENCY LENDERS.—If a Federal agency lender requires the escrowing of taxes, insurance premiums, fees, or any other charges, then any charges for flood insurance under this title for the residential real estate or the manufactured home shall be paid by the borrower to the Federal agency lender for the duration of the period during which the Federal agency lender maintains an escrow account. Upon receipt of a notice from the Director or the provider of the insurance that insurance premiums, fees, or other charges are due, the Federal agency lender shall pay from the escrow account to the provider of the insurance the amount of insurance premiums, fees or other charges owed.

"(3) APPLICABILITY OF REAL ESTATE SETTLEMENT PROCEDURES ACT.—Escrow accounts used to collect flood insurance premiums, fees, or other charges under this subsection shall be subject to the provisions of section 10 of the Real Estate Settlement Procedures Act of 1974.".

(b) APPLICABILITY.—Section 102(d) of the Flood Disaster Protection Act of 1973, as added by subsection (a), shall apply with respect to any loan made, increased, extended, or renewed after the expiration of the 1-year period beginning on the date of enactment of this title.

SEC. 423. NOTICE REQUIREMENTS.

Section 1364 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104a) is amended to read as follows:

"SEC. 1364. NOTICE REQUIREMENTS.

"(a) LENDING INSTITUTIONS.—Each Federal entity for lending regulation, after consultation and coordination with the Federal Financial Institutions Examination Council, shall by regulation require that before a regulated lending institution makes, increases, extends, or renews a loan secured by improved real estate or a manufactured home located in an area that has been identified by the Director as an area of special flood hazards, the institution shall notify the borrower of the special flood hazards and of the need to purchase and maintain flood insurance.

"(b) FEDERAL AGENCY LENDERS.—Before a Federal agency lender makes, increases, extends, or renews a loan secured by improved real estate or a manufactured home located in an area that has been identified by the Director as an area of special flood hazards, the Federal agency lender shall notify the borrower of the special flood hazards and of the need to purchase and maintain flood insurance.

"(c) PARTICIPATING COMMUNITIES.—The Director shall by regulation require each participating community, upon receiving the semiannual list prepared by the Director of all revisions to and updates of flood insurance rate maps made during the preceding 6 months, to determine whether any properties in their community have been affected, and to provide annual notice by mail, notice by publication, notice on tax assessments, or notice by other reasonable method, to regulated lending institutions that are known to lend in the community, and to the owners of all properties newly determined to be, or no longer to be, in an area of special flood hazards, of the flood insurance purchase requirements under section 102(b).

"(d) CONTENTS OF NOTICE.—Notification required by this section shall include a warning, in a form to be established by the Director, stating that the real estate or manufactured home securing the loan is located in an area of special flood hazards, a description of the flood insurance purchase requirements under section 102(b), a statement that flood insurance coverage may be purchased under the National Flood Insurance Program and may also be available from private insurers, and any other information that the Director considers necessary to carry out the purposes of the National Flood Insurance Program.".

SEC. 424. PLACEMENT OF FLOOD INSURANCE BY REGULATED LENDING INSTITUTION, FEDERAL AGENCY LENDER, OR SERVICER.

(a) REQUIRED ACTIONS BY LENDER.—Section 102 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a), as amended by section 422(a), is amended by adding at the end the following new subsection:

"(e) REQUIRED ACTIONS BY LENDER.—

"(1) NOTIFICATION TO BORROWER OF LACK OF COVERAGE.—If, at the time of origination or at any other time during the term of a loan secured by improved real estate or by a manufactured home located in an area that has been identified by the Director as an area of special flood hazards and in which flood insurance is available under this title, a regulated lending institution, Federal agency lender, or servicer determines that the building or manufactured home and any personal property securing the loan held or serviced by the regulated lending institution, Federal agency lender, or servicer is not covered by flood insurance, in an amount not less than the amount required by subsection (b)(1), the regulated lending institution, Federal agency lender, or servicer shall notify the borrower, in a form to be established by the Director, that the borrower should obtain, at the borrower's expense, an amount of flood insurance that is not less than the amount required by subsection (b)(1), for the term of the loan. If, not later than 45 days after receiving such notification, the borrower fails to purchase such flood insurance, the regulated lending institution, Federal agency lender, or servicer shall purchase the insurance on behalf of the borrower and may charge the borrower for the cost of premiums and fees incurred by the regulated lending institution, Federal agency lender, or servicer in purchasing the insurance.

"(2) REVIEW.—

"(A) BY THE DIRECTOR.—A borrower may request, based upon the submission of supporting technical data, that the Director review a determination that the improved real estate or manufactured home securing the loan is located in an area of special flood hazards. Not later than 45 days after the Director receives the request, the Director shall review the determination and provide the borrower with a letter stating whether or not the property is in an area of special flood hazards. The determination of the Director shall be final. If the Director fails to respond to a request within 45 days, the property shall be deemed not to be located in an area having special flood hazards.

"(B) INSURANCE NOT REQUIRED.—If a person is provided by the borrower with a letter issued by the Director pursuant to subparagraph (A) during the preceding 1-year period, stating that the property is not in an area of special flood hazards, such person shall have no obligation under this title to require the purchase of flood insurance on the property.".

(b) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), section 102(e) of the Flood Disaster Protection Act of 1973, as added by subsection (a), shall apply to all loans outstanding on or after the date of enactment of this title.

(2) LOANS REGULATED BY THE FARM CREDIT ADMINISTRATION.—With respect to loans held by institutions regulated by the Farm Credit Administration, section 102(e) of the Flood Disaster Protection Act of 1973, as added by subsection (a), shall apply only to loans originating on or after the date of enactment of this title.

SEC. 425. STANDARD FLOOD HAZARD DETERMINATION FORMS.

(a) IN GENERAL.—Chapter III of the National Flood Insurance Act of 1968 (42 U.S.C. 4101 et seq.) is amended by adding at the end the following new section:

"SEC. 1365. STANDARD FLOOD HAZARD DETERMINATION FORMS.

"(a) DEVELOPMENT.—The Director, in consultation with the Federal entities for lending regulation, and after notice and comment, shall develop a standard flood hazard determination form (hereafter in this section referred to as the 'determination form') for use in connection with loans secured by improved real estate or a manufactured home located in an area of special flood hazards and in which flood insurance is available under this title. The determination form may be maintained in a printed, computerized, or electronic manner.

"(b) DESIGN AND CONTENTS.—The determination form shall state whether the property is in an area of special flood hazards, the risk premium rate classification established for the special flood hazard area in which the property is located, the complete map and panel numbers for the property, and the date of the map used for the determination. If the complete map and panel numbers for the property are not available because the property is not located in a community that is participating in the National Flood Insurance Program or because no map exists for the relevant area, the determination form shall so state.

"(c) REQUIRED USE.—Each Federal entity for lending regulation shall by regulation require the use of the determination form by regulated lending institutions. Each Federal agency lender shall by regulation provide for the use of the determination form. The Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Federal Agricultural Mortgage Corporation shall require use of the determination form by any person from whom they purchase loans.

"(d) GUARANTEES REGARDING INFORMATION.—In recording information on a determination form, a person may rely on information provided by a third party to the extent that the third party guarantees the accuracy of the information.

"(e) RELIANCE ON PREVIOUS DETERMINATION.—A person or institution increasing, extending, renewing, or purchasing a loan may rely on a previous determination as to whether property is in a special flood hazard area, if the previous determination was made not more than 5 years before the date of the transaction, and the basis for the previous determination has been set forth on a determination form.".

(b) APPLICABILITY.—Section 1365 of the National Flood Insurance Act of 1968, as added by subsection (a), shall apply to all loans originated on or after the expiration of the 6-month period beginning on the date the standard flood hazard determination form is finalized by the Director.

SEC. 426. EXAMINATIONS REGARDING COMPLIANCE BY REGULATED LENDING INSTITUTIONS.

(a) AMENDMENT TO FEDERAL DEPOSIT INSURANCE ACT.—Section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820) is amended by adding at the end the following new subsection:

"(h) FLOOD HAZARD INSURANCE COMPLIANCE BY INSURED DEPOSITORY INSTITUTIONS REQUIRED.—

"(1) EXAMINATIONS.—The appropriate Federal banking agency shall, during each scheduled on-site examination required by this section, determine whether the insured depository institution is complying with the requirements of the National Flood Insurance Program.

"(2) REPORT.—Not later than 1 year after the date of enactment of the National Flood Insurance Reform Act of 1994, and biannually thereafter for the next 4 years, each appropriate Federal banking agency shall submit a report to Congress on compliance by insured depository institutions with the requirements of the National Flood Insurance Program. The report shall include a description of the methods used to determine compliance, the number of institutions examined during the reporting year, a listing and total number of institutions found to be in noncompliance, actions taken to correct incidents of noncompliance, and an analysis of compliance, including a discussion of any trends, patterns, and problems, and recommendations regarding reasonable actions to improve the efficiency of the examinations processes.".

(b) AMENDMENT TO THE FEDERAL CREDIT UNION ACT.—Section 204 of the Federal Credit Union Act (12 U.S.C. 1784) is amended by adding at the end the following new subsection:

"(e) FLOOD HAZARD INSURANCE COMPLIANCE BY INSURED CREDIT UNIONS REQUIRED.—

"(1) EXAMINATION.—The Board shall, during each examination conducted under this section, determine whether the insured credit union is complying with the requirements of the National Flood Insurance Program.

"(2) REPORT.—Not later than 1 year after the date of enactment of the National Flood Insurance Reform Act of 1994, and biannually thereafter for the next 4 years, the Board shall submit a report to Congress on compliance by insured credit unions with the requirements of the National Flood Insurance Program. The report shall include a description of the methods used to determine compliance, the number of insured credit unions examined during the reporting year, a listing and total number of insured credit unions found to be in noncompliance, actions taken to correct incidents of noncompliance, and an analysis of compliance, including a discussion of any trends, patterns, and problems, and recommendations regarding reasonable actions to improve the efficiency of the examinations processes.".

SEC. 427. PENALTIES AND CORRECTIVE ACTIONS FOR FAILURE TO REQUIRE FLOOD INSURANCE, ESCROW, OR NOTIFY.

Section 102 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a), as amended by sections 422 and 424, is amended by adding at the end the following new subsections:

"(f) CIVIL PENALTIES.—

"(1) IN GENERAL.—A regulated lending institution that is found to have a pattern or practice of violating this section may be assessed a civil penalty by the appropriate Federal entity for lending regulation of not more than $350 for each such violation. A penalty under this subsection may be issued only after notice and an opportunity for a hearing on the record.

"(2) TOTAL AMOUNT.—The total amount of penalties assessed under this subsection against a single regulated lending institution for any calendar year may not exceed $100,000.

"(3) SALES OR TRANSFERS.—The subsequent sale or other transfer of a loan by a regulated lending institution that has committed a violation of this section shall not affect the liability of the transferring institution with respect to any penalty under this subsection. An institution shall not be liable for a violation relating to a loan committed by another institution that previously held the loan.

"(4) 3-YEAR LIMIT.—No penalty may be imposed under this subsection after the expiration of the 3-year period beginning on the date of the occurrence of the violation.

"(g) ADDITIONAL ACTIONS.—If a Federal entity for lending regulation determines—

"(1) that a regulated lending institution has demonstrated a pattern and practice of noncompliance in violation of the regulations issued pursuant to subsection (b) or subsection (d) or the notice requirements under section 1364 of the National Flood Insurance Act of 1968; and

"(2) that the regulated lending institution has not demonstrated measurable improvement in compliance despite the issuance of penalties under subsection (f);

the agency may require the regulated lending institution to take such remedial actions as are necessary to ensure that the regulated lending institution is in satisfactory compliance with the requirements of the National Flood Insurance Program.".

SEC. 428. FINANCIAL INSTITUTIONS EXAMINATION COUNCIL.

Section 1006 of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3305) is amended by adding at the end the following new subsection:

"(g) FLOOD INSURANCE.—The Council shall consult with and assist the Federal entities for lending regulation, as such term is defined in section 1370(a)(7) of the National Flood Insurance Act of 1968, in developing and coordinating uniform standards and requirements for use by regulated lending institutions under the National Flood Insurance Program.".

SEC. 429. CONFORMING AMENDMENT.

The section heading for section 102 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a) is amended to read as follows:

"FLOOD INSURANCE PURCHASE AND COMPLIANCE REQUIREMENTS AND ESCROW ACCOUNTS".

SUBTITLE C—RATINGS AND INCENTIVES FOR COMMUNITY FLOODPLAIN MANAGEMENT PROGRAMS

SEC. 431. COMMUNITY RATING SYSTEM AND INCENTIVES FOR COMMUNITY FLOODPLAIN MANAGEMENT.

(a) REQUIREMENT FOR PARTICIPATION IN FLOOD INSURANCE PROGRAM.—Section 1315 of the National Flood Insurance Act of 1968 (42 U.S.C. 4022) is amended—

(1) by striking the section heading and inserting the following:

"SEC. 1315. STATE AND LOCAL LAND USE CONTROLS.";

(2) by striking "After December" and inserting the following:

"(a) REQUIREMENT FOR PARTICIPATION IN FLOOD INSURANCE PROGRAM.—After December"; and

(3) by adding at the end the following new subsection:

"(b) COMMUNITY RATING SYSTEM AND INCENTIVES FOR COMMUNITY FLOODPLAIN MANAGEMENT.—

"(1) AUTHORITY AND GOALS.—The Director shall carry out a community rating system program to evaluate the measures adopted

by communities voluntarily participating in the community rating system, to provide incentives for measures to reduce the risk of flood or erosion damage that exceed the criteria set forth in section 1361, to encourage adoption of more effective measures to protect natural and beneficial floodplain functions, floodplain and erosion management, and to promote the reduction of Federal flood insurance losses.

"(2) INCENTIVES.—The program shall provide incentives in the form of credits on premium rates for flood insurance coverage in communities that the Director determines have adopted and enforced measures to reduce the risk of flood and erosion damage that exceed the criteria set forth in section 1361. In providing incentives under this paragraph, the Director may provide for credits to flood insurance premium rates in communities that the Director determines have—

"(A) implemented measures to protect natural and beneficial floodplain functions; and

"(B) adopted erosion control measures.

"(3) CREDITS.—The credits on premium rates for flood insurance coverage shall be based on the estimated reduction in flood and erosion damage risks resulting from the measures adopted by the community under this program. If a community has received mitigation assistance under §1366, the credits shall be phased-in as determined by the Director.".

(b) REPORTS.—Two years after the date of enactment of this title and biannually thereafter, the Director shall submit a report to the Congress regarding the program under section 1315(a) of the National Flood Insurance Act of 1968. Each report shall include an analysis of the cost-effectiveness and other accomplishments and shortcomings of the program and any recommendations of the Director for legislation regarding the program.

SEC. 432. FUNDING.

Section 1310(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4017(a)) is amended—

(1) in paragraph (4), by striking "and" at the end;

(2) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(3) by adding after paragraph (5) the following new paragraph:

"(6) for carrying out the program under section 1315(b);".

SEC. 433. REASONABLE FEES.

A lender may charge a borrower a reasonable fee for making a flood insurance determination.

Subtitle D—Mitigation of Flood and Erosion Risks

SEC. 441. MITIGATION ASSISTANCE IN FEDERAL INSURANCE ADMINISTRATION.

Section 1105(a) of the Housing and Urban Development Act of 1968 (42 U.S.C. 4129) is amended—

(1) by striking "(a) There is hereby" and inserting the following:

"(a) ESTABLISHMENT.—There is hereby"; and

(2) by striking subsection (b) and inserting the following:

"(b) COORDINATION OF MITIGATION ACTIVITIES.—The Director shall coordinate all mitigation activities, including the administration of the program for mitigation assistance under section 1367. These activities shall include the development and implementation of various mitigation activities and techniques, the provision of advice and assistance regarding mitigation to States, communities, and individuals, including planning assistance under section 1367(d), coordination with other Federal flood and erosion mitigation efforts, and coordination with State and local governments and public and private agencies and organizations for collection and dissemination of information regarding erosion.".

SEC. 442. AUTHORIZATION OF NATIONAL FLOOD AND EROSION MITIGATION FUNDS UNDER SECTION 1362.

Chapter III of the National Flood Insurance Act of 1968 (42 U.S.C. 4101 et seq.), as amended by section 425, is amended by adding at the end the following new section:

"SEC. 1366. NATIONAL FLOOD AND EROSION MITIGATION PROGRAM.

"(a) EXPENDITURES.—For flood and erosion mitigation activities authorized under section 1367, the Director may expend from the National Flood Insurance Fund—

"(1) up to $10,000,000 in the fiscal year ending September 30, 1994;

"(2) up to $15,000,000 in the fiscal year ending September 30, 1995;

"(3) up to $20,000,000 in the fiscal year ending September 30, 1996;

"(4) up to $20,000,000 in each fiscal year thereafter; and

"(5) any amounts recaptured under section 1367(i).

"(b) REPORT.—Not later than 1 year after the date of enactment of the National Flood Insurance Reform Act of 1994 and biannually thereafter, the Director shall submit a report to the Congress describing the status of flood and erosion mitigation activities carried out with funds authorized under this section.".

SEC. 443. STATE AND COMMUNITY MITIGATION ASSISTANCE PROGRAM.

(a) IN GENERAL.—Chapter III of the National Flood Insurance Act of 1968 (42 U.S.C. 4101 et seq.), as amended by sections 425 and 442, is amended by adding at the end the following new section:

"SEC. 1367. STATE AND COMMUNITY MITIGATION ASSISTANCE.

"(a) AUTHORITY.—The Director shall develop and implement a financial assistance program with amounts made available under section 1366 to States and communities for planning and activities designed to reduce the risk of flood and erosion damage to insured structures and to protect natural and beneficial flood-plain functions.

"(b) MITIGATION PLAN REQUIREMENT.—To be eligible to receive financial mitigation assistance, a State or community shall develop, and have approved by the Director, a flood and erosion risk mitigation plan (hereafter in this section referred to as a 'mitigation plan'), that is consistent with the criteria established by the Director under section 1361. The mitigation plan shall include a comprehensive strategy for mitigation activities adopted by the State or community following a public hearing.

"(c) NOTIFICATION OF APPROVAL.—Not later than 120 days after the submission of a mitigation plan, the Director shall notify the State or community submitting the plan of the Director's approval or disapproval of the plan. If the Director does not approve a plan, the Director shall notify the State or community in writing of the reasons for such disapproval.

"(d) PLANNING ASSISTANCE.—

"(1) IN GENERAL.—The Director shall make planning assistance available to States and communities for developing mitigation plans.

"(2) FUNDING.—From any amounts made available for use under section 1366 of the National Flood Insurance Act of 1968 in any fiscal year, the Director may use not more than $1,500,000 to provide planning assistance grants to States or communities to develop mitigation plans under this subsection.

"(3) LIMITATIONS.—

"(A) TIMING.—A grant for planning assistance may be awarded to a State or community once every 5 years and each grant may cover a period of 1 to 3 years.

"(B) AMOUNT.—A grant for planning assistance may not exceed—

"(i) $150,000, to any State; or

"(ii) $50,000, to any community.

"(C) GEOGRAPHIC.—Not more than $300,000 may be awarded to any 1 State and all communities located in that State for planning assistance in each fiscal year.

"(e) ELIGIBLE MITIGATION ACTIVITIES.—The Director shall determine eligibility for assistance under this section for mitigation activities that shall be technically feasible and cost-effective. These activities may include—

"(1) elevation, relocation, demolition, or floodproofing of structures;

"(2) The construction repair, or restoration of levees, seawalls, and other structures that reduce the risk of flood damage;

"(3) Erosion control measures including beach nourishment.

"(4) acquisition by States and communities of property substantially damaged by flood for public use as the Director determines is consistent with sound land management and use in such area; and

"(5) the provision of technical assistance by States to communities and individuals to conduct eligible mitigation activities.

"(f) LIMITATIONS ON MITIGATION ASSISTANCE.—

"(1) AMOUNT.—The amount of mitigation assistance provided under subsection (e) may not exceed in any 5-year period—

"(A) $10,000,000, to any State; or

"(B) $3,300,000, to any community.

"(2) GEOGRAPHIC.—Not more than $20,000,000 may be awarded to any 1 State and all communities located in that State for mitigation assistance in any 5-year period.

"(g) MATCHING REQUIREMENT.—The Director may provide mitigation assistance to a State or community in an amount not to exceed 3 times the amount that the State or community certifies, as the Director shall require, that the State or community will contribute from other funds to carry out mitigation planning under subsection (d) and eligible activities under subsection (e).

"(h) OVERSIGHT OF MITIGATION PLANS.—The Director shall conduct oversight of recipients of mitigation assistance to ensure that the mitigation assistance is used in compliance with approved plans.

"(i) RECAPTURE.—If the Director determines that a State or community that has received mitigation assistance has not carried out the mitigation activities as set forth in the mitigation plan, the Director shall recapture any unexpended amounts and deposit the amounts in the Fund.

"(j) DEFINITION OF COMMUNITY.—For purposes of this section, the term 'community' means a political subdivision that has zoning and building code jurisdiction over a particular area of special flood hazards, and that is participating in the National Flood Insurance Program.

"(k) PREFERENCES FOR MITIGATION GRANTS TO COMMUNITIES.—

"(1) COST-BENEFICIAL PLANS.—In providing mitigation grants to communities under this section, the Director shall give preference to communities with mitigation plans that are the most cost-beneficial to the Flood Insurance Fund.

(2) ADDITIONAL CRITERIA.—Subject to paragraph (1), the Director will also give preference to communities that—

"(A) have the highest rates of participation by property owners in the Federal flood insurance program;

"(B) have qualified for credits on premium rates under section 1315(b); and

"(C) have experienced repetitive losses that have been most costly to the Fund.".

(b) REGULATIONS.—Not later than 6 months after date of enactment of this title, the Director shall issue regulations implementing section 1367 of the National Flood Insurance Act of 1968, as added by subsection (a).

SEC. 444. REPEAL OF PROGRAM FOR PURCHASE OF CERTAIN INSURED PROPERTIES.

(a) REPEAL.—Section 1362 of the National Flood Insurance Act of 1968 (42 U.S.C. 4103) is repealed.

(b) TRANSITION.—Notwithstanding the repeal under subsection (a), the Director may continue to purchase property under subsections (a) and (b) of section 1362 of the National Flood Insurance Act of 1968, as such section existed immediately before the date of enactment of this title, for a period of 1 year beginning on the date of enactment of this title.

SEC. 445. TERMINATION OF EROSION THREATENED STRUCTURES PROGRAM.

(a) IN GENERAL.—Section 1306 of the National Flood Insurance Act of 1968 (42 U.S.C. 4013) is amended by striking subsection (c).

(b) TRANSITION.—The Director may pay amounts under flood insurance contracts for demolition or relocation of structures as provided in section 1306(c) of the National Flood Insurance Act of 1968 (as in effect immediately before the date of enactment of this title) only during the 1-year period beginning on the date of enactment of this title.

SEC. 446. CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE UNDER THE NATIONAL FLOOD INSURANCE ACT OF 1968.

Section 1302 of the National Flood Insurance Act of 1968 (42 U.S.C. 4001) is amended by striking subsection (g).

Subtitle E—Flood Insurance Task Force

SEC. 451. FLOOD INSURANCE INTERAGENCY TASK FORCE.

(a) ESTABLISHMENT.—There is established an interagency task force to be known as the Flood Insurance Task Force (hereafter in this title referred to as the "Task Force").

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Task Force shall consist of 13 members, who shall be the designees of—

(A) the Director;

(B) the Federal Housing Commissioner;

(C) the Secretary of Veterans Affairs;

(D) the Administrator of the Farmers Home Administration;

(E) the Administrator of the Small Business Administration;

(F) each member of the Federal Financial Institutions Examination Council;

(G) the chairman of the Board of Directors of the Federal Home Loan Mortgage Corporation;

(H) the chairman of the Board of Directors of the Federal National Mortgage Association; and

(I) the chairman of the Federal Agricultural Mortgage Corporation.

(2) QUALIFICATIONS.—Members of the Task Force shall be designated for membership on the Task Force by reason of demonstrated knowledge and competence regarding the National Flood Insurance Program.

(c) DUTIES.—The Task Force shall—

(1) make recommendations to the head of each Federal agency and corporation referred to under subsection (b)(1) regarding the establishment or adoption of standardized enforcement procedures among such agencies and corporations responsible for enforcing compliance with the requirements under the National Flood Insurance Program to ensure the fullest possible compliance with such requirements;

(2) study the extent to which Federal agencies and the secondary mortgage market can provide assistance in ensuring compliance with the requirements under the National Flood Insurance Program;

(3) study the extent to which existing programs of Federal agencies and corporations for compliance with the requirements under the National Flood Insurance Program can serve as a model for other Federal agencies responsible for enforcing compliance, and submit to the Congress a report describing the study and any conclusions;

(4) study—

(A) the extent to which the flood insurance premium rate structure could be revised to—

(i) minimize existing premium rate subsidies;

(ii) reduce or eliminate disaster assistance payments in high-risk erosion areas;

(iii) incorporate premium rate adjustments for erosion hazards; and

(iv) account for catastrophic loss events; and

(B) how changes in the premium rate structure could potentially impact other Federal disaster assistance programs;

(5) propose strategies to establish an actuarial-based premium structure to account for all insurable risks identified under the National Flood Insurance Act of 1968, as amended by this title; and

(6) develop guidelines regarding enforcement and compliance procedures, based on the studies and findings of the Task Force and publishing the guidelines in a usable format.

(d) REPORTS.—Not later than 2 years after the date of enactment of this title, the Task Force shall transmit to the Congress a report describing its studies and any conclusions.

(e) COMPENSATION.—Members of the Task Force shall receive no additional compensation by reason of their service on the Task Force.

(f) CHAIRPERSON.—The Director shall select 1 member to serve as the chairperson of the Task Force (hereafter in this section referred to as the "Chairperson").

(g) MEETINGS AND ACTION.—The Task Force shall meet at the call of the Chairperson or a majority of the members of the Task Force and may take action by a vote of the majority of the members. The Federal Insurance Administrator shall coordinate and call the initial meeting of the Task Force.

(h) OFFICERS.—The Chairperson may appoint officers to carry out the duties of the Task Force under subsection (c).

(i) STAFF OF FEDERAL AGENCIES.—Upon the request of the Chairperson, the head of any of the Federal agencies and corporations referred to in subsection (b)(1) may detail, on a nonreimbursable basis, any of the personnel of the agency to the Task Force to assist the Task Force in carrying out its duties under this title.

(j) POWERS.—In carrying out this section, the Task Force may hold hearings, sit and act at times and places, take testimony, receive evidence and assistance, provide information, and conduct research as the Task Force considers appropriate.

(k) TERMINATION.—The Task Force shall terminate 2 years after the date on which all members of the Task Force have been designated under subsection (b)(1).

Subtitle F—Miscellaneous Provisions

SEC. 461. MAXIMUM FLOOD INSURANCE COVERAGE AMOUNTS.

(a) IN GENERAL.—Section 1306(b) of the National Flood Insurance Act of 1968 (42 U.S.C. 4013(b)) is amended—

(1) in paragraph (1)(A)—

(A) by inserting "and" at the end of clause (i); and

(B) by striking clause (iii);

(2) by striking subparagraph (B) of paragraph (1) and inserting the following new subparagraph:

"(B) in the case of any nonresidential property, including churches—

"(i) $100,000 aggregate liability for each structure; and

"(ii) $100,000 aggregate liability for any contents related to each structure;";

(3) by striking subparagraph (C) of paragraph (1);

(4) in paragraph (2), by striking "so as to enable" and all that follows through the end of the paragraph and inserting "up to an amount, including the limits specified in clause (i) of paragraph (1)(A), of $250,000 multiplied by the number of dwelling units in the building;";

(5) in paragraph (3), by striking "so as to enable" and all that follows through the end of the paragraph and inserting "up to an amount of $90,000 for any single-family dwelling and $240,000 for any residential structure containing more than one dwelling unit;"; and

(6) by striking paragraph (4) and inserting the following new paragraph:

"(4) in the case of any nonresidential property, including churches, additional flood insurance in excess of the limits specified in clauses (i) and (ii) of paragraph (1)(B) shall be made available to every insured upon renewal and every applicant for insurance up to an amount of $2,400,000 for each structure and $2,400,000 for any contents related to each structure; and".

(b) ACTUARIAL RISK PREMIUMS ON REPETITIVE LOSS STRUCTURES.—Section 1306(b) of the National Flood Insurance Act of 1968 (42 U.S.C. 4013(b)) is amended—

(1) in paragraph (5), by striking "and" at the end; and

(2) by striking paragraph (6) and inserting the following new paragraph:

"(6) upon determining that a property is a repetitive loss structure, and after making a payment to the insured under section 1304(e), the Director shall charge the applicable risk premium rate for flood insurance based on consideration of the risk involved and accepted actuarial principles under section 1307(a)(1), except that the Director may not increase the premium rate above the level authorized in paragraph (7); and".

(c) ANNUAL 10-PERCENT PREMIUM RATE INCREASE CAP.—Section 1306(b) of the National Flood Insurance Act of 1968 (42 U.S.C. 4013(b)) is amended by adding at the end the following:

"(7) the Director may not increase the premium rate applied to a structure in any 12-month period by more than 10 percent over the rate previously applied to that structure during the preceding 12-month period.".

(d) CONFORMING AMENDMENTS.—Section 1306(b)(5) of the National Flood Insurance Act of 1968 (42 U.S.C. 4013(b)(5)) is amended—

(1) by striking "(A), (B), or (C)" and inserting "(A) or (B)"; and

(2) by striking "(1)(C),".

SEC. 462. ADDITIONAL COVERAGE FOR COMPLIANCE WITH LAND USE AND CONTROL MEASURES.

(a) IN GENERAL.—Section 1304 of the National Flood Insurance Act of 1968 (42 U.S.C. 4011) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection:

"(b) The national flood insurance program established pursuant to subsection (a) shall enable the purchase of insurance to cover the cost of compliance with land use and control measures for—

"(1) properties that are repetitive loss structures;

"(2) properties that have flood damage in which the cost of repairs equals or exceeds 50 percent of the value of the structure at the time of the flood event; and

"(3) properties that have sustained flood damage on multiple occasions, if the Director determines that it is cost-effective and in the best interests of the National Flood Insurance Fund to require compliance with the land use and control measures.

The Director shall impose a surcharge on each insured of not more than $50 per policy to provide cost of compliance coverage in accordance with the provisions of this subsection.".

(b) APPLICABILITY.—The provisions of subsection (a) shall apply only to structures that sustain flood-related damage after the date of enactment of this title.

SEC. 463. FLOOD INSURANCE PROGRAM ARRANGEMENTS WITH PRIVATE INSURANCE ENTITIES.

Section 1345(b) of the National Flood Insurance Act of 1968 (42 U.S.C. 4081(b)) is amended by striking the period at the end and inserting the following: "and without regard to the provisions of the Federal Advisory Committee Act.".

SEC. 464. UPDATING OF FLOOD INSURANCE RATE MAPS.

Section 1360 of the National Flood Insurance Act of 1968 (42 U.S.C. 4101) is amended by adding at the end the following new subsections:

"(e) ASSESSMENT OF NEED TO UPDATE AREAS.—

"(1) PERIODIC ASSESSMENTS.—Not less than once during each 5-year period (the first such period beginning on the date of enactment of the National Flood Insurance Reform Act of 1994), or more often as the Director determines necessary, the Director shall assess the need to revise and update each flood insurance rate map, based on an analysis of all natural hazards affecting flood risks.

"(2) UPON REQUEST.—Upon the request of a State or community stating that a flood insurance rate map needs revision or updating, the Director shall review and update the flood insurance rate map for the State or community. The Director may require the State or community to pay a portion of the cost of updating the map.

"(f) AVAILABILITY.—To promote compliance with the requirements of this title, the Director shall make flood insurance rate maps and related information available free of charge to Federal agencies and to State agencies directly responsible for coordinating the National Flood Insurance Program and to appropriate representatives of communities participating in the National Flood Insurance Program, and at a reasonable cost to all other persons pursuant to section 1310.

"(g) NOTIFICATION.—The Director shall publish in the Federal Register or by other comparable method, notice of each revision to or update of a flood insurance rate map, issued in the form of a Letter of Map Amendment or Letter of Map Revision. Each map revision or update shall become effective upon publication. Such comparable methods shall include all pertinent information, provide for regular and frequent distribution, and be at least as accessible to map users as the Federal Register. Notices published in the Federal Register, or otherwise, shall also include information on how to obtain copies of the revisions or updates.

"(h) AVAILABILITY.—On March 1 and October 1 of each year, the Director shall publish separately and make available in their entirety within a compendium, all revisions to and updates of flood insurance rate maps and all Letters of Map Amendment and Letters of Map Revision that were published in the Federal Register or distributed through other comparable methods during the preceding 6 months, free of charge, to Federal agencies, States, and communities participating in the National Flood Insurance Program pursuant to section 1310 and at cost to all other persons.".

SEC. 465. EVALUATION OF EROSION HAZARDS.

(a) IN GENERAL.—As soon as practicable and not later than 2 years after the date of enactment of this Act, the Director shall submit to Congress a report—

(1) listing all communities that are likely to be identified as having an erosion hazard areas;

(2) estimating the amount of flood insurance claims attributable to erosion;

(3) assessing the full economic impact of erosion on the National Flood Insurance Fund;

(4) measuring the costs and benefits of expenditures necessary from the National Flood Insurance Fund to complete mapping of erosion hazard areas.

(b) AUTHORIZATION TO MAP EROSION HAZARD AREAS.—In developing an estimate of the amount of flood insurance claims attributable to erosion pursuant to subsection (a), the Director is authorized to map a statistically valid and representative number of communities with erosion hazard areas throughout the United States, including coastal, Great Lakes and riverine areas.

(c) ECONOMIC IMPACT STUDY.—The report required under subsection (a)—

(1) shall assess the economic impact of—

(A) erosion in communities likely to be identified as having erosion hazard areas; and

(B) the denial of flood insurance and the establishment of actuarial rates in communities likely to be identified as having erosion hazard areas.

(2) shall be prepared by an independent private sector firm,

(3) provide for consultation with a statistically valid and representative number of communities likely to be identified as having erosion hazard areas; and

(4) address all significant economic factors, including the impact on—

(A) the value of residential and commercial properties in communities with erosion hazards;

(B) community tax revenues due to potential changes in property values or commercial activity;

(C) employment, including the potential loss or gain of existing and new jobs in the community;

(D) existing businesses and future economic development; and

(E) the estimated cost of Federal and State disaster assistance to flood victims.

(d) COST AND BENEFITS OF MAPPING.—The report required under subsection (a), shall—

(1) measure the costs and benefits of mapping erosion hazard areas based upon the Director's estimate of the actual and prospective amount of flood insurance claims attributable to erosion. If the Director determines that the savings to the National Flood Insurance Fund will exceed the cost of mapping erosion hazard areas, the Director shall assess whether the expenditures to map erosion hazard areas is the most cost-beneficial use of flood insurance premiums in light of alternative uses of those funds, including—

(A) funding the mitigation assistance program under section 1367 of the National Flood Insurance Act of 1968 (as added by section 443 of this Act);

(B) funding additional coverage for compliance with land use and control measures under section 1304(b) of the National Flood Insurance Act of 1968 (as added by section 462 of this Act); and

(C) revising and updating flood insurance rate maps under section 1360(e) of the National Flood Insurance Act of 1968 (as added by section 464 of this Act).

(2) measure the costs and benefits of mapping erosion, other than those directly related to the financial condition of the National Flood Insurance Program, and the cost of not mapping erosion.

(e) DEFINITION.—For purposes of this section the term "erosion hazard area" means, based on erosion rate information and other historical data available, an area where erosion or avulsion is likely to result in damage to or loss of buildings and infrastructure within a 60-year period.

(f) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated to the Director $5,000,000 to carry out this section.

SEC. 466. COORDINATION OF FLOOD INSURANCE RATE MAP REVISIONS AND UPDATES WITH COASTAL ZONE MANAGEMENT PROGRAMS.

(a) IN GENERAL.—In the implementation of revisions to and updates of flood insurance rate maps, the Director shall consult and share information with the Under Secretary of Commerce for Oceans and Atmosphere and representatives from State coastal zone management programs.

SEC. 467. TECHNICAL MAPPING ADVISORY COUNCIL.

(a) ESTABLISHMENT.—There is established a council to be known as the Technical Mapping Advisory Council (hereafter in this section referred to as the "Council").

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Council shall consist of the Director, or the Director's designee, and 12 additional members to be appointed by the Director or his designee, and shall include—

(A) the Under Secretary of Commerce for Oceans and Atmosphere (or his or her designee);

(B) a member of recognized surveying and mapping professional associations and organizations;

(C) a member of recognized professional engineering associations and organizations;

(D) a member of recognized professional associations or organizations representing flood hazard determination firms;

(E) a representative of the United States Geologic Survey;

(F) a representative of State geologic survey programs;

(G) a representative of State national flood insurance coordination offices;

(H) a representative of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation; and

(I) a representative of a regulated lending institution.

(2) QUALIFICATIONS.—Members of the Council shall be appointed based on their demonstrated knowledge and competence regarding surveying, cartography, remote sensing, geographic information systems, or the technical aspects of preparing and using flood insurance rate maps.

(c) DUTIES.—The Council shall—

(1) make recommendations to the Director on how to improve in a cost-effective manner the accuracy, general quality, ease of use, and distribution and dissemination of flood insurance rate maps;

(2) recommend to the Director mapping standards and guidelines for flood insurance rate maps; and

(3) transmit an annual report to the Director describing—

(A) the activities of the Council;

(B) an evaluation of the status and performance of flood insurance rate maps and mapping activities to revise and update flood insurance rate maps, as established by the amendments made under section 464; and

(C) a summary of recommendations made by the Council to the Director.

(d) CHAIRPERSON.—The members of the Council shall elect 1 member to serve as the chairperson of the Council (hereafter in this section referred to as the "Chairperson").

(e) COORDINATION.—To ensure that the Council's recommendations are consistent to the maximum extent practicable with national digital spatial data collection and management standards, the Chairperson shall consult with the Chairperson of the Federal Geographic Data Committee (established pursuant to OMB Circular A-16).

(f) COMPENSATION.—Members of the Council shall receive no additional compensation by reason of their service on the Council.

(g) MEETINGS AND ACTIONS.—

(1) IN GENERAL.—The Council shall meet not less than twice each year at the request of the Chairperson or a majority of its members and may take action by a vote of the majority of the members.

(2) INITIAL MEETING.—The Director, or a person designated by the Director, shall request and coordinate the initial meeting of the Council.

(h) OFFICERS.—The Chairperson may appoint officers to assist in carrying out the duties of the Council under subsection (c).

(i) STAFF OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY.—Upon the request of the Chairperson, the Director may detail, on a nonreimbursable basis, personnel of the Federal Emergency Management Agency to assist the Council in carrying out its duties.

(j) POWERS.—In carrying out this section, the Council may hold hearings, receive evidence and assistance, provide information, and conduct research as it considers appropriate.

(k) TERMINATION.—The Council shall terminate 5 years after the date on which all members of the Council have been appointed under subsection (b)(1).

SEC. 468. FUNDING FOR INCREASED ADMINISTRATIVE AND OPERATIONAL RESPONSIBILITIES.

(a) AVAILABILITY OF FUND.—Section 1310(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4017(a)), as amended by section 432, is amended in the matter preceding paragraph (1), by inserting "(except as otherwise provided)" after "without fiscal year limitation".

(b) CREDITS OF FUND.—Section 1310(b) of the National Flood Insurance Act of 1968 (42 U.S.C. 4017(b)) is amended—

(1) in paragraph (5), by striking "and" at the end;

(2) by redesignating paragraph (6) as paragraph (7); and

(3) by inserting after paragraph (5) the following new paragraph:

"(6) any penalties collected under section 102(f) of the Flood Disaster Protection Act of 1973; and".

SEC. 469. SEPARATE ACCOUNT FOR NATIONAL FLOOD INSURANCE FUND.

Section 1310(a) of the National Flood Insurance Act (42 U.S.C. 4017(a)) is amended by inserting before "which shall be available" the following: "which shall be maintained in the Treasury as an account separate from any other funds available to the Director, and".

SEC. 470. NONWAIVER OF FLOOD PURCHASE REQUIREMENT FOR RECIPIENTS OF FEDERAL DISASTER ASSISTANCE.

Section 311(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5154(b)) is amended by adding at the end the following: "The requirements of this subsection may not be waived under section 301.".

SEC. 471. INSURANCE WAITING PERIOD.

Section 1308 of the National Flood Insurance Act of 1968 (42 U.S.C. 4014) is amended by adding at the end the following new subsection:

"(e)(1) The Director shall establish a waiting period of not less than 10 days from the presentment of payment of a premium for the initial purchase of flood insurance under this title. Flood insurance coverage shall not be available with respect to any claim for damage incurred during such waiting period.

"(2) This subsection shall not apply to the initial purchase of flood insurance under this title when the purchase of insurance is in connection with the making, increasing, extension, or renewal of a loan.".

SEC. 472. AGRICULTURAL STRUCTURES.

Section 1361 of the National Flood Insurance Act of 1968 (42 U.S.C. 4102) is amended by adding at the end the following new subsection:

"(d) AGRICULTURAL STRUCTURES.—

"(1) EXEMPTION FROM FLOODWAY ACTIVITY RESTRICTIONS.—Notwithstanding any other provision of law, the adequate land use and control measures adopted in an area (or subdivision thereof) pursuant to section 1315(a) may provide, at the discretion of the appropriate State or local authority, for the repair and restoration to pre-damaged conditions of an agricultural structure that—

"(A) is a repetitive loss structure; or

"(B) has incurred flood-related damage to the extent that the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'agricultural structure' means any structure used exclusively in connection with the production, harvesting, storage, raising, or drying of agricultural commodities; and

"(B) the term 'agricultural commodities' means agricultural commodities and livestock.".

SEC. 473. IMPLEMENTATION REVIEW BY THE DIRECTOR.

Section 1320 of the National Flood Insurance Act of 1968 (42 U.S.C. 4027) is amended—

(1) by striking "The Director" and inserting "(a) IN GENERAL.—The Director"; and

(2) by adding at the end the following new subsection:

"(b) EFFECTS OF FLOOD INSURANCE PROGRAM.—The Director shall include, as part of the biennial report submitted under subsection (a), a chapter reporting on the effects on the flood insurance program observed through implementation of requirements under the National Flood Insurance Reform Act of 1994.".

SEC. 474. REGULATIONS.

The Director and the head of any appropriate Federal agency may each issue any regulations necessary to carry out the applicable provisions of this title and the applicable amendments made by this title.

SEC. 475. PROHIBITED FLOOD DISASTER ASSISTANCE.

(a) GENERAL PROHIBITION.—Notwithstanding any other provision of law, no Federal disaster relief assistance made available in a flood disaster area may be used to make a payment (including any loan assistance payment) to a person for repair, replacement, or restoration for damage to any personal, residential, or commercial property if that person at any time has received flood disaster assistance that was conditional on the person first having obtained flood insurance under applicable Federal law and subsequently having failed to obtain and maintain flood insurance as required under applicable Federal law on such property.

(b) AMENDMENT TO THE FLOOD DISASTER PROTECTION ACT OF 1973.—Section 102(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(a)) is amended—

(1) By striking ", during the anticipated economic or useful life of the project,"; and

(2) By adding at the end of the following: "The requirement of maintaining flood insurance shall apply during the life of the property, regardless of transfer of ownership of such property.".

(c) DEFINITION.—For purposes of this section, the term "flood disaster area" means an area with respect to which—

(1) the Secretary of Agriculture finds, or has found, to have been substantially affected by a natural disaster in the United States pursuant to section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. Section 1961(a)); or

(2) the President declares, or has declared, the existence of a major disaster or emergency pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. Section 5121 et seq.), as a result of flood conditions existing in or affecting that area.

DOLE AMENDMENT NO. 1542

Mr. RIEGLE (for Mr. DOLE) proposed an amendment to the bill S. 1275, supra; as follows:

At the end of title III, add the following new section:

SEC. . CONSUMER SURVEYS AND REPORTS.

(a) SURVEYS.—Not later than 6 months after the date of enactment of this Act, the Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act) and the Secretary of Housing and Urban Development shall jointly conduct an objective and statistically valid survey of financial services consumers to determine the general public awareness of, perceived benefits to consumer of, and effectiveness of the Federal banking laws under which the Federal banking agencies and Department of Housing and Urban Development operate that are intended for the protection of such consumers, including—

(1) the Expedited Funds Availability Act;

(2) the Truth in Lending Act;

(3) the Truth in Savings Act;

(4) the Real Estate Settlement Procedures Act of 1974;

(5) the Home Mortgage Disclosure Act of 1975;

(6) the Equal Credit Opportunity Act;

(7) the Community Reinvestment Act of 1977;

(8) the Home Equity Loan Consumer Protection Act;

(9) the Fair Credit and Charge Card Disclosure Act; and

(10) the rules and regulations promulgated under those banking laws.

(b) CONSULTATION.—In developing such a survey, the Federal banking agencies and the Secretary of Housing and Urban Development shall consult with consumer groups, insured depository institutions, other lenders, and any other interested parties.

(c) INFORMAITON FOR SURVEYED CONSUMERS.—The survey shall provide for distribution to participating consumers a summary explanation of the Federal banking law being surveyed and how each is currently being implemented.

(d) REPORT.—Not later than 60 days after completion of its survey under subsection (a), the Federal banking agencies and the Secretary of Housing and Urban Development shall submit a report of the results of their survey 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.

DORGAN AMENDMENT NO. 1543

Mr. RIEGLE (for Mr. DORGAN) proposed an amendment to the bill S. 1275, supra; as follows:

On page 43, line 16, strike "or".

On page 43, line 20, strike the period at the end and insert "; or".

On page 43, between lines 20 and 21, insert the following:

(D) is located in an area which is not a metropolitan statistical area and which has experienced a decrease in population of not less than 10 percent (as determined in the most recent decennial census) between 1980 and 1990.

DOLE AMENDMENT NO. 1544

Mr. RIEGLE (for Mr. DOLE) proposed an amendment to the bill S. 1275, supra; as follows:

At the end of title III, add the following new section:

SEC. ___. OFFSET OF COSTS OF CERTAIN PROGRAMS.

(a) HUD MULTIFAMILY HOUSING DISPOSITION PROCESS.—

(1) FINDINGS.—The Congress finds that—

(A) the portfolio of multifamily housing project mortgages insured by the FHA is severely troubled and at risk of default, requiring the Secretary to increase loss reserves from $5,500,000,000 in 1991 to $11,900,000,000 in 1992 to cover estimated future losses;

(B) the inventory of multifamily housing projects owned by the Secretary has more than tripled since 1989, and, by the end of 1993, may exceed 75,000 units;

(C) the cost to the Federal Government of owning and maintaining multifamily housing projects escalated to approximately $250,000,000 in fiscal year 1992;

(D) the inventory of multifamily housing projects subject to mortgages held by the Secretary has increased dramatically, to more than 2,400 mortgages, and approximately half of these mortgages, with over 230,000 units, are delinquent;

(E) the inventory of insured and formerly insured multifamily housing projects is rapidly deteriorating, endangering tenants and neighborhoods;

(F) over 5 million families today have a critical need for housing that is affordable and habitable; and

(G) the current statutory framework governing the disposition of multifamily housing projects effectively impedes the Government's ability to dispose of properties, protect tenants, and ensure that projects are maintained over time.

(2) MANAGEMENT AND DISPOSITION OF MULTIFAMILY HOUSING PROJECTS.—Section 203 of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z-11) is amended to read as follows:

"SEC. 203. MANAGEMENT AND DISPOSITION OF MULTIFAMILY HOUSING PROJECTS.

"(a) GOALS.—The Secretary of Housing and Urban Development (in this section referred to as the 'Secretary') shall manage or dispose of multifamily housing projects that are owned by the Secretary or that are subject to a mortgage held by the Secretary in a manner that—

"(1) is consistent with the National Housing Act and this section;

"(2) will protect the financial interests of the Federal Government; and

"(3) will, in the least costly fashion among reasonable available alternatives, further the goals of—

"(A) preserving housing so that it can remain available to and affordable by low-income persons;

"(B) preserving and revitalizing residential neighborhoods;

"(C) maintaining existing housing stock in a decent, safe, and sanitary condition;

"(D) minimizing the involuntary displacement of tenants;

"(E) maintaining housing for the purpose of providing rental housing, cooperative housing, and homeownership opportunities for low-income persons; and

"(F) minimizing the need to demolish multifamily housing projects.

The Secretary, in determining the manner in which a project is to be managed or disposed of, may balance competing goals relating to individual projects in a manner that will further the purposes of this section.

"(b) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(1) MULTIFAMILY HOUSING PROJECT.—The term 'multifamily housing project' means any multifamily rental housing project which is, or prior to acquisition by the Secretary was, assisted or insured under the National Housing Act, or was subject to a loan under section 202 of the Housing Act of 1959.

"(2) SUBSIDIZED PROJECT.—The term 'subsidized project' means a multifamily housing project receiving any of the following types of assistance immediately prior to the assignment of the mortgage on such project to, or the acquisition of such mortgage by, the Secretary:

"(A) Below market interest rate mortgage insurance under the proviso of section 221(d)(5) of the National Housing Act.

"(B) Interest reduction payments made in connection with mortgages insured under section 236 of the National Housing Act.

"(C) Direct loans made under section 202 of the Housing Act of 1959.

"(D) Assistance in the form of—

"(i) rent supplement payments under section 101 of the Housing and Urban Development Act of 1965;

"(ii) housing assistance payments made under section 23 of the United States Housing Act of 1937 (as in effect before January 1, 1975); or

"(iii) housing assistance payments made under section 8 of the United States Housing Act of 1937 (excluding payments made for tenant-based assistance under section 8),

if (except for purposes of section 183(c) of the Housing and Community Development Act of 1987) such assistance payments are made to more than 50 percent of the units in the project.

"(3) FORMERLY SUBSIDIZED PROJECT.—The term 'formerly subsidized project' means a multifamily housing project owned by the Secretary that was a subsidized project immediately prior to its acquisition by the Secretary.

"(4) UNSUBSIDIZED PROJECT.—The term 'unsubsidized project' means a multifamily housing project owned by the Secretary that is not a subsidized project or a formerly subsidized project.

"(c) MANAGEMENT OR DISPOSITION OF PROPERTY.—

"(1) DISPOSITION TO PURCHASERS.—The Secretary is authorized, in carrying out this section, to dispose of a multifamily housing project owned by the Secretary on a negotiated, competitive bid, or other basis, on such terms as the Secretary deems appropriate considering the low-income character of the project and the requirements of subsection (a), to a purchaser determined by the Secretary to be capable of—

"(A) satisfying the conditions of the disposition;

"(B) implementing a sound financial and physical management program that is designed to enable the project to meet anticipated operating and repair expenses to ensure that the project will remain in decent, safe, and sanitary condition;

"(C) responding to the needs of the tenants and working cooperatively with tenant organizations;

"(D) providing adequate organizational staff and financial resources to the project; and

"(E) meeting such other requirements as the Secretary may determine.

"(2) CONTRACTING FOR MANAGEMENT SERVICES.—The Secretary is authorized, in carrying out this section—

"(A) to contract for management services for a multifamily housing project that is owned by the Secretary (or for which the Secretary is mortgagee in possession), on a negotiated, competitive bid, or other basis at a price determined by the Secretary to be reasonable, with a manager the Secretary has determined is capable of—

"(i) implementing a sound financial and physical management program that is designed to enable the project to meet anticipated operating and maintenance expenses to ensure that the project will remain in decent, safe, and sanitary condition;

"(ii) responding to the needs of the tenants and working cooperatively with tenant organizations;

"(iii) providing adequate organizational, staff, and other resources to implement a management program determined by the Secretary; and

"(iv) meeting such other requirements as the Secretary may determine; and

"(B) to require the owner of a multifamily housing project that is subject to a mortgage held by the Secretary to contract for management services for the project in the manner described in subparagraph (A).

"(d) MAINTENANCE OF HOUSING PROJECTS.—

"(1) HOUSING PROJECTS OWNED BY THE SECRETARY.—In the case of multifamily housing projects that are owned by the Secretary (or for which the Secretary is mortgagee in possession), the Secretary shall—

"(A) to the greatest extent possible, maintain all such occupied projects in a decent, safe, and sanitary condition;

"(B) to the greatest extent possible, maintain full occupancy in all such projects; and

"(C) maintain all such projects for purposes of providing rental or cooperative housing.

"(2) HOUSING PROJECTS SUBJECT TO A MORTGAGE HELD BY THE SECRETARY.—In the case of any multifamily housing project that is subject to a mortgage held by the Secretary, the Secretary shall require the owner of the project to carry out the requirements of paragraph (1).

"(e) REQUIRED ASSISTANCE.—In carrying out the goal specified in subsection (a)(3)(A), the Secretary shall take not less than one of the following actions:

"(1) CONTRACT WITH OWNER.—Enter into contracts under section 8 of the United States Housing Act of 1937, to the extent budget authority is available, with owners of multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure or after sale by the Secretary.

"(A) SUBSIDIZED OR FORMERLY SUBSIDIZED PROJECTS RECEIVING CERTAIN ASSISTANCE.—In the case of a subsidized or formerly subsidized project referred to in subparagraphs (A) through (C) of subsection (b)(2)—

"(i) the contract shall be sufficient to assist at least all units covered by an assistance contract under any of the authorities referred to in subsection (b)(2)(D) before acquisition, unless the Secretary acts pursuant to the provisions of subparagraph (C);

"(ii) in the case of units requiring project-based rental assistance pursuant to this paragraph that are occupied by families who are not eligible for assistance under section 8, a contract under this subparagraph shall also provide that when a vacancy occurs, the owner shall lease the available unit to a family eligible for assistance under section 8; and

"(iii) the Secretary shall take actions to ensure the availability and affordability, as defined in paragraph (3)(B), for the remaining useful life of the project, as defined by the Secretary, of any unit located in any project referred to in subparagraphs (A) through (C) of subsection (b)(2) that does not otherwise receive project-based assistance under this subparagraph. To carry out this clause, the Secretary may require purchasers to establish use or rent restrictions maintaining affordability, as defined in paragraph (3)(B).

"(B) SUBSIDIZED OR FORMERLY SUBSIDIZED PROJECTS RECEIVING OTHER ASSISTANCE.—In the case of a subsidized or formerly subsidized project referred to in subsection (b)(2)(D)—

"(i) the contract shall be sufficient to assist at least all units in the project that are covered, or were covered immediately before foreclosure on or acquisition of the project by the Secretary, by an assistance contract under any of the authorities referred to in such subsection, unless the Secretary acts pursuant to provisions of subparagraph (C); and

"(ii) in the case of units requiring project-based rental assistance pursuant to this paragraph that are occupied by families who are not eligible for assistance under section 8, a contract under this paragraph shall also provide that when a vacancy occurs, the owner shall lease the available unit to a family eligible for assistance under section 8.

"(C) EXCEPTIONS TO SUBPARAGRAPHS (A) AND (B).—In lieu of providing project-based assistance under subparagraph (A) or (B), the Secretary may require certain units in unsubsidized projects to contain use restrictions providing that such units will be available to and affordable by very low-income families for the remaining useful life of the project, as defined by the Secretary, if—

"(i) the Secretary matches any reduction in units otherwise required to be assisted with project-based assistance under subparagraph (A) or (B) with at least an equivalent increase in units made affordable to very low-income persons within unsubsidized projects;

"(ii) low-income tenants residing in units otherwise requiring project-based assistance under subparagraph (A) or (B) upon disposition receive section 8 tenant-based assistance; and

"(iii) the units described in clause (i) are located within the same market area.

"(D) CONTRACT REQUIREMENTS FOR UNSUBSIDIZED PROJECTS.—Notwithstanding actions taken pursuant to subparagraph (C), in unsubsidized projects, the contract shall at least be sufficient to provide—

"(i) project-based rental assistance for all units that are covered or were covered immediately before foreclosure or acquisition by an assistance contract under—

"(I) section 8(b)(2) of the United States Housing Act of 1937 (as such section existed before October 1, 1983) (new construction and substantial rehabilitation); section 8(b) of such Act (property disposition); section 8(d)(2) of such Act (project-based certificates); section 8(e)(2) of such Act (moderate rehabilitation); section 23 of such Act (as in effect before January 1, 1975); or section 101 of the Housing and Urban Development Act of 1965 (rent supplements); or

"(II) section 8 of the United States Housing Act of 1937, following conversion from section 101 of the Housing and Urban Development Act of 1965; and

"(ii) tenant-based assistance under section 8 of the United States Housing Act of 1937 for tenants currently residing in units that were covered by an assistance contract under the Loan Management Set-Aside program under section 8(b) of the United States Housing Act of 1937 immediately before foreclosure or acquisition of the project by the Secretary.

"(2) ANNUAL CONTRIBUTION CONTRACTS.—In the case of multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure or after sale by the Secretary, enter into annual contribution contracts with public housing agencies to provide tenant-based assistance under section 8 of the United States Housing Act of 1937 to all low-income families who are eligible for such assistance on the date that the project is acquired by the purchaser. The Secretary shall take action under this paragraph only after making a determination that there is available in the area an adequate supply of habitable affordable housing for low-income families. Actions taken pursuant to this paragraph may be taken in connection with not more than 10 percent of the aggregate number of units in subsidized or formerly subsidized projects disposed of by the Secretary annually.

"(3) OTHER ASSISTANCE.—

"(A) IN GENERAL.—In accordance with the authority provided under the National Housing Act, reduce the selling price, apply use or rent restrictions on certain units, or provide other financial assistance to the owners of multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure, or after sale by the Secretary, on terms which will ensure that—

"(i) at least those units otherwise required to receive project-based section 8 assistance pursuant to subparagraphs (A), (B), or (D) of paragraph (1) are available to and affordable by low-income persons; and

"(ii) for the remaining useful life of the project, as defined by the Secretary, there shall be in force such use or rent restrictions as the Secretary may prescribe.

"(B) DEFINITION.—A unit shall be considered affordable under this paragraph if—

"(i) for very low-income tenants, the rent for such unit does not exceed 30 percent of 50 percent of the area median income, as determined by the Secretary, with adjustments for family size; and

"(ii) for low-income tenants other than very low-income tenants, the rent for such unit does not exceed 30 percent of 80 percent of the area median income, as determined by the Secretary, with adjustments for family size.

"(C) VERY LOW-INCOME TENANTS.—The Secretary shall provide assistance under section 8 of the United States Housing Act of 1937 to any very low-income tenant currently residing in a unit otherwise required to receive project-based assistance under section 8, pursuant to subparagraph (A), (B), or (D) of paragraph (1), if the rents charged such tenants as a result of actions taken pursuant to this paragraph exceed the amount payable as rent under section 3(a) of the United States Housing Act of 1937.

"(4) TRANSFER FOR USE UNDER OTHER PROGRAMS OF THE SECRETARY.—

"(A) IN GENERAL.—Enter into an agreement providing for the transfer of a multifamily housing project—

"(i) to a public housing agency for use of the project as public housing; or

"(ii) to an owner or another appropriate entity for use of the project under section 202 of the Housing Act of 1959 or under section 811 of the Cranston-Gonzalez National Affordable Housing Act.

"(B) REQUIREMENTS FOR AGREEMENT.—The agreement described in subparagraph (A) shall—

"(i) contain such terms, conditions, and limitations as the Secretary determines appropriate, including requirements to assure use of the project under the public housing, section 202, and section 811 programs; and

"(ii) ensure that no current tenant will be displaced as a result of actions taken under this paragraph.

"(f) OTHER ASSISTANCE.—In addition to the actions authorized by subsection (e), the Secretary may take any of the following actions:

"(1) SHORT-TERM LOANS.—Provide short-term loans to facilitate the sale of multifamily housing projects to nonprofit organizations or to public agencies if—

"(A) authority for such loans is provided in advance in an appropriations Act;

"(B) such loans are for a term of not more than 5 years;

"(C) the Secretary is presented with satisfactory documentation, evidencing a commitment of permanent financing to replace such short-term loan, from a lender who meets standards set forth by the Secretary; and

"(D) the terms of such loans are consistent with prevailing practices in the marketplace or the provision of such loans results in no cost to the Government, as defined in section 502 of the Congressional Budget Act.

"(2) TENANT-BASED ASSISTANCE.—In connection with projects referred to in subsection (e), make available tenant-based assistance under section 8 of the United States Housing Act of 1937 to very low-income families (as defined in section 3(b)(2) of the United States Housing Act of 1937) that do not otherwise qualify for project-based assistance.

"(3) ALTERNATIVE USES.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, and subject to notice to and comment from existing tenants, allow not more than—

"(i) 5 percent of the total number of units in multifamily housing projects that are disposed of by the Secretary during any 1-year period to be made available for uses other than rental or cooperative uses, including low-income homeownership opportunities, or in any particular project, community space, office space for tenant or housing-related service providers or security programs, or small business uses, if such uses benefit the tenants of the project; and

"(ii) 5 percent of the total number of units in multifamily housing projects that are disposed of by the Secretary during any 1-year period to be used in any manner, if the Secretary and the unit of general local government or area-wide governing body determine that such use will further fair housing, community development, or neighborhood revitalization goals.

"(B) DISPLACEMENT PROTECTION.—The Secretary shall make available tenant-based rental assistance under section 8 of the United States Housing Act of 1937 to any tenant displaced as a result of actions taken by the Secretary pursuant to subparagraph (A), and the Secretary shall take such actions as the Secretary determines necessary to ensure the successful use of any tenant-based assistance.

"(g) AUTHORIZATION OF USE OR RENT RESTRICTIONS IN UNSUBSIDIZED PROJECTS.—In carrying out the goals specified in subsection (a), the Secretary may require certain units in unsubsidized projects to contain use or rent restrictions providing that such units will be available to and affordable by very low-income persons for the remaining useful life of the property, as defined by the Secretary.

"(h) CONTRACT REQUIREMENTS.—

"(1) CONTRACT TERM.—

"(A) IN GENERAL.—Contracts for project-based rental assistance under section 8 of the United States Housing Act of 1937 provided pursuant to this section shall be for a term of not more than 15 years; and

"(B) CONTRACT TERM OF LESS THAN 15 YEARS.—Notwithstanding subparagraph (A), to the extent that units receive project-based assistance for a contract term of less than 15 years, the Secretary shall require that rents charged to tenants for such units not exceed the amount payable for rent under section 3(a) of the United States Housing Act of 1937 for a period of at least 15 years.

"(2) CONTRACT RENT.—

"(A) IN GENERAL.—The Secretary shall set contract rents for section 8 project-based rental contracts issued under this section at levels that, in conjunction with other resources available to the purchaser, provide for the necessary costs of rehabilitation of such project and do not exceed the percentage of the existing housing fair market rents for the area (as determined by the Secretary under section 8(c) of the United States Housing Act of 1937) as the Secretary may prescribe.

"(B) UP-FRONT GRANTS AND LOANS.—If such an approach is determined to be more cost-effective, the Secretary may utilize the budget authority provided for project-based section 8 contracts issued under this section to—

"(i) provide project-based section 8 rental assistance; and

"(ii)(I) provide up-front grants for the necessary cost of rehabilitation; or

"(II) pay for any cost to the Government, as defined in section 502 of the Congressional Budget Act, for loans made pursuant to subsection (f)(1).

"(i) DISPOSITION PLAN.—

"(1) IN GENERAL.—Prior to the sale of a multifamily housing project that is owned by the Secretary, the Secretary shall develop a disposition plan for the project that specifies the minimum terms and conditions of the Secretary for disposition of the project, the initial sales price that is acceptable to the Secretary, and the assistance that the Secretary plans to make available to a prospective purchaser in accordance with this section. The initial sales price shall reflect the intended use of the property after sale.

"(2) COMMUNITY AND TENANT INPUT INTO DISPOSITION PLANS AND SALES.—

"(A) IN GENERAL.—In carrying out this section, the Secretary shall develop procedures to obtain appropriate and timely input into disposition plans from officials of the unit of general local government affected, the community in which the project is situated, and the tenants of the project.

"(B) TENANT ORGANIZATIONS.—The Secretary shall develop procedures to facilitate, where feasible and appropriate, the sale of multifamily housing projects to existing tenant organizations with demonstrated capacity or to public or nonprofit entities which represent or are affiliated with existing tenant organizations.

"(C) TECHNICAL ASSISTANCE.—

"(i) USE OF FUNDS.—To carry out the procedures developed under subparagraphs (A) and (B), the Secretary is authorized to provide technical assistance, directly or indirectly, and to use amounts appropriated for technical assistance under the Emergency Low Income Housing Preservation Act of 1987, the Low-Income Housing Preservation and Resident Homeownership Act of 1990, subtitle B of title IV of the Cranston-Gonzalez National Affordable Housing Act, or under this section for the provision of technical assistance under this section.

"(ii) SOURCE OF FUNDS.—Recipients of technical assistance funding under the Emergency Low Income Housing Preservation Act of 1987, the Low-Income Housing Preservation and Resident Homeownership Act of 1990, subtitle B of title IV of the Cranston-Gonzalez National Affordable Housing Act, or under this section shall be permitted to provide technical assistance to the extent of such funding under any of such programs or under this section, notwithstanding the source of funding.

"(j) RIGHT OF FIRST REFUSAL.—

"(1) PROCEDURE.—

"(A) NOTIFICATION BY SECRETARY OF THE ACQUISITION OF TITLE.—Not later than 30 days after acquiring title to a project, the Secretary shall notify the unit of general local government and the State agency or agencies designated by the Governor of the acquisition of such title.

"(B) EXPRESSION OF INTEREST.—Not later than 45 days after receiving notification from the Secretary under subparagraph (A), the unit of general local government or designated State agency may submit to the Secretary a preliminary expression of interest in the project. The Secretary may take such actions as may be necessary to require the unit of general local government or designated State agency to substantiate such interest.

"(C) TIMELY EXPRESSION OF INTEREST.—If the unit of general local government or designated State agency has expressed interest in the project before the expiration of the 45-day period referred to in subparagraph (B), and has substantiated such interest if requested, the Secretary, upon approval of a disposition plan for a project, shall notify the unit of general local government and designated State agency of the terms and conditions of the disposition plan and give the unit of general local government or designated State agency not more than 90 days after the date of such notification to make an offer to purchase the project.

"(D) NO TIMELY EXPRESSION OF INTEREST.—If the unit of general local government or designated State agency does not express interest before the expiration of the 45-day period referred to in subparagraph (B), or does not substantiate an expressed interest if requested, the Secretary, upon approval of a disposition plan, may offer the project for sale to any interested person or entity.

"(2) ACCEPTANCE OF OFFERS.—Where the Secretary has given the unit of general local government or designated State agency 90 days to make an offer to purchase the project, the Secretary shall accept an offer that complies with the terms and conditions of the disposition plan. The Secretary may accept an offer that does not comply with the terms and conditions of the disposition plan if the Secretary determines that the offer will further the goals specified in subsection (a) by actions that include extension of the duration of low-income affordability restrictions or otherwise restructuring the transaction in a manner that enhances the long-term affordability for low-income persons. The Secretary shall, in particular, have discretion to reduce the initial sales price in exchange for the extension of low-income affordability restrictions beyond the period of assistance contemplated by the attachment of assistance pursuant to subsection (e). If the Secretary and the unit of general local government or designated State agency cannot reach agreement within 90 days, the Secretary may offer the project for sale to the general public.

"(3) PURCHASE BY UNIT OF GENERAL LOCAL GOVERNMENT OR DESIGNATED STATE AGENCY.—Notwithstanding any other provision of law, a unit of general local government (including a public housing agency) or designated State agency may purchase a subsidized or formerly subsidized project in accordance with this subsection.

"(4) APPLICABILITY.—This subsection shall apply to projects that are acquired on or after the effective date of this subsection. With respect to projects acquired before such effective date, the Secretary may apply—

"(A) the requirements of paragraphs (2) and (3) of section 203(e) as such paragraphs existed immediately before the effective date of this subsection; or

"(B) the requirements of paragraphs (1) and (2) of this subsection, if the Secretary gives the unit of general local government or designated State agency—

"(i) 45 days to express interest in the project; and

"(ii) if the unit of general local government or designated State agency expresses interest in the project before the expiration of the 45-day period, and substantiates such interest if requested, 90 days from the date of notification of the terms and conditions of

the disposition plan to make an offer to purchase the project.

"(k) DISPLACEMENT OF TENANTS AND RELOCATION ASSISTANCE.—

"(1) IN GENERAL.—Whenever tenants will be displaced as a result of the disposition of, or repairs to, a multifamily housing project that is owned by the Secretary (or for which the Secretary is mortgagee in possession), the Secretary shall identify tenants who will be displaced, and shall notify all such tenants of their pending displacement and of any relocation assistance which may be available. In the case of a multifamily housing project that is not owned by the Secretary (and for which the Secretary is not mortgagee in possession), the Secretary shall require the owner of the project to carry out the requirements of this paragraph.

"(2) RIGHTS OF DISPLACED TENANTS.—The Secretary shall assure for any such tenant (who continues to meet applicable qualification standards) the right—

"(A) to return, whenever possible, to a repaired unit;

"(B) to occupy a unit in another multifamily housing project owned by the Secretary;

"(C) to obtain housing assistance under the United States Housing Act of 1937; or

"(D) to receive any other available relocation assistance as the Secretary determines to be appropriate.

"(l) MORTGAGE AND PROJECT SALES.—

"(1) IN GENERAL.—The Secretary may not approve the sale of any loan or mortgage held by the Secretary (including any loan or mortgage owned by the Government National Mortgage Association) on any subsidized project or formerly subsidized project, unless such sale is made as part of a transaction that will ensure that such project will continue to operate at least until the maturity date of such loan or mortgage, in a manner that will provide rental housing on terms at least as advantageous to existing and future tenants as the terms required by the program under which the loan or mortgage was made or insured prior to the assignment of the loan or mortgage on such project to the Secretary.

"(2) SALE OF CERTAIN PROJECTS.—The Secretary may not approve the sale of any subsidized project—

"(A) that is subject to a mortgage held by the Secretary; or

"(B) if the sale transaction involves the provision of any additional subsidy funds by the Secretary or a recasting of the mortgage, unless such sale is made as part of a transaction that will ensure that such project will continue to operate at least until the maturity date of the loan or mortgage, in a manner that will provide rental housing on terms at least as advantageous to existing and future tenants as the terms required by the program under which the loan or mortgage was made or insured prior to the proposed sale of the project.

"(3) MORTGAGE SALES TO STATE AND LOCAL GOVERNMENTS.—Notwithstanding any provision of law that may require competitive sales or bidding, the Secretary may carry out negotiated sales of subsidized or formerly subsidized mortgages held by the Secretary, without the competitive selection of purchasers or intermediaries, to units of general local government or State agencies, or groups of investors that include at least one such unit of general local government or State agency, if the negotiations are conducted with such agencies, except that—

"(A) the terms of any such sale shall include the agreement of the purchasing agency or unit of local government or State agency to act as mortgagee or owner of a beneficial interest in such mortgages, in a manner consistent with maintaining the projects that are subject to such mortgages for occupancy by the general tenant group intended to be served by the applicable mortgage insurance program, including, to the extent the Secretary determines appropriate, authorizing such unit of local government or State agency to enforce the provisions of any regulatory agreement or other program requirements applicable to the related projects; and

"(B) the sales prices for such mortgages shall be, in the determination of the Secretary, the best prices that may be obtained for such mortgages from a unit of general local government or State agency, consistent with the expectation and intention that the projects financed will be retained for use under the applicable mortgage insurance program for the life of the initial mortgage insurance contract.

"(4) SALE OF MORTGAGES COVERING UNSUBSIDIZED PROJECTS.—Notwithstanding any other provision of law, the Secretary may sell mortgages held on unsubsidized projects on such terms and conditions as the Secretary may prescribe.

"(m) REPORT TO CONGRESS.—Not later than June 1 of each year, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, a report describing the status of multifamily housing projects owned by or subject to mortgages held by the Secretary, which report shall include—

"(1) the name, address, and size of each project;

"(2) the nature and date of assignment;

"(3) the status of the mortgage;

"(4) the physical condition of the project;

"(5) an occupancy profile of the project, including the income, family size, and race of current residents as well as the rents paid by such residents;

"(6) the proportion of units in a project that are vacant;

"(7) the date on which the Secretary became mortgagee in possession;

"(8) the date and conditions of any foreclosure sale;

"(9) the date of acquisition by the Secretary;

"(10) the date and conditions of any property disposition sale;

"(11) a description of actions undertaken pursuant to this section, including—

"(A) a comparison of results between actions taken after enactment of the Housing and Community Development Act of 1993 and actions taken in years prior to such enactment;

"(B) a description of any impediments to the disposition or management of multifamily housing projects, together with a recommendation of proposed legislative or regulatory changes designed to ameliorate such impediments;

"(C) a description of actions taken to restructure or commence foreclosure on delinquent multifamily mortgages held by the Department; and

"(D) a description of actions taken to monitor and prevent the default of multifamily housing mortgages held by the Federal Housing Administration;

"(12) a description of any of the functions performed in connection with this section that are contracted out to public or private entities or to States, including—

"(A) the costs associated with such delegation;

"(B) the implications of contracting out or delegating such functions for current Department field or regional personnel, including anticipated personnel or work load reductions;

"(C) necessary oversight required by Department personnel, including anticipated personnel hours devoted to such oversight;

"(D) a description of any authority granted to such public or private entities or States in conjunction with the functions that have been delegated or contracted out or that are not otherwise available for use by Department personnel; and

"(E) the extent to which such public or private entities or States include tenants of multifamily housing projects in the disposition planning for such projects;

"(13) a description of the activities carried out under subsection (j) during the preceding year; and

"(14) a description and assessment of the rules, guidelines, and practices governing the Department's management of multifamily housing projects that are owned by the Secretary (or for which the Secretary is mortgagee in possession) as well as the steps that the Secretary has taken or plans to take to improve the management performance of the Department.".

(3) EFFECTIVE DATE.—The Secretary shall, by notice published in the Federal Register, which shall take effect upon publication, establish such requirements as may be necessary to implement the amendments made by this subsection. The notice shall invite public comments, and the Secretary shall issue final regulations based on the initial notice, taking into account any public comments received.

(b) REPEAL OF THE NATIONAL SMALL BUSINESS TREE PLANTING PROGRAM.—Section 24 of the Small Business Act (15 U.S.C. 651) is repealed.

CRAIG AMENDMENT NO. 1545

Mr. D'AMATO (for Mr. CRAIG) proposed an amendment to the bill S. 1275, supra; as follows:

SEC. SIMPLIFIED DISCLOSURE FOR EXISTING DEPOSITORS.

(a) IN GENERAL.—Section 43(b)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1831t(b)(3)) is amended to read as follows:

"(3) ACKNOWLEDGEMENT OF DISCLOSURE.—

"(A) NEW DEPOSITORS.—With respect to any depositor who was not a depositor at the depository institution before June 19, 1994, receive any deposit for the account of such depositor only if the depositor has signed a written acknowledgement that—

"(i) the institution is not federally insured; and

"(ii) if the institution fails, the Federal Government does not guarantee that the depositor will get back the depositor's money.

"(B) CURRENT DEPOSITORS.—Receive any deposit after the effective date of this paragraph for the account of any depositor who was a depositor before June 19, 1994, only if—

"(i) the depositor has signed a written acknowledgement described in subparagraph (A); or

"(ii) the institution has complied with the provisions of subparagraph (C) which are applicable as of the date of the deposit.

"(C) ALTERNATIVE PROVISION OF NOTICE TO CURRENT DEPOSITORS.—

"(i) IN GENERAL.—Transmit to each depositor who was a depositor before June 19, 1994, and has not signed a written acknowledgement described in subparagraph (A)—

"(I) a card containing the information described in clauses (i) and (ii) of subparagraph

(A), and a line for the signature of the depositor; and

"(II) accompanying materials requesting the depositor to sign the card, and return the signed card to the institution.

"(ii) MANNER AND TIMING OF NOTICE.—

"(I) FIRST NOTICE.—Make the transmission described in clause (i) via first class mail within 90 days after June 19, 1994.

"(II) SECOND NOTICE.—Make a 2d transmission described in clause (i) via first class mail not less than 30 days and not more than 45 days after a transmission to the depositor in accordance with subclause (I), if the institution has not, by the date of such mailing, received from the depositor a card referred to in clause (i)(I) which has been signed by the depositor.

"(III) THIRD NOTICE.—Make a 3d transmission described in clause (i) via first class mail not less than 30 days and not more than 45 days after a transmission to the depositor in accordance with subclause (II), if the institution has not, by the date of such mailing, received from the depositor a card referred to in clause (i)(I) which has been signed by the depositor.".

(b) EFFECTIVE DATE.—Section 43(b)(3) of the Federal Deposit Insurance Act, as amended by subsection (a), shall take effect in accordance with section 151(a)(2)(D) of the Federal Deposit Insurance Corporation Improvement Act of 1991.

BRYAN (AND OTHERS) AMENDMENT NO. 1546

Mr. RIEGLE (for Mr. BRYAN for himself, Mr. D'AMATO, Mr. DOMENICI, Mr. BURNS, and Mr. MACK) proposed an amendment to the bill S. 1275, supra; as follows:

On page 160, between lines 6 and 7, insert the following new section:

SEC. . COMMERCIAL MORTGAGE RELATED SECURITIES.

(a) IN GENERAL.—Section 3(a)(41)(A)(i) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(41)(A)(i)) is amended—

(1) by striking "or on a residential" and inserting "on a residential"; and

(2) by inserting before the semicolon ", or on one or more parcels of real estate upon which is located one or more commercial structures".

(b) AMENDMENT TO THE REVISED STATUTES.—Paragraph Seventh of section 5136 of the Revised Statutes (12 U.S.C. 24) is amended in the twelfth sentence, by striking "(15 U.S.C. 78c(a)(41))), subject to such regulations" and inserting "(15 U.S.C. 78c(a)(41)). The exception provided for the securities described in subparagraphs (A), (B), and (C) shall be subject to such regulations".

(c) REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Comptroller of the Currency shall promulgate final regulations, in accordance with the thirteenth sentence of Paragraph Seventh of section 5136 of the Revised Statutes (as amended by subsection (b)), to carry out the amendments made by this section.

(d) EFFECTIVE DATE.—The amendments made by this section shall become effective upon the date of promulgation of final regulations under subsection (c).

(e) STATE OPT OUT.—Notwithstanding the amendments made by this section, a note that is directly secured by a first lien on one or more parcels of real estate upon which is located one or more commercial structures shall not be considered to be a mortgage related security under section 3(a)(41) of the Securities Exchange Act of 1934 in any State that, prior to the expiration of 7 years after the date of enactment of this Act, enacts a statute that specifically refers to this section and either prohibits or provides for a more limited authority to purchase, hold, or invest in such securities by any person, trust, corporation, partnership, association, business trust, or business entity or class thereof than is provided by the amendments made by this subsection. The enactment by any State of any statute of the type described in the preceding sentence shall not affect the validity of any contractual commitment to purchase, hold, or invest that was made prior thereto, and shall not require the sale or other disposition of any securities acquired prior thereto.

MITCHELL (AND DOLE) AMENDMENT NO. 1547

Mr. MITCHELL (for himself and Mr. DOLE) proposed an amendment to the bill S. 1275, supra; as follows:

At the appropriate place insert the following:

SEC. . It is the sense of the Senate that—

(a) Congress has a constitutional obligation to conduct oversight of matters relating to the operations of the government, including matters related to any governmental investigations which may, from time to time, be undertaken.

(b) The Majority Leader and the Republican Leader should meet and determine the appropriate timetable, procedures, and forum for appropriate Congressional oversight, including hearings on all matters related to "Madison Guaranty Savings and Loan Association ('MGS&L'), Whitewater Development Corporation and Capital Management Services Inc. ('CMS')."

(c) No witness called to testify at these hearings shall be granted immunity under sections 6002 and 6005 of Title 18, United States Code, over the objection of Special Counsel Robert B. Fiske, Jr.

(d) The hearings should be structured and sequenced in such a manner that in the judgment of the Leaders they would not interfere with the ongoing investigation of Special Counsel Robert B. Fiske, Jr.

METZENBAUM AMENDMENT NO. 1548

Mr. METZENBAUM proposed an amendment to the bill S. 1275, supra; as follows:

At the appropriate place in the committee substitute insert the following:

It is the sense of the Senate that:

No insurer shall enter into a transfer agreement or transfer a contract of insurance pursuant to a transfer agreement unless the transferring insurer has first provided or caused to be provided to each policyholder of the insurer affected by the agreement a notice of the intent of the insurer to transfer the contract of insurance held by such policyholder.

(b) FORM OF NOTICE.—The notice shall be sent by first-class mail, addressed to the last known address of the policyholder or to the address to which premium notices or other policy documents are sent or, with respect to home service business, by personal delivery with acknowledged receipt. A notice of intent to transfer shall also be sent to the transferring insurer's agent or broker of record on the affected policy.

(c) CONTENT OF NOTICE.—The notice required by subsection (a) shall state or provide—

(1) the date the intended transfer and novation of the contract of insurance of the policyholder is proposed to take place and become effective;

(2) the name, address, and telephone number of the transferring insurer and the assuming insurer under the proposed transfer agreement;

(3) that the transfer and novation of the insurance contract of the policyholder cannot take effect without the written consent of the policyholder, except as provided in section 5 of this Act;

(4) the procedures and any time limitation for consenting to the transfer and novation;

(5) a summary informing the policyholder regarding any adverse effect that the policyholder might experience as a result of consenting to the transfer and novation;

(6) a statement that, without the written consent of the policyholder, the transferring insurer will remain as the insurance company of the policyholder or beneficiary, except as provided in section 5 of this Act;

(7) a statement that the assuming insurer is licensed to write the type of business being transferred in the State where the policyholder resides, or is otherwise authorized, under applicable law, to assume such business;

(8) the name, address, and telephone number of the person designated by the transferring insurer as the person for receiving the written consent of the policyholder affected by the proposed transfer and novation;

(9) the address and telephone number of the chief insurance regulatory official of the State in which the policyholder resides;

(10) financial data for the transferring insurer and the assuming insurer involved in the proposed transfer agreement, including—

(A)(i) the ratings, together with enough information to understand where the ratings fall within the range of rating categories of each rating agency, for the last 5 years, if available, or if not available for 5 years, for such lesser period as is available, from each nationally recognized insurance company rating organization that has rated the insurer, including an explanation of the meaning of each rating category of each rating organization;

(ii) if ratings are unavailable for any year of the 5-year period, a disclosure of this fact; and

(iii) a statement that any or all of the above insurance company rating organization reports may be obtained at no cost by writing or calling an address or phone number listed in the statement;

(B) a balance sheet as of December 31 for each of the 3 years immediately preceding the notice, if available, or for such lesser period as is available, and as of the date of the most recent quarterly statement;

(C) a copy of the Management's Discussion and Analysis that was filed as a supplement to the annual statement of the preceding year; and

(D) an explanation of the reason for the proposed transfer signed by the highest executive official of the transferring insurer and the assuming insurer;

(11) a statement setting forth the financial condition of the transferring insurer and of the assuming insurer under the proposed transfer agreement, and the effect the transaction will have on the financial condition of each such insurer;

(12) an opinion by a disinterested third-party expert, such as an actuary, finding that the transfer is fair and in the best interests of the policyholders affected by the transfer, and a statement that the report on

which the opinion is based is available at no cost by writing or calling an address and phone number listed in the statement;

NATIONAL HISTORICAL PUBLICATIONS AND RECORDS COMMISSION APPROPRIATIONS AUTHORIZATION ACT

LIEBERMAN AMENDMENT NO. 1549

Mr. FORD (for Mr. LIEBERMAN) proposed an amendment to the bill (H.R. 2139) to amend title 44, United States Code, to authorize appropriations for the National Historical Publications and Records Commission; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. AUTHORIZATION OF APPROPRIATIONS.

Section 2504(f)(1) of title 44, United States Code, is amended—

(1) in subparagraph (B), by striking out "and" after the semicolon;

(2) in subparagraph (C), by striking out the period and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new subparagraphs:

"(D) $6,000,000 for fiscal year 1994;

"(E) $7,000,000 for fiscal year 1995;

"(F) $8,000,000 for fiscal year 1996; and

"(G) $10,000,000 for fiscal year 1997.".

NOTICES OF HEARINGS

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. PRYOR. Mr. President, I rise today to announce a hearing to be held next Tuesday in the Senate Governmental Affairs Committee. I ask unanimous consent that the full text of the hearing announcement be placed in the RECORD.

Mr. President, I could continue speaking at length about the importance of upholding a strong and independent operational testing office in the DOD. Instead I would ask unanimous consent to place in the RECORD a copy of a well-written editorial from the January 17, 1994 edition of Defense News. I urge my colleagues in the Senate to read this editorial and seriously consider its important message.

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

PENTAGON OPERATIONAL TESTING OFFICE TO BE FOCUS OF HEARING MARCH 16, 1994

WASHINGTON.—The Senate Federal Services, Post Office and Civil Service Subcommittee will hold a hearing on Tuesday, March 22, to examine proposals that could weaken the Pentagon's independent Office of Operational Testing and Evaluation (OT&E). The hearing will begin at 10:30 a.m. in Room 342 of the Dirksen Senate Office Building.

"Independent testing is critical to the acquisition of cost-effective weapons that our troops can rely on in combat," said Pryor, who is chairman of the subcommittee.

"Our operational testers provide the integrity needed to make sure that billions of dollars are not wasted on weapons that do not work or that faulty weapons do not land in the hands of our troops," the senator said.

Many of the current testing proposals included in procurement reform initiatives being presented to Congress this year appear to be designed to weaken the authority and the effectiveness of independent testing.

Pryor and Sen. William V. Roth, R-Del., were the authors of the 1983 legislation which created OT&E as an independent operational testing office. The two senators now want to make sure that current testing initiatives do not undermine the testing office's ability to promote the acquisition of cost-effective weapons.

Defense Undersecretary John Deutch has been invited to testify at the hearing. Other witnesses include: Lou Rodrigues, an official with the General Accounting Office; and Russell Murray, a former assistant defense secretary in the Carter administration.

COMMENTARY: TESTS PROVIDE INTEGRITY

After 10 years the Pentagon's independent weapon testing office is under attack in the U.S. Congress. All efforts should be made on Capitol Hill and the Department of Defense to not only block efforts to weaken the Office of Operational Test and Evaluation, but to strengthen operational testing as a more effective tool in the acquisition process.

Foremost, leadership on this issue has to come from the top—President Bill Clinton needs to name a director of operational testing, sending a signal that vigorous, independent testing of weapon systems will not be weakened.

With the intention of streamlining the Pentagon bureaucracy, Congress has approved legislation to eliminate the direct reporting link of the testing director to the defense secretary.

Legislation pending in the Senate would make it easier for Pentagon officials to bypass some of the rigid tests now required for new aircraft, missiles and other weapons.

Such a course will reverse a decade of building a culture in the Pentagon that views independent operational testing as an integral part of the acquisition process.

Independent testing is an important mechanism for making the best use of scarce defense dollars for the production of more effective weapons systems.

For example, the Navy's Airborne Self Protection Jammer (ASPJ) was canceled after Congress in November approved an amendment prohibiting funding for the program because it failed operational testing.

As defense budget dollars are squeezed, there is no luxury to warehouse expensive weapon systems after repeated failures.

But the most important reason for maintaining the integrity and strength of the independent testing office is the U.S. soldier, who must rely on weapons designed to operate at peak efficiency under strenuous combat conditions. That's one of the reasons the office was created in the wake of the Vietman War.

Instead of diluting independent testing, this cornerstone of the 'fly-before-you-buy' concept should be strengthened.

That is the bipartisan position taken by senators David Pryor, D-Ark., and William Roth, R-Del. Senator Pryor is considering congressional hearings on the testing issue—a good idea that can help clarify the issues before lawmakers.

In particular, Congress should push for testing earlier in the procurement process to blunt the criticism that independent testing comes too late—that it ends up becoming a program showstopper.

Getting the Office of Operational Test and Evaluation involved early in the acquisition process doesn't mean you have the office establishing operational requirements. But it does mean independent testing becomes a part of the development and acquisition process, not an afterthought.

Legislation is not necessarily the answer, but Congress and the Pentagon should explore ways to bolster the cultural change in the Pentagon so operational testing is viewed not as a showstopper, but as an integral part of the program and a tool to develop and field better weapons.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, March 17, 1994, at 9:30 a.m., in open session to consider the following pending military nominations:

Vice Adm. Leighton W. Smith, Jr., USN, for appointment to the grade of admiral and to be commander in chief, Allied Forces Southern Europe/commander in chief, U.S. Naval Forces Europe.

Maj. Gen. Wesley K. Clark, USA, for appointment to the grade of lieutenant general and to be director for strategic plans and policy of the joint staff.

Rear Adm. John B. LaPlante, USN, for appointment to the grade of vice admiral and to be director for logistics of the joint staff.

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

COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to conduct a Hearing on S. 1822, the Communications Act of 1994, on March 17, 1994, beginning at 10 a.m.

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

COMMITTEE ON FINANCE

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet today, March 17, 1994, Saint Patrick's Day, at 10 a.m. to hear testimony on the subject of health care premiums and subsidies.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Thursday, March 17, 1994, at 10 a.m. to hold a business meeting to vote on pending business.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorized to meet on Thursday, March 17, 1994, at

9:30 a.m. for a hearing on the subject: Contract and Financial Management at DOE.

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

COMMITTEE ON THE JUDICIARY

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Thursday, March 17, 1994.

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

COMMITTEE ON RULES AND ADMINISTRATION

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Thursday, March 17, 1994, at 9:30 a.m., to hold a hearing to receive testimony on Title I, Reform of the Senate, of S. 1824, the Legislative Reorganization Act of 1994.

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

COMMITTEE ON SMALL BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent that the Small Business Committee be authorized to meet during the session of the Senate on Thursday, March 17, 1994, at 2:30 p.m. The committee will hold a full committee hearing on the Small Business Administration's Microloan Demonstration Program and SBA's Business Development Programs.

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

COMMITTEE ON VETERANS'AFFAIRS

Mr. FORD. Mr. President, the Committee on Veterans' Affairs would like to request unanimous consent to hold a joint hearing with the House Committee on Veterans' Affairs to receive legislative presentations from the Paralyzed Veterans of America, Jewish War Veterans, Blinded Veterans Association, and Non Commissioned Officers Association. The hearing will be held on March 17, 1994, at 9:30 a.m. in room 345 of the Cannon House Office Building.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. FORD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, March 17, 1994 at 2:30 p.m. to hold a closed hearing on intelligence matters.

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

ADDITIONAL STATEMENTS

SENATE CONCURRENT RESOLUTION 34

• Mr. GORTON. Mr. President, I am speaking today on behalf of the hundreds of small, high-technology companies in Washington State and throughout the Nation which, through their innovative entrepreneurial activity, provide much needed jobs and economic opportunities to people in their local communities. Because of their positive impact on the economy of the Nation, and the important technological advances they produce, I am a strong supporter of these businesses.

These companies have been successful due, in part, to their use of employee stock options. Many high-technology companies grant stock options to their employees in lieu of larger salaries. Stock options enable companies to recruit high-quality employees without having to offer the enormous salaries such employees deserve. Instead, companies are able to offer prospective employees the option to buy stock in the company at a set price in the future. It is startup firms that benefit the most from stock options. Stock options enable small firms to begin operations with significantly less cash than would otherwise be required.

In April 1993, the Financial Accounting Standards Board [FASB] proposed a new rule requiring companies to determine the value of employee stock options using a complicated options-pricing model and to include this value as an expense on their income statement.

The FASB proposal, by requiring companies to deduct the value of stock options from their reported earnings, would cause a major reduction in reported earnings, diminishing the value of the companies' stock. This change could turn investors away from these companies.

In effect, this proposed change in accounting rules could prove extremely harmful to the high technology industry. The many small high technology firms that use stock options will have the choice of continuing this policy at the real risk of losing investors or eliminating the practice of granting stock options at the risk of losing high quality employees. Either way, the FASB rule would create unwarranted havoc in this vitally important industry and have the net effect of dampening the local economies in which these firms are based.

In my travels across Washington State, I have listened to the concerns of small businesses. These firms have told me that FASB's proposed change in accounting procedures will hurt their businesses. They have asked me to assist them in defeating the FASB proposal.

In response to my constituents' concerns, I have decided to join my colleagues in cosponsoring Senate Concurrent Resolution 34, a resolution which asks the Financial Accounting Standards Board to reconsider its proposed change in accounting rules in light of its grave economic consequences. I trust that this sense of the Senate will encourage FASB officials to rethink their decision.

Mr. President, the new accounting rule proposed by the Financial Accounting Standards Board has the potential to damage an important sector of our economy—a sector which should be encouraged, not hindered, in its expansion.•

GENERAL AVIATION REVITALIZATION ACT

• Mr. DASCHLE. Mr. President, I would like to take a moment to comment briefly on the aviation liability legislation that the Senate passed yesterday, as well as on product liability reform in general.

I voted for Senator KASSEBAUM's bill because of my deep concern for the future of general aviation in this country. The United States was once the undisputed leader in the production of general aviation aircraft. During the past 10 years, however, approximately 100,000 jobs have been lost in the general aviation manufacturing industry. Particularly hard hit has been the production of light piston-engine aircraft. This is the type of aircraft that many pilots in South Dakota use for their charter companies and crop-dusting operations.

Although a variety of factors have contributed to the decline of the domestic general aviation industry, the need for product liability reform is the reason most often cited for this development by South Dakota pilots, aircraft manufacturers, and labor organizations alike. As a pilot and a Representative of the largely rural State of South Dakota, I am sympathetic to their argument that this important domestic industry should not be punished by our inability to reach consensus on the much more complex issue of comprehensive product liability reform.

As you know, Senator KASSEBAUM's initial proposal called for a 15-year time limit on civil actions for damages that may be brought against general aviation manufacturers or the manufacturers of component parts. After substantial debate and negotiation, Senator KASSEBAUM made a number of important refinements in her bill that address many of the concerns that have been raised about it.

Perhaps most importantly, Senator KASSEBAUM agreed to extend the statute of repose to 18 years. Also the compromise bill will not prevent lawsuits against those manufacturers who willfully conceal manufacturing defects. And it will not prevent passengers injured on medevac aircraft or people injured on the ground from bringing civil actions against general aviation manufacturers or the manufacturers of component parts.

This amended version of the General Aviation Revitalization Act passed by a vote of 91 to 8. The fact that this legislation was supported by some of the Senate's strongest opponents of prod-

uct liability reform is significant. It reflects the fact that the revised measure constitutes an honorable compromise between those concerned about our declining general aviation manufacturing industry and those concerned about efforts to reform product liability.

Finally, let me clarify what my vote on the Kassebaum aviation liability bill does not mean. It does not mean that I will support any product liability proposal that comes before the Senate. Nor does it mean that I plan to start down a path of supporting product liability reform on a piecemeal basis.

The product liability debate centers on the complex challenge of reconciling the rights of injured plaintiffs and the need to relieve the burden of frivolous lawsuits on business. There is no question, in my view, that Congress is going to have to face this challenge sooner or later. This issue is not going to go away.

For that reason, I voted in the last Congress to bring product liability reform legislation to the Senate floor for debate, despite reservations I had about the committee bill. Only by debating this issue will we be able to decide, at least, whether or not we are going to reform product liability law and, if so, how.●

CAROL ANN SHUDLICK, BIG TEN BASKETBALL PLAYER OF THE YEAR

● Mr. DURENBERGER. Mr. President, this past Monday the women's coaches of the Big Ten Conference chose University of Minnesota senior Carol Ann Shudlick as the Big Ten Basketball Player of the Year. This recognition is richly deserved. The fact that coaches of rival teams bestowed upon her such an honor only adds to Carol Ann's reputation as the premier player in Division I women's basketball.

A native of Apple Valley, MN, Carol Ann has quietly become a vital member of a Golden Gophers team which is participating in its first-ever NCAA Women's Basketball Tournament. Over the years, she has racked up over 2,000 points in becoming the all-time leading scorer in U. of M. basketball history. In addition to her recognition as Player of the Year, she has also been named a member of the All-Big Ten Conference Team, Sports Channel's Player of the Year, Street and Smith preseason All-American, as well as Big Ten Player of the Week on three occasions during the 1993–1994 season.

But it is the content of her character which sets Carol Ann apart. When we as fans watch these gifted athletes we have a tendency to make them into one-dimensional beings who only exist for 2 hours on a Saturday afternoon. We often forget that they have so much to offer as individuals. This is the other side of Carol Ann which is often talked about amongst her peers. It is my belief that the self-discipline, work ethic, and maturity which have led her to the pinnacle of her sport will be even more useful to her when she graduates from the University of Minnesota.

Mr. President, as Carol Ann and her teammates prepare for Saturday's second round game against Vanderbilt, I again want to congratulate her on being chosen as Big Ten Player of the Year. I am proud of all she has accomplished, and I know this is only the beginning of a successful and productive future.●

THE PROVIDENCE COLLEGE MEN'S BASKETBALL TEAM AND THE BROWN UNIVERSITY WOMEN'S BASKETBALL TEAM

● Mr. CHAFEE. Mr. President, I want to congratulate the Providence College basketball team for winning the Big East conference championship this past weekend in New York City.

Sunday's appearance in the Big East tournament finals was a first for Providence College—and they made the most of it with an impressive 74 to 64 win over Georgetown University on Sunday afternoon.

Providence College was founded by the Dominican Order of Preachers in 1917 and has had a rich 75-year history of excellence in both the classroom and on the basketball court. In a recent survey of American colleges by U.S. News & World Report, Providence College was ranked 15th among the finest regional colleges and universities in the northern United States. Our distinguished colleague, the senior Senator from Connecticut, Senator DODD, is just one example of the top quality graduates that emerge from the college.

This past weekend, however, it was the Providence College basketball team that inspired the school's 3,700 students—and indeed the entire State of Rhode Island. With a fourth place finish in the Big East regular season, the Friars were considered by most to be an underdog in the tournament. After all, the PC team had never advanced beyond the tournament's semifinal game.

But Providence finished its regular season play with five straight victories and entered the tournament playing its best basketball of the season. Led by Providence native Abdul Abdullah of Providence's Central High School, the Friars made believers of all of us with three more consecutive victories over Villanova University, the University of Connecticut—who came into the game with a No. 2 ranking in national polls—and Georgetown.

As a result of Providence's Big East conference championship, the school was awarded the Dave Gavitt trophy. Dave Gavitt—a resident of East Providence, RI—was the former Providence College coach that coached the 1973 PC basketball team to the final four of the NCAA tournament. He was also the first commissioner of the Big East and the driving force behind the conference's success.

As a result of its Big East championship and its outstanding play, the PC team has been invited to participate in this week's NCAA tournament. The team is scheduled to play Alabama in Lexington, KY tonight. We wish them the best of luck—and look for them to extend their 8 game winning streak.

Despite its success, the Providence College is not the Only Rhode Island team scheduled to play in the 1994 NCAA basketball tournament. The Ivy League Champion Brown University women's basketball team has also been invited to the NCAA's. I want to extend my best wishes and congratulations to the Brown team as well.

Congratulations and three cheers for both of these teams which have stirred such pride in Rhode Island for their achievements.●

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FORD. Mr. President, I ask unanimous consent the Senate proceed to executive session to consider the following nomination: Calendar 744, Robert M. Walker, of West Virginia, to be an Assistant Secretary of the Army.

I ask further unanimous consent that nomination be considered; that any statement appear in the RECORD as if read; that the motion to reconsider be laid upon the table; that the President be immediately notified of the Senate's action.

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

The nomination considered and agreed to is as follows:

Robert M. Walker, of West Virginia, to be an Assistant Secretary of the Army.

STATEMENT ON THE CONFIRMATION OF MIKE WALKER TO THE POSITION OF ASSISTANT SECRETARY OF THE ARMY

Mr. BYRD. Mr. President, the Senate has confirmed Mr. Michael Walker, who resides near Charles Town, WV, to

be Assistant Secretary of the Army. I was pleased to see that President Clinton nominated Mike Walker to become Assistant Secretary of the Army and I congratulate him on his confirmation. The expertise Mike has developed and the extraordinary work ethic he has demonstrated in the past 15 years as the Senate Appropriations Committee's expert on military construction will serve him well as the Army's new top official for installations, logistics, and environmental policy.

Mike began his congressional service as a page in the U.S. House of Representatives in the mid-1960's. He subsequently served as assistant to the late Congressman Joe L. Evins. Upon Congressman Evins' retirement in 1976, Mike began a long association with the senior Senator from Tennessee [Mr. SASSER], including his service as the principal staff person on the Committee's Military Construction Subcommittee, which is chaired by Senator SASSER.

In addition to his duties to the Senate Appropriations Committee, Mike has also assisted special U.S. task forces in the Persian Gulf and Central America. He has applied his international affairs expertise while a military affairs adviser to several Senate delegations to the former Yugoslavia, Eastern Europe, Somalia, and Asia.

Mike's service in the U.S. Army National Guard should also be helpful to him in his new assignment, as it was in the Senate.

Mr. President, Mike is the son of Dorothy Walker, a former newspaper editor in Martin, TN. She certainly must be proud of the confidence that President Clinton has displayed in her son by nominating him for this very important position.

It has been my experience that individuals who serve on the staff of the Appropriations Committee must spend long hours away from their families. This requires no small amount of sacrifice on the part of family members, and Mike's wife, Romy, is to be commended in this regard.

I again congratulate Mike Walker upon his well-deserved appointment. While his insights and hard work will be sorely missed here, I am confident that Mike will continue to serve the United States with great distinction and dedication in his new role as Assistant Secretary of the Army. I look forward to working with him in that capacity.

MILITARY NOMINATIONS AND PROMOTIONS

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the military nominations and promotions reported today by the Committee on Armed Services. I further ask unanimous consent that the nominees be confirmed en bloc; that any statements appear in the RECORD as if read; that upon confirmation, the motions to reconsider be laid upon the table en bloc; that the President be immediately notified of the Senate's action; that the Senate return to legislative session.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The nominations considered and confirmed en bloc are as follows:

To be admiral

Vice Adm. Leighton W. Smith, Jr., U.S. Navy, 418-48-0558.

Rear Admiral (lower half) Douglas Matthew Moore, USNR to be rear admiral.

In the Army there are 1,564 promotions to the grade of major (list begins with Lawrence J. Abrams).

Brigadier General Bobby G. Hollingsworth, USMCR to be major general.

In the Marine Corps there are 15 promotions to the grade of brigadier general (list begins with Gary S. McKissock).

Rear Admiral John B. LaPlante, USN to be vice admiral.

Rear Admiral George R. Sterner, USN to be vice admiral.

In the Marine Corps Reserve there are 2 promotions to the grade of brigadier general (list begins with Kevin B. Kuklok).

In the Navy there are 6 promotions to the grade of rear admiral (lower half) (list begins with William Robert Rowley).

In the Army there are 44 promotions to the grade of major (list begins with Gerald K. Bebber).

In the Naval Reserve there are 13 promotions to the grade of rear admiral (lower half) (list begins with William Henry Butler).

In the Air Force there are 719 promotions to the grade of colonel and below (list begins with Lawrence W. Bandoni).

Vice Admiral Robert K. U. Kihune, USN to be placed on the retired list in the grade of vice admiral.

Vice Admiral Stephen F. Loftus, USN to be placed on the retired list in the grade of vice admiral.

Brigadier General George G. Kundahl, USAR to be major general.

In the Air Force there are 18 promotions to the grade of colonel and below (list begins with Francis J. Leurquin).

In the Air Force there are 44 appointments to the grade of captain (list begins with Christopher S. Allen).

In the Army there are 10 promotions to the grade of lieutenant colonel and below (list begins with Cynthia A. Bernard).

In the Army there are 1,111 appointments to the grade of captain and below (list begins with Derek G. Abrams).

Rear Admiral Harold E. Grant, USN to be Judge Advocate General of the Navy and to be rear admiral.

Captain Carlson M. Legrand, USN to be Deputy Judge Advocate General of the Navy and to be rear admiral.

Captain Anderson Byron Holderby, Jr., USN to be rear admiral (lower half).

In the Marine Corps there are 3 promotions to the grade of lieutenant colonel (list begins with Arthur V. Gorman, Jr.).

In the Marine Corps there are 2 promotions to the grade of major (list begins with Stephen J. Gorzynski).

In the Air Force Reserve there are 76 appointments to the grade of lieutenant colonel (list begins with Philip M. Ellis).

In the Navy there are 556 appointments to the grade of commander and below (list begins with Amy J. Anderson).

In the Air Force there are 2,541 promotions to the grade of major (list begins with Ruby C. Abeyta).

Vice Admiral Kenneth C. Malley, USN to be placed on the retired list in the grade of vice admiral.

In the Naval Reserve there are 3 promotions to the grade of rear admiral (list begins with James Raymond Fowler).

Major General Wesley K. Clark, USA to be a Senior Member of the Military Staff Committee of the United Nations and to be lieutenant general.

In the Navy there are 5 promotions to the grade of rear admiral (list begins with Richard Arnold Nelson).

In the Air Force Reserve there are 20 promotions to the grade of lieutenant colonel (list begins with Russell K. Ameter).

In the Naval Reserve there are 317 promotions to the grade of captain (list begins with Ronald Eugene Adams).

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

PRINTING OF H.R. 820

Mr. FORD. Mr. President, I ask unanimous consent that H.R. 820, the National Competitiveness bill, be printed as passed the Senate on March 16.

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

MEASURE READ FOR THE FIRST TIME

Mr. FORD. Mr. President, I understand that S. 1951, the Reemployment Act of 1994, was introduced earlier today by Senator MOYNIHAN and others and is at the desk.

The PRESIDING OFFICER. The Senator is correct.

Mr. FORD. Mr. President, I ask for its first reading.

The PRESIDING OFFICER. The bill will be read for the first time.

The legislative clerk read as follows:

A bill (S. 1951) to establish a comprehensive system or reemployment services, training and income support for permanently laid off workers, and so forth, and for other purposes.

Mr. FORD. Mr. President, I now ask for its second reading.

Mr. D'AMATO. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard. The bill will be held at the desk.

MEASURE READ FOR THE FIRST TIME

Mr. FORD. Mr. President, I understand that S. 1944, the Health Care Fraud and Abuse Act of 1994, introduced earlier today by Senator KOHL is at the desk.

The PRESIDING OFFICER. The Senator is correct.

Mr. FORD. Mr. President, I therefore ask for its first reading.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1944) to increase and extend criminal and other penalties for health care fraud and abuse, and for other purposes.

Mr. FORD. Mr. President, I now ask for its second reading.

Mr. D'AMATO. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard. It will be held at the desk.

SMALL FAMILY FARM WEEK

Mr. D'AMATO. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 171, Small Family Farm Week, and I ask for its immediate consideration.

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

The clerk will report.

The legislative clerk read as follows:

A joint resolution (S. J. Res. 171) designating March 20 through March 26, 1994, as "Small Family Farm Week."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

S.J. RES. 171

Whereas the small family farmer contributes enormously to the agricultural productivity of the United States;

Whereas the plight of the small family farmer has been in jeopardy in recent times;

Whereas many small family farms continue to operate in the face of financial and credit difficulties;

Whereas the size and crop makeup of family farms varies from region to region in the United States; and

Whereas the small family farm represents the historical foundation of American agriculture: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of March 20 through March 26, 1994, is designated as "Small Family Farm Week", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the week with appropriate ceremonies and activities.

Mr. D'AMATO. Mr. President, I move to reconsider the vote by which the joint resolution was agreed to.

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

The motion to lay on the table was agreed to.

MEASURE PLACED ON THE CALENDAR—S. 1901

Mr. FORD. Mr. President, I ask unanimous consent that the Agriculture Committee be discharged from further consideration of S. 1901, a bill relating to the purchase and eradication of swine infected with or exposed to brucellosis; and that the measure then be placed on the calendar.

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

NATIONAL HISTORICAL PUBLICATIONS AND RECORDS COMMISSION AUTHORIZATION

Mr. FORD. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be discharged from further consideration of H.R. 2139, the National Historical Publications and RECORDS Commission Authorization, and that the Senate then proceed to its immediate consideration.

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

The clerk will report:

The legislative clerk read as follows:.

A bill (H.R. 2139) to amend title 44, United States Code, to authorize appropriations for the National Historical Publications and RECORDS Commission.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. FORD. Mr. President, on behalf Senator LIEBERMAN, I send a substitute to the desk, and I ask that the amendment be agreed to and the motion to reconsider laid upon the table; that the bill, as amended, be read three times, passed and the motion to reconsider laid upon the table.

I further ask unanimous consent that the title amendment, which is at the desk, be agreed to, and the motion to reconsider laid upon the table.

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

So the bill (H.R. 2139), as amended, was deemed read three times and passed.

The title was amended so as to read: "A bill to authorize appropriations for the National Historical Publications and Records Commission for fiscal years 1994, 1995, 1996 and 1997."

MEASURE INDEFINITELY POSTPONED—S. 314

Mr. FORD. Mr. President, I ask unanimous consent that Calendar No. 207, S. 314, the Senate companion, be indefinitely postponed.

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

NATIONAL PUBLIC SAFETY TELECOMMUNICATIONS WEEK

Mr. FORD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on a joint resolution (S.J. Res. 56) to designate the week beginning April 12, 1993, as "National Public Safety Telecommunications Week."

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the resolution from the Senate (S.J. Res. 56) entitled "Joint Resolution to designate the week beginning April 12, 1993, as 'National Public Safety Telecommunications Week'", do pass with the following amendments:

Page 2, line 12, strike out "April 12, 1993,", and insert: "April 11, 1994,".

Amend the title so as to read: "Joint Resolution to designate the week beginning April 11, 1994, as 'National Public Safety Telecommunications Week'.".

Mr. FORD. Mr. President, I move that the Senate concur, en bloc, in the amendments of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote by which the motion 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.

UNANIMOUS-CONSENT AGREEMENT—S. 208

Mr. FORD. Mr. President, I ask unanimous consent that the statutory time limitation for consideration of the Senate budget resolution be reduced to 35 hours; that the Senate proceed to the consideration of S. 208, Calendar No. 369, a bill to reform the concessions policies of the National Park Service, at 10 a.m. on Monday, March 21; that all amendments to that bill must be offered by the close of business on Monday; that they must be relevant to either the subject matter of the bill or the committee substitute; that no motions to recommit be in order, and that no votes occur in relation to that bill prior to Tuesday, March 22.

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

AUTHORIZATION FOR BUDGET COMMITTEE TO REPORT ON FRIDAY, MARCH 18, 1994

Mr. FORD. Mr. President, I ask unanimous consent that the Budget Committee be permitted to report on Friday, March 18, from 3 p.m. to 6 p.m.

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

ORDERS FOR MONDAY, MARCH 21, 1994, AT 10 A.M.

Mr. FORD. 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 10 a.m. Monday, March 21; that following the prayer, the Journal of the proceedings be approved to date; that the time for the two leaders be reserved for their use later in the day; that at 10 a.m., the Senate proceed to the consideration of Calendar No. 369, S. 208, the parks concessions bill, as previously ordered.

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

RECESS UNTIL MONDAY, MARCH 21, 1994, AT 10 A.M.

Mr. FORD. Mr. President, if there is no further business to come before the Senate today, and if no other Senator is seeking recognition, I now ask unanimous consent that the Senate stand in recess as previously ordered.

Mr. D'AMATO. Mr. President, I am going to make this very brief. I believe that given the historic vote of 98–0 today on the message to authorize the two leaders to meet and set forth a procedure to go forward as it relates to the oversight the Senate will be conducting relating to the Whitewater-associated matters, that was a powerful vote. It was a vote to do the right thing, a vote to follow the law, and I am proud that my colleagues undertook it in this manner.

I believe that we do the people's business best in this manner, and it is a proud day for the Senate of the United States.

I thank the Chair.

Mr. FORD. Reserving the right to object to my unanimous-consent agreement, I want to say to the Senator that that resolution contains two requirements that the Democrats had: One, that it be properly structured; and, two, we would not interfere with the special prosecutor, Mr. Fiske.

So, under those circumstances, the only things we have ever requested are now agreed to, and I hope the two leaders can meet next week and work out the procedure that will be successful.

I ask consideration now of my unanimous-consent request.

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

Thereupon, the Senate, at 10:16 p.m., recessed until Monday, March 21, 1994, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate March 17, 1994:

DEPARTMENT OF DEFENSE

GILBERT F. DECKER, OF CALIFORNIA, TO BE AN ASSISTANT SECRETARY OF THE ARMY, VICE STEPHEN KAY CONVER, RESIGNED.

JEFFREY K. HARRIS, OF NEW JERSEY, TO BE AN ASSISTANT SECRETARY OF THE AIR FORCE, VICE MARTIN C. FAGA.

CONFIRMATIONS

Executive nominations confirmed by the Senate March 17, 1994:

DEPARTMENT OF DEFENSE

ROBERT M. WALKER, OF WEST VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE ARMY.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE ON THE SENATE.

IN THE NAVY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be admiral

VICE ADM. LEIGHTON W. SMITH, JR., U.S. NAVY [redacted]

IN THE ARMY

THE FOLLOWING U.S. ARMY RESERVE OFFICER FOR PROMOTION TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 593(A), 3371 AND 3384:

To be major general

BRIG. GEN. GEORGE G. KUNDAHL [redacted]

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A), AND AS A SENIOR MEMBER OF THE MILITARY STAFF COMMITTEE OF THE UNITED NATIONS UNDER TITLE 10, UNITED STATES CODE, SECTION 711:

To be lieutenant general

MAJ. GEN. WESLEY K. CLARK [redacted] U.S. ARMY

IN THE MARINE CORPS

THE FOLLOWING-NAMED BRIGADIER GENERAL OF THE U.S. MARINE CORPS RESERVE FOR PROMOTION TO THE PERMANENT GRADE OF MAJOR GENERAL, UNDER THE PROVISIONS OF SECTION 5912 OF TITLE 10, UNITED STATES CODE:

To be major general

BRIG. GEN. BOBBY G. HOLLINGSWORTH [redacted]Q

THE FOLLOWING-NAMED COLONELS TO THE U.S. MARINE CORPS FOR PROMOTION TO THE PERMANENT GRADE OF BRIGADIER GENERAL, UNDER THE PROVISIONS OF SECTION 624 OF TITLE 10, UNITED STATES CODE:

To be brigadier general

COL. GARY S. MCKISSOCK [redacted]
COL. RAYMOND P. AYRES, JR. [redacted]
COL. EMIL R. BEDARD [redacted]
COL. WILLIAM L. NYLAND [redacted]
COL. MATTHEW E. BRODERICK [redacted]
COL. TERRENCE P. MURRAY [redacted]
COL. JOSEPH T. ANDERSON [redacted]
COL. BRUCE B. BYRUM [redacted]
COL. EARL B. HAILSTON [redacted]
COL. HARRY K. BARNES [redacted]
COL. BRUCE B. KNUTSON, JR. [redacted]
COL. DAVID F. BICE [redacted]
COL. DAVID M. MIZE [redacted]
COL. ROBERT MAGNUS [redacted]
COL. CLIFFORD L. STANLEY [redacted]

THE FOLLOWING-NAMED COLONELS OF THE U.S. MARINE CORPS RESERVE FOR PROMOTION TO THE PERMANENT GRADE OF BRIGADIER GENERAL, UNDER THE PROVISIONS OF SECTION 5912 OF TITLE 10, UNITED STATES CODE:

To be brigadier general

COL. KEVIN B. KUKLOK [redacted]
COL. ARNOLD L. PUNARO [redacted]

IN THE NAVY

THE FOLLOWING-NAMED REAR ADMIRAL (LOWER HALF) OF THE RESERVE OF THE U.S. NAVY FOR PERMANENT PROMOTION TO THE GRADE OF REAR ADMIRAL IN THE STAFF CORPS, AS INDICATED, PURSUANT TO THE PROVISION OF TITLE 10, UNITED STATES CODE, SECTION 5912:

SUPPLY CORPS OFFICER

To be rear admiral

REAR ADM. (LH) DOUGLAS MATTHEW MOORE, [redacted] U.S. NAVAL RESERVE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF VICE ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

REAR ADM. JOHN B. LAPLANTE, U.S. NAVY, [redacted]

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF VICE ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

REAR ADM. GEORGE R. STERNER, U.S. NAVY [redacted]

THE FOLLOWING-NAMED CAPTAINS IN THE STAFF CORPS OF THE NAVY FOR PROMOTION TO THE PERMANENT GRADE OF REAR ADMIRAL (LOWER HALF), PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW:

MEDICAL CORPS

To be rear admiral (lower half)

CAPT. WILLIAM ROBERT ROWLEY [redacted] U.S. NAVY

SUPPLY CORPS

To be rear admiral (lower half)

CAPT. KEITH WAYNE LIPPERT [redacted] U.S. NAVY
CAPT. MICHAEL PATRICK SULLIVAN, [redacted] U.S. NAVY

CIVIL ENGINEER CORPS

To be rear admiral (lower half)

CAPT. LOUIS MARTIN SMITH [redacted] U.S. NAVY

DENTAL CORPS

To be rear admiral (lower half)

CAPT. JERRY KAY JOHNSON [redacted] U.S. NAVY

NURSE CORPS

To be rear admiral (lower half)

CAPT. JOAN MARIE ENGEL [redacted] U.S. NAVY

THE FOLLOWING-NAMED CAPTAINS OF THE RESERVE OF THE U.S. NAVY FOR PERMANENT PROMOTION TO THE GRADE OF REAR ADMIRAL (LOWER HALF) IN THE LINE AND STAFF CORPS, AS INDICATED, PURSUANT TO THE PROVISION OF TITLE 10, UNITED STATES CODE, SECTION 5912:

UNRESTRICTED LINE OFFICER

To be rear admiral (lower half)

CAPT. WILLIAM HENRY BUTLER, [redacted] U.S. NAVAL RESERVE
CAPT. CASEY WILLIAMS COANE, [redacted] U.S. NAVAL RESERVE
CAPT. WILLIAM JOHN LOGAN, [redacted] U.S. NAVAL RESERVE
CAPT. BRADLEY CHILTON POOLE, [redacted] U.S. NAVAL RESERVE

UNRESTRICTED LINE OFFICER, (TRAINING AND ADMINISTRATION OF RESERVE)

CAPT. STEPHEN THOMAS KEITH, [redacted] U.S. NAVAL RESERVE

AEROSPACE ENGINEERING DUTY OFFICER

CAPT. WILLIAM EDWARD HERRON [redacted] U.S. NAVAL RESERVE

MEDICAL CORPS OFFICER

CAPT. JAN HOLLAND NYBOER, [redacted] U.S. NAVAL RESERVE
CAPT. PAUL VINCENT QUINN, [redacted] U.S. NAVAL RESERVE

DENTAL CORPS OFFICER

CAPT. ROBERT FRANKLIN BIRTCIL, JR. [redacted] U.S. NAVAL RESERVE

MEDICAL SERVICE CORPS OFFICER

CAPT. DOUGLAS LEE JOHNSON, [redacted] U.S. NAVAL RESERVE

NURSE CORPS OFFICER

CAPT. NANCY ALEEN FACKLER, 262–64–4477, U.S. NAVAL RESERVE

SUPPLY CORPS OFFICER

CAPT. THOMAS JAMES HILL, [redacted] U.S. NAVAL RESERVE

CIVIL ENGINEER CORPS OFFICER

CAPT. THOMAS JOSEPH GROSS, [redacted] U.S. NAVAL RESERVE

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be vice admiral

VICE ADM. ROBERT K.U. KIHUNE, U.S. NAVY [redacted]

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be vice admiral

VICE ADM. STEPHEN F. LOFTUS, U.S. NAVY [redacted]

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT AS JUDGE ADVOCATE GENERAL OF THE NAVY AND RE-

APPOINTMENT TO THE GRADE OF REAR ADMIRAL UNDER TITLE 10, UNITED STATES CODE, SECTION 5148(B):

To be judge advocate general of the navy

To be rear admiral

REAR ADM. HAROLD E. GRANT, JUDGE ADVOCATE GENERAL'S CORPS, U.S. NAVY XXX-XX-XX...

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT AS DEPUTY JUDGE ADVOCATE GENERAL OF THE NAVY AND APPOINTMENT TO THE GRADE OF REAR ADMIRAL UNDER TITLE 10, UNITED STATES CODE, SECTION 5149(A):

To be deputy judge advocate general of the navy

To be rear admiral

CAPT. CARLSON M. LEGRAND, JUDGE ADVOCATE GENERAL'S CORPS, U.S. NAVY XXX-XX-XX...

THE FOLLOWING-NAMED CAPTAIN IN THE CHAPLAIN CORPS OF THE NAVY FOR PROMOTION TO THE PERMANENT GRADE OF REAR ADMIRAL (LOWER HALF), PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFORE AS PROVIDED BY LAW:

CHAPLAIN CORPS

To be rear admiral (lower half)

CAPT. ANDERSON BYRON HOLDERBY, JR., XXX-XX-XXXX U.S. NAVY

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be vice admiral

VICE ADM. KENNETH C. MALLERY, U.S. NAVY XXX-XX-XX...

THE FOLLOWING-NAMED REAR ADMIRALS (LOWER HALF) OF THE RESERVE OF THE U.S. NAVY FOR PERMANENT PROMOTION TO THE GRADE OF REAR ADMIRAL IN THE STAFF CORPS, AS INDICATED, PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 5912:

MEDICAL CORPS OFFICER

To be rear admiral

REAR ADM. (LH) JAMES RAYMOND FOWLER, XXX-XX-XXXX XX... U.S. NAVAL RESERVE

JUDGE ADVOCATE GENERAL'S CORPS OFFICER

To be rear admiral

REAR ADM. (LH) FRED STEPHEN GLASS, XXX-XX-XXXX U.S. NAVAL RESERVE

SUPPLY CORPS OFFICER

To be rear admiral

REAR ADM. (LH) LYLE ROSS HALL, XXX-XX-XXXX U.S. NAVAL RESERVE

THE FOLLOWING-NAMED REAR ADMIRALS (LOWER HALF) IN THE STAFF CORPS OF THE NAVY FOR PROMOTION TO THE PERMANENT GRADE OF REAR ADMIRAL, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW:

MEDICAL CORPS

To be rear admiral

REAR ADM. (LH) RICHARD ARNOLD NELSON XXX-XX-XXXX U.S. NAVY

SUPPLY CORPS

To be rear admiral

REAR ADM. (LH) DONALD EUGENE HICKMAN XXX-XX-XXXX U.S. NAVY

REAR ADM. (LH) DAVID ROSS RUBLE XXX-XX-XXXX U.S. NAVY

CIVIL ENGINEER CORPS

To be rear admiral

REAR ADM. (LH) THOMAS ALLAN DAMES XXX-XX-XXXX U.S. NAVY

DENTAL CORPS

To be rear admiral

REAR ADM. (LH) WILLIAM HOWARD SNELL, JR., XXX-X... XX... U.S. NAVY

IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING LAWRENCE W. BANDONI, AND ENDING JOHN B. ZIMMERMAN. (SEE EXECUTIVE JOURNAL PROCEEDINGS OF FEBRUARY 2, 1994, FOR COMPLETE LIST.)

AIR FORCE NOMINATIONS BEGINNING FRANCIS J. LEURQUIN, AND ENDING STEPHEN R. CHANNEL. (SEE EXECUTIVE JOURNAL PROCEEDINGS OF FEBRUARY 4, 1994, FOR COMPLETE LIST.)

AIR FORCE NOMINATIONS BEGINNING CHRISTOPHER S. ALLEN, AND ENDING GERALD S. WELKER. (SEE EXECUTIVE JOURNAL PROCEEDINGS OF FEBRUARY 4, 1994, FOR COMPLETE LIST.)

AIR FORCE NOMINATIONS BEGINNING PHILIP M. ELLIS, AND ENDING GROVER N. STEIN. (SEE EXECUTIVE JOURNAL PROCEEDINGS OF FEBRUARY 22, 1994, FOR COMPLETE LIST.)

AIR FORCE NOMINATIONS BEGINNING RUDY C. ABEYTA, AND ENDING MARIE P. ZEITLER. (SEE EXECUTIVE JOURNAL PROCEEDINGS OF FEBRUARY 22, 1994, FOR COMPLETE LIST.)

AIR FORCE NOMINATIONS BEGINNING MAJOR RUSSELL K. AMETER, XXX-XX-XXXX AND ENDING MAJOR KENNETH R. WEBB, XXX-XX-XXXX (SEE EXECUTIVE JOURNAL PROCEEDINGS OF MARCH 7, 1994, FOR COMPLETE LIST.)

IN THE ARMY

ARMY NOMINATIONS BEGINNING LAWRENCE J. ABRAMS, AND ENDING 2800X. (SEE EXECUTIVE JOURNAL PROCEEDINGS OF NOVEMBER 24, 1993, FOR COMPLETE LIST.)

ARMY NOMINATIONS BEGINNING GERALD K. BEBBER, AND ENDING DONALD L. WILSON. (SEE EXECUTIVE JOURNAL PROCEEDINGS OF JANUARY 31, 1994, FOR COMPLETE LIST.)

ARMY NOMINATIONS BEGINNING *CYNTHIA A. BERNARD, AND ENDING SUSAN M. RAYMOND. (SEE EXECUTIVE JOURNAL PROCEEDINGS OF FEBRUARY 4, 1994, FOR COMPLETE LIST.)

ARMY NOMINATIONS BEGINNING DEREK G. ABRAMS, AND ENDING DAVID C. ZENGER. (SEE EXECUTIVE JOURNAL PROCEEDINGS OF FEBRUARY 4, 1994, FOR COMPLETE LIST.)

IN THE MARINE CORPS

MARINE CORPS NOMINATIONS BEGINNING MAJOR ARTHUR V. GORMAN, JR., AND ENDING MAJOR DANIEL W. SHUPE, JR. (SEE EXECUTIVE JOURNAL PROCEEDINGS OF FEBRUARY 22, 1994, FOR COMPLETE LIST.)

MARINE CORPS NOMINATIONS BEGINNING CAPTAIN STEPHEN J. GORZYNSKI, AND ENDING CAPTAIN MARK E. JEFFRY. (SEE EXECUTIVE JOURNAL PROCEEDINGS OF FEBRUARY 22, 1994, FOR COMPLETE LIST.)

IN THE NAVY

NAVY NOMINATIONS BEGINNING AMY J. ANDERSON, AND ENDING HILARY VALENTINE WONG. (SEE EXECUTIVE JOURNAL PROCEEDINGS OF FEBRUARY 22, 1994, FOR COMPLETE LIST.)

NAVY NOMINATIONS BEGINNING RONALD EUGENE ADAMS, AND ENDING DANIEL WARD MERDES. (SEE EXECUTIVE JOURNAL PROCEEDINGS OF MARCH 7, 1994, FOR COMPLETE LIST.)