SENATE—*Monday, March 21, 1994*

(Legislative day of Tuesday, February 22, 1994)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable PATTY MURRAY, a Senator from the State of Washington.

PRAYER

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

Let us pray:

For my people have committed two evils; they have forsaken me the fountain of living waters, and hewed them out cisterns, broken cisterns, that can hold no water.—Jeremiah 2:13.

God our Father, this sad, provocative word from the prophet Jeremiah reminds us of the tragic consequences when people abandon faith in God. Having forsaken the foundation of living waters, life becomes futile as we dig for cisterns which can hold no water. Somehow help us comprehend the infinite tragedy that Godlessness brings.

We are reminded of the words of Thomas Jefferson: "God who gave us life gave us liberty." And the profound question that followed, "Can the liberties of a nation be secure when we have removed from the hearts of the people the belief that those liberties are the gift of God?"

God of truth, justice, and love, awaken us to the fact that when we abandon the absolute, everything becomes relative. Liberty is anarchy, and life is emptied of meaning. Help us, gracious God, to find our way back to the God of our fathers.

In the name of the Lord of Heaven and Earth. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 21, 1994.

To the Senate:

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

ROBERT C. BYRD,
President pro tempore.

Mrs. MURRAY 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.

NATIONAL PARK SERVICE CONCESSIONS POLICY REFORM ACT OF 1994

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of S. 208, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 208) to reform the concession policies of the National Park Service, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources with an amendment to strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Park Service Concessions Policy Reform Act of 1994".

SEC. 2. FINDINGS AND POLICY.

(a) FINDINGS.—In furtherance of the Act of August 25, 1916 (39 Stat. 535), as amended (16 U.S.C. 1, 2–4), which directs the Secretary of the Interior to administer areas of the National Park System in accordance with the fundamental purpose of preserving their scenery, wildlife, natural and historic objects, and providing for their enjoyment in a manner that will leave them unimpaired for the enjoyment of future generations, the Congress finds that the preservation and conservation of park resources and values requires that such public accommodations, facilities, and services as the Secretary determines are necessary and appropriate in accordance with this Act—

(1) should be provided only under carefully controlled safeguards against unregulated and indiscriminate use so that visitation will not unduly impair these values; and

(2) should be limited to locations and designs consistent to the highest practicable degree with the preservation and conservation of park resources and values.

(b) POLICY.—It is the policy of the Congress that—

(1) development within a park shall be limited to those facilities and services that the Secretary determines are necessary and appropriate for public use and enjoyment of the park in which such facilities and services are located;

(2) development within a park should be consistent to the highest practicable degree with the preservation and conservation of the park's resources and values;

(3) such facilities and services should be provided by private persons, corporations, or other entities, except when no private interest is qualified and willing to provide such facilities and services;

(4) if the Secretary determines that development should be provided within a park, such development shall be designed, located, and operated in a manner that is consistent with the purposes for which such park was established;

(5) such facilities and services should be awarded to the person, corporation, or entity submitting the best proposal through a competitive selection process; and

(6) such facilities or services should be provided to the public at reasonable rates.

SEC. 3. DEFINITIONS.

As used in this Act, the term—

(1) "concessioner" means a person, corporation, or other entity to whom a concessions contract has been awarded;

(2) "concessions contract" means a contract, including permits, to provide facilities or services, or both, at a park;

(3) "facilities" means improvements to real property within parks used to provide accommodations, facilities, or services to park visitors;

(4) "park" means a unit of the National Park System;

(5) "proposal" means the complete proposal for a concessions contract offered by a potential or existing concessioner in response to the minimum requirements for the contract established by the Secretary; and

(6) "Secretary" means the Secretary of the Interior.

SEC. 4. REPEAL OF CONCESSIONS POLICY ACT OF 1965.

The Act of October 9, 1965, Public Law 89–249 (79 Stat. 969, 16 U.S.C. 20–20g), entitled "An Act relating to the establishment of concession policies administered in the areas administered by the National Park Service and for other purposes", is hereby repealed. The repeal of such Act shall not affect the validity of any contract entered into under such Act, but the provisions of this Act shall apply to any such contract except to the extent such provisions are inconsistent with the express terms and conditions of the contract.

SEC. 5. CONCESSIONS POLICY.

Subject to the findings and policy stated in section 2 of this Act, and upon a determination by the Secretary that facilities or services are necessary and appropriate for the accommodation of visitors at a park, the Secretary shall, consistent with the provisions of this Act, laws relating generally to the administration and management of units of the National Park System, and the park's general management plan, concessions plan, or other applicable plans, authorize private persons, corporations, or other entities to provide and operate such facilities or services as the Secretary deems necessary and appropriate.

SEC. 6. COMPETITIVE SELECTION PROCESS.

(a) IN GENERAL.—(1) Except as provided in subsection (b), and consistent with the provisions of subsection (g), any concessions contract entered into pursuant to this Act shall be awarded to the person submitting the best proposal as determined by the Secretary, through a competitive selection process.

(2) Within 180 days after the date of enactment of this Act, the Secretary shall pro-

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

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mulgate appropriate regulations establishing such process. The regulations shall include provisions for establishing a method or procedure for the resolution of disputes between the Secretary and a concessioner in those instances where the Secretary has been unable to meet conditions or requirements or provide such services, if any, as set forth in a prospectus pursuant to sections 6(c)(2) (D) and (E).

(b) TEMPORARY CONTRACT.—Notwithstanding the provisions of subsection (a), the Secretary may award a temporary concessions contract in order to avoid interruption of services to the public at a park.

(c) PROSPECTUS.—(1) Prior to soliciting proposals for a concessions contract at a park, the Secretary shall publish a notice of availability for a prospectus soliciting proposals at least once in local or national newspapers or trade publications, as appropriate, and shall make such prospectus available upon request to all interested parties.

(2) The prospectus shall include, but need not be limited to, the following information:

(A) The minimum requirements for such contract, as set forth in subsection (d).

(B) The terms and conditions of the existing concessions contract awarded for such park, if any, including all fees and other forms of compensation provided to the United States by the concessioner.

(C) Other authorized facilities or services which may be provided in a proposal.

(D) Facilities and services to be provided by the Secretary to the concessioner, if any, including but not limited to, public access, utilities, and buildings.

(E) Minimum public services to be offered within a park by the Secretary, including but not limited to, interpretive programs, campsites, and visitor centers.

(F) Such other information related to the proposed concessions operation which is not privileged or otherwise exempt from disclosure under Federal law as the Secretary determines is necessary to allow for the submission of competitive proposals.

(d) MINIMUM PROPOSAL REQUIREMENTS.—(1) No proposal shall be considered which fails to meet the minimum requirements as determined by the Secretary. Such minimum requirements shall include, but need not be limited to, the minimum acceptable franchise fee, the duration of the contract, facilities, services, or capital investment required to be provided by the concessioner, and measures needed to ensure the protection and preservation of park resources.

(2) The Secretary may reject any proposal, notwithstanding the amount of franchise fee offered, if the Secretary determines that the person, corporation, or entity is not qualified, is likely to provide unsatisfactory service, or that the proposal is not responsive to the objectives of protecting and preserving park resources and of providing necessary and appropriate facilities or services to the public at reasonable rates.

(3) If all proposals submitted to the Secretary either fail to meet the minimum requirements or are rejected by the Secretary, the Secretary shall establish new minimum contract requirements and re-initiate the competitive selection process pursuant to this section.

(e) SELECTION OF BEST PROPOSAL.—(1) In selecting the best proposal, the Secretary shall consider the following principal factors:

(A) The responsiveness of the proposal to the objectives of protecting and preserving park resources and of providing necessary and appropriate facilities and services to the public at reasonable rates.

(B) The experience and related background of the person, corporation, or entity submitting the proposal, including but not limited to, the past performance and expertise of such person, corporation, or entity in providing the same or similar facilities or services.

(C) The financial capability of the person, corporation, or entity submitting the proposal.

(D) The proposed franchise fee: *Provided*, That consideration of revenue to the United States shall be subordinate to the objectives of protecting and preserving park resources and of providing necessary and appropriate facilities or services to the public at reasonable rates.

(2) The Secretary may also consider such secondary factors as the Secretary deems appropriate.

(f) CONGRESSIONAL NOTIFICATION.—(1) The Secretary shall submit any proposed concessions contract with anticipated annual gross receipts in excess of $5,000,000 (indexed to 1993 constant dollars) or a duration of ten or more years to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives.

(2) The Secretary shall not ratify any such proposed contract until at least 60 days subsequent to the notification of both Committees.

(g) NO PREFERENTIAL RIGHT OF RENEWAL.—(1) Except as provided in paragraph (2), the Secretary shall not grant a preferential right to a concessioner to renew a concessions contract executed pursuant to this Act.

(2)(A) Notwithstanding the provisions of paragraph (1), the Secretary shall grant a preferential right of renewal to a concessioner—

(i) for a concessions contract which—

(I) primarily authorizes a concessioner to provide outfitting, guide, river running, or other similar services within a park; and

(II) does not grant the concessioner any interest in any structure, fixture, or improvement pursuant to section 11 of this Act; or

(III) the Secretary estimates will have annual gross revenues of no more than $500,000; and

(ii) where the Secretary determines that the concessioner has operated satisfactorily during the term of the previous contract; and

(iii) where the Secretary determines that the concessioner submits a responsive proposal for the new contract which satisfies the minimum requirements established by the Secretary.

(B) For the purposes of paragraph (2), the term "preferential right of renewal" means that the Secretary shall allow a concessioner satisfying the requirements of subparagraph (A) the opportunity to match the terms and conditions of any competing proposal which the Secretary determines to be the best offer.

(h) NO PREFERENTIAL RIGHT TO ADDITIONAL SERVICES.—The Secretary shall not grant a preferential right to a concessioner to provide new or additional services at a park.

SEC. 7. FRANCHISE FEES.

(a) IN GENERAL.—Franchise fees, however, stated, shall not be less than the minimum fee established by the Secretary for each contract. The minimum fee shall be determined in a manner that will provide the concessioner with a reasonable opportunity to realize a profit on the operation as a whole, commensurate with the capital invested and the obligations assumed.

(b) MULTIPLE CONTRACTS WITHIN A PARK.—If multiple concessions contracts are awarded to authorize concessioners to provide the same or similar outfitting, guide, river running, or other similar services at the same approximate location or resource within a specific park, the Secretary shall establish an identical franchise fee for all such contracts. Such fee shall reflect fair market value, as determined by the Secretary.

SEC. 8. USE OF FRANCHISE FEES.

(a) SPECIAL ACCOUNT.—Except as provided in subsection (b), all receipts collected pursuant to this Act shall be covered into a special account established in the Treasury of the United States. Amounts covered into such account in a fiscal year shall be available for expenditure, subject to appropriation, solely as follows:

(1) 50 percent shall be allocated among the units of the National Park System in the same proportion as franchise fees collected from a specific unit bears to the total amount covered into the account for each fiscal year, to be used for resource management and protection, maintenance activities, interpretation, and research.

(2) 50 percent shall be allocated among the units of the National Park System on the basis of need, in a manner to be determined by the Secretary, to be used for resource management and protection, maintenance activities, interpretation, and research.

(b) PARK IMPROVEMENT FUND.—(1) In lieu of collecting all or a portion of the franchise fees that would otherwise be collected pursuant to the concessions contract, the Secretary shall, where the Secretary determines it to be practicable, require a concessioner to establish a Park Improvement Fund (hereinafter in this section referred to as the "fund"), in which the concessioner shall deposit the franchise fees that would otherwise be required by the contract.

(2) The fund shall be maintained by the concessioner in an interest bearing account in a Federally-insured financial institution. The concessioner shall maintain the fund separately from any other funds or accounts and shall not co-mingle the monies in the fund with any other monies. The Secretary may establish such other terms, conditions, or requirements as the Secretary determines to be necessary to ensure the financial integrity of such fund.

(3) Monies from the fund, including interest, shall be expended by the concessioner solely as directed by the Secretary for activities and projects within the park which are consistent with the park's general management plan, concessions plan, and other applicable plans, and which the Secretary determines will enhance public use, safety, and enjoyment of the park, including but not limited to projects which directly or indirectly support concession facilities or services required by the concessions contract. Projects paid for from the fund shall not include routine, operational maintenance of facilities. A concessioner shall not be allowed to make any advances or credits to the fund.

(4) A concessioner shall not be granted any interest in improvements made from fund expenditures, including any interest granted pursuant to section 11 of this Act.

(5) Nothing in this subsection shall affect the obligation of a concessioner to insure, maintain, and repair any structure, fixture, or improvement assigned to such concessioner and to insure that such structure, fixture, or improvement fully complies with applicable safety and health laws and regulations.

(6) The concessioner shall maintain proper records for all expenditures made from the

fund. Such records shall include, but not be limited to invoices, bank statements, canceled checks, and such other information as the Secretary determines to be necessary.

(7) The concessioner shall annually submit to the Secretary a statement reflecting total activity in the fund for the preceding financial year. The statement shall reflect monthly deposits, expenditures by project, interest earned, and such other information as the Secretary requires.

(8) Upon the termination of a concessions contract, or upon the sale or transfer of such contract, any remaining balance in the fund shall be transferred by the concessioner to the successor concessioner, to be used solely as set forth in this subsection. In the event there is not a successor concessioner, the fund balance shall be deposited into the special account established in subsection (a).

SEC. 9. DURATION OF CONTRACT.

(a) MAXIMUM TERM.—A concessions contract entered into pursuant to this Act shall be awarded for a term not to exceed ten years: *Provided, however*, That the Secretary may award a contract for a term not to exceed twenty years if the Secretary determines that the contract terms and conditions necessitate a longer term.

(b) TEMPORARY CONTRACT.—A temporary concessions contract awarded on a non-competitive basis pursuant to section 6(b) of this Act shall be for a term not to exceed two years.

SEC. 10. TRANSFER OF CONTRACT.

(a) IN GENERAL.—(1) No concessions contract may be transferred, assigned, sold, or otherwise conveyed by a concessioner without prior written notification to, and approval of the Secretary.

(2) The Secretary shall not approve the transfer of a concessions contract to any individual, corporation or other entity if the Secretary determines that—

(A) such individual, corporation or entity is, or is likely to be, unable to completely satisfy all of the requirements, terms, and conditions of the contract; or

(B) such transfer, assignment, sale or conveyance is not consistent with the objectives of protecting and preserving park resources, and of providing necessary and appropriate facilities or services to the public at reasonable rates: *Provided*, That such approval shall not be unreasonably withheld.

(b) CONGRESSIONAL NOTIFICATION.—Within thirty days after receiving a proposal to transfer, assign, sell, or otherwise convey a concessions contract, the Secretary shall notify the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives of such proposal. Approval of such proposal, if granted by the Secretary, shall not take effect until sixty days after the date of notification of both Committees.

SEC. 11. PROTECTION OF CONCESSIONER INVESTMENT.

(a) EXISTING STRUCTURES.—(1) A concessioner who before the date of the enactment of this Act has acquired or constructed, or is required under an existing concessions contract to commence acquisition or construction of any structure, fixture, or improvement upon land owned by the United States within a park, pursuant to a concessions contract, shall have a possessory interest therein, to the extent provided by such contract.

(2) The provisions of this subsection shall not apply to a concessioner whose contract in effect on the date of enactment of this Act does not include recognition of a possessory interest.

(3) With respect to a concessions contract entered into on or after the date of enactment of this Act, the provisions of subsection (b) shall apply to any existing structure, fixture, or improvement as defined in paragraph (a)(1), except that the actual original cost of such structure, fixture, or improvement shall be deemed to be the value of the possessory interest as of the termination date of the previous concessions contract.

(b) NEW STRUCTURES.—(1) On or after the date of enactment of this Act, a concessioner who constructs or acquires a new, additional, or replacement structure, fixture, or improvement upon land owned by the United States within a park, pursuant to a concessions contract, shall have an interest in such structure, fixture, or improvement equivalent to the actual original cost of acquiring or constructing such structure, fixture, or improvement, less straight line depreciation over the estimated useful life of the asset according to Generally Accepted Accounting Principles: *Provided*, That in no event shall the estimated useful life of such asset exceed the depreciation period used for such asset for Federal income tax purposes.

(2) In the event that the contract expires or is terminated prior to the recovery of such costs, the concessioner shall be entitled to receive from the United States or the successor concessioner payment equal to the value of the concessioner's interest in such structure, fixture, or improvement. A successor concessioner may not revalue the interest in such structure, fixture, or improvement, the method of depreciation, or the estimated useful life of the asset.

(3) Title to any such structure, fixture, or improvement shall be vested in the United States.

(c) INSURANCE, MAINTENANCE AND REPAIR.—Nothing in this section shall affect the obligation of a concessioner to insure, maintain, and repair any structure, fixture, or improvement assigned to such concessioner and to insure that such structure, fixture, or improvement fully complies with applicable safety and health laws and regulations.

SEC. 12. RATES AND CHARGES TO PUBLIC.

The reasonableness of a concessioner's rates and charges to the public shall, unless otherwise provided in the bid specifications and contract, be judged primarily by comparison with those rates and charges for facilities and services of comparable character under similar conditions, with due consideration for length of season, seasonal variance, average percentage of occupancy, accessibility, availability and costs of labor and materials, type of patronage, and other factors deemed significant by the Secretary.

SEC. 13. CONCESSIONER PERFORMANCE EVALUATION.

(a) REGULATIONS.—Within one hundred and eighty days after the date of enactment of this Act, the Secretary shall publish, after an appropriate period for public comment, regulations establishing standards and criteria for evaluating the performance of concessions operating within parks.

(b) PERIODIC EVALUATION.—(1) The Secretary shall periodically conduct an evaluation of each concessioner operating under a concessions contract pursuant to this Act, as appropriate, to determine whether such concessioner has performed satisfactorily. In evaluating a concessioner's performance, the Secretary shall seek and consider applicable reports and comments from appropriate Federal, State, and local regulatory agencies. If the Secretary's performance evaluation results in an unsatisfactory rating of the concessioner's overall operation, the Secretary shall provide the concessioner with a list of the minimum requirements necessary for the operation to be rated satisfactory, and shall so notify the concessioner in writing.

(2) The Secretary may terminate a concessions contract if the concessioner fails to meet the minimum operational requirements identified by the Secretary within the time limitations established by the Secretary at the time notice of the unsatisfactory rating is provided to the concessioner.

(3) If the Secretary terminates a concessions contract pursuant to this section, the Secretary shall solicit proposals for a new contract consistent with the provisions of this Act.

(c) CONGRESSIONAL NOTIFICATION.—The Secretary shall notify the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives of each unsatisfactory rating and of each concessions contract terminated pursuant to this section.

SEC. 14. RECORDKEEPING REQUIREMENTS.

Each concessioner shall keep such records as the Secretary may prescribe to enable the Secretary to determine that all terms of the concessioner's contract have been, and are being faithfully performed, and the Secretary or any of the Secretary's duly authorized representatives shall, for the purpose of audit and examination, have access to such records and to other books, documents and papers of the concessioner pertinent to the contract and all the terms and conditions thereof as the Secretary deems necessary.

SEC. 15. EXEMPTION FROM CERTAIN LEASE REQUIREMENTS.

The provisions of section 321 of the Act of June 30, 1932 (47 Stat. 412; 40 U.S.C. 303b), relating to the leasing of buildings and properties of the United States, shall not apply to contracts awarded by the Secretary pursuant to this Act.

SEC. 16. NO EFFECT ON ANILCA PROVISIONS.

Nothing in this Act shall be construed to amend, supersede, or otherwise affect any provision of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.).

The ACTING PRESIDENT pro tempore. The Senator from Louisiana.

MARINE MAMMAL PROTECTION ACT AMENDMENTS OF 1993

Mr. JOHNSTON. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 348, S. 1636, the Marine Mammal Protection Act Amendments of 1993.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1636) to authorize appropriations for the Marine Mammal Protection Act of 1972 and to improve the program to reduce the incidental taking of marine mammals during the course of commercial fishing operations, and for other purposes.

The ACTING PRESIDENT pro tempore. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee

on Commerce, Science, and Transportation with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 1636

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 "Marine Mammal Protection Act Amendments of 1993".

SEC. 2. PURPOSES.

The purposes of this Act are to—

(1) authorize appropriations to carry out the Marine Mammal Protection Act of 1972 for the fiscal years 1994 through 1998;

(2) ensure that the incidental take of marine mammals in any fishery, by itself and in combination with other human activities, does not cause any species or stock of marine mammals to be reduced to or maintained at, for significant periods of time, a level that is below the lower limit of its optimum sustainable population range;

(3) avoid restrictions on fishing operations when such restrictions are not necessary to meet the purpose described in paragraph (2);

(4) prohibit international lethal taking during commercial fishing, except as authorized through a waiver under section 101(a)(3) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(3));

(5) focus efforts on identifying and addressing the most significant problems involving fishery-marine mammal interactions, considering both the status of the affected marine mammal stocks and the numbers of marine mammals that are taken incidentally in each fishery;

(6) streamline the procedure for authorizing the incidental taking of marine mammals in commercial fisheries, consistent with the long-term objective of identifying and taking such steps as may be practicable to reduce mortality and serious injury incidental to commercial fishing operations to insignificant **[levels]** *rates* approaching zero; and

(7) develop a cost-effective program for reliably monitoring (A) the levels of incidental take of marine mammals in commercial fisheries and (B) the size and current population trends of the affected marine mammals stocks.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

(a) COMMERCE DEPARTMENT.—Section 7(a) of the Act entitled "An Act to improve the operation of the Marine Mammal Protection Act of 1972, and for other purposes", approved October 9, 1981 (16 U.S.C. 1384(a)), is amended to read as follows:

"(a) DEPARTMENT OF COMMERCE.—There are authorized to be appropriated to the Department of Commerce, for purposes of carrying out such functions and responsibilities as it may have been given under title I of the Marine Mammal Protection Act of 1972, $21,636,000 for fiscal year 1994, $22,502,000 for fiscal year 1995, $23,402,000 for fiscal year 1996, $24,338,000 for fiscal year 1997, and $25,311,000 for fiscal year 1998.".

(b) INTERIOR DEPARTMENT.—Section 7(b) of the Act entitled "An Act to improve the operation of the Marine Mammal Protection Act of 1972, and for other purposes", approved October 9, 1981 (16 U.S.C. 1384(b)), is amended to read as follows:

"(b) DEPARTMENT OF THE INTERIOR.—There are authorized to be appropriated to the Department of Interior, for purposes of carrying out such functions and responsibilities as it may have been given under title I of the Marine Mammal Protection Act of 1972, $8,000,000 for fiscal year 1994, $8,600,000 for fiscal year 1995, $9,000,000 for fiscal year 1996, $9,400,000 for fiscal year 1997, and $9,900,000 for fiscal year 1998.".

(c) MARINE MAMMAL COMMISSION.—Section 7(c) of the Act entitled "An Act to improve the operation of the Marine Mammal Protection Act of 1972, and for other purposes", approved October 9, 1981 (16 U.S.C. 1407), is amended to read as follows:

"(c) MARINE MAMMAL COMMISSION.—There are authorized to be appropriated to the Marine Mammal Commission, for purposes of carrying out such functions and responsibilities as it may have been given under title II of the Marine Mammal Protection Act of 1972, $1,350,000 for fiscal year 1994, $1,400,000 for fiscal year 1995, $1,450,000 for fiscal year 1996, $1,500,000 for fiscal year 1997, and $1,550,000 for fiscal year 1998.".

SEC. 4. INCIDENTAL TAKING OF ENDANGERED AND THREATENED SPECIES.

(a) IN GENERAL.—Section 101(a)(4) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(4)) is amended to read as follows:

"(4)(A) The Secretary may allow the incidental, but not the intentional, taking, by citizens of the United States while engaging in commercial fishing operations, of marine mammals from a species or stock designated under **[the]** *this* Act as depleted because of its listing as an endangered or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) if the Secretary, after notice and opportunity for public comment, determines that such taking is pursuant to a statement issued by the Secretary for such taking under section 7 of such Act (16 U.S.C. 1536).

"(B) Sections 103 and 104 shall not apply to the taking of marine mammals under the authority of this paragraph.".

(b) CONFORMING AMENDMENT.—Section 7(b)(4)(C) of the Endangered Species Act of 1973 (16 U.S.C. 1536(b)(4)(C)) is amended by inserting "101(a)(4) or" immediately before "101 (a)(5)" each place it appears.

SEC. 5. CONSERVATION PLANS.

Section 115(b) of the Marine Mammal Protection Act of 1972 (16 U.S.C. **[13836(b))]** *1383b(b))* is amended by adding at the end the following new paragraph:

"(4) If the Secretary determines that an incidental taking plan is necessary to reduce the incidental taking of marine mammals in the course of commercial fishing operations from a stock identified as a critical stock under section **[118(c)]**, *117(c)*, any conservation plan required under this subsection for such stock shall only address non-incidental takings.".

SEC. 6. TAKING OF MARINE MAMMALS INCIDENTAL TO COMMERCIAL FISHING OPERATIONS.

Title I of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371 et seq.) is amended by adding at the end the following new section:

"SEC. [118.] *117.* TAKING OF MARINE MAMMALS INCIDENTAL TO COMMERCIAL FISHING OPERATIONS.

"(a) IN GENERAL.—(1) Except as provided in section 114 and in paragraphs (2), (3), and (4) of this section, and notwithstanding section 101, the provisions of this section shall govern the incidental taking of marine mammals in the course of commercial fishing operations by persons using vessels of the United States or vessels which have valid fishing permits issued by the Secretary in accordance with section 204(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)). The Secretary shall develop and implement incidental taking plans under this section to reduce the incidental lethal taking of marine mammals, from stocks listed as critical stocks under subsection (c), to a level below the calculated acceptable removal level.

"(2) Section 101(a)(4), and not this section, shall govern the incidental taking of marine mammals from species or stocks designated under this Act as depleted on the basis of their listing as threatened or endangered species under the Endangered Species Act of 1973.

"(3) Sections 104(h) and 306, and not this section, shall govern the taking of marine mammals in the course of commercial purse seine fishing for yellowfin tuna in the eastern tropical Pacific Ocean.

"(4) This section shall not govern the taking of marine mammals from an experimental population of California sea otters to which the Act of November 7, 1986 (Public Law 99-625; 100 Stat. 3500) applies.

"(5) Sections 103 and 104 shall not apply to the incidental taking of marine mammals under the authority of this section.

"(b) SCIENTIFIC CONSULTATION.—In implementing the incidental taking program under this section, the Secretary shall seek the advice of individuals with expertise in marine mammal biology and ecology, population dynamics and modeling, and commercial fishing technology and practices. Such advice should be sought with respect to information available, and actions proposed, for such implementation, including—

"(1) information provided in connection with stock assessments under this section;

"(2) studies needed to resolve uncertainties regarding stock separation, stock abundance, or trends and factors affecting distribution, size, or productivity of stocks;

"(3) studies needed to resolve uncertainties in determining marine mammal species, numbers, ages, and gender, and the reproductive status of stocks; and

"(4) research to identify modifications in fishing gear and fishing practices likely to reduce the mortality and serious injury of marine mammals incidental to commercial fishing operations.

"(c) STOCK ASSESSMENTS.—(1) Using the best scientific information available and in accordance with this subsection, the Secretary shall prepare and issue, and thereafter (as appropriate) revise, a stock assessment for each marine mammal stock which occurs in waters under the jurisdiction of the United States. The stock assessment shall include—

"(A) a definition of the stock by species **[of]** *or* subspecies and its spatial and temporal distribution;

"(B) the best available estimates of the stock's population abundance, realistic minimum population size, and current population trend;

"(C) estimates of the total lethal take from the stock by source and, for a stock designated under this subsection as a critical stock, other factors that may impede recovery of the stock, including impacts on marine mammal habitat and prey; and

"(D) a description of any commercial fishery that interacts with the stock, including—

"(i) the approximate number of vessels participating in the fishery;

"(ii) the approximate incidental lethal and serious injury take from the stock by such fishery;

"(iii) seasonal or area differences in levels of such incidental lethal or serious injury take; and

"(iv) the rate of incidental mortality in the stock caused by such fishing, based on a unit of fishing effort;

"(E) a determination as to the status of the stock, including whether the stock is determined to be within its optimum sustainable population range, is designated as depleted under this Act, is listed as threatened or endangered under the Endangered Species Act of 1973, or is proposed for listing as a critical stock under subparagraph (G);

"(F) a determination of the calculated acceptable removal level for the stock and the factors used to calculate it, including a recovery factor if the stock is below its optimum sustainable population; and

"(G) designation of the stock (based on a scientific analysis of the stock's population trend and population size, the level of total lethal take from the stock from all sources, and the best available estimates of net productivity at the maximum net productivity level) for listing in one of the following categories:

"(i) Class 1, consisting of stocks whose population size is declining, or whose population trend is unknown and whose realistic minimum population is less than 10,000, and from which the total annual lethal take exceeds the net productivity of the population when it is at its maximum net productivity level.

"(ii) Class 2, consisting of stocks—

"(I) whose population size is declining, or whose population trend is unknown and whose realistic minimum population is less than 10,000; and from which the total annual lethal take is between 20 percent and 100 percent of the net productivity of the stock's population when it is at its maximum net productivity level; or

"(II) whose population size is stable, or whose population trend is unknown and [the] *whose* realistic minimum population is greater than 10,000 but less than 100,000; and from which the total annual lethal take exceeds the net productivity of the stock's population when it is at its maximum net productivity level.

"(iii) Class 3, consisting of stocks—

"(I) whose population size is declining, or whose population trend is unknown and whose realistic minimum population is less than 10,000; and from which the total annual lethal take is less than 20 percent of the net productivity of the stock's population when it is at its maximum net productivity level;

"(II) whose population size is stable, or whose population trend is unknown and whose realistic minimum population is greater than 10,000 but less than 100,000; and from which the total annual lethal take is between 20 percent and 100 percent of the net productivity of the stock's population when it is at its maximum net productivity level; or

"(III) whose population size is increasing, or whose population trend is unknown and whose realistic minimum population is greater than 100,000; and from which the total annual lethal take exceeds the net productivity of the stock's population when it is at its maximum net productivity level.

"(iv) Class 4, consisting of stocks—

"(I) whose population size is stable, or whose population trend is unknown and [the] *whose* realistic minimum population is greater than *10,000 but less than* 100,000; and from which the total annual lethal take is [between] *less than* 20 percent [and 100 percent] of the net productivity of the stock's population when it is at its maximum net productivity level; or

"(II) whose population size is increasing, or whose population trend is unknown and whose realistic minimum population is greater than 100,000; and from which the total annual lethal take is between 20 percent and 100 percent of the net productivity of the stock's population when it is at its maximum net productivity level.

"(v) Class 5, consisting of stocks whose population size is increasing, or whose population trend is unknown and [the] *whose* realistic minimum population is greater than 100,000; and from which the total annual lethal take is less than 20 percent of the net productivity of the stock's population when it is at its maximum net productivity level.

"(2) Not later than 240 days after the date of enactment of this section, the Secretary shall issue a draft of each stock assessment required by this subsection, after seeking advice from the experts described in subsection (b). The Secretary shall publish in the Federal Register a notice of availability of the draft and provide an opportunity for public review and comment during a period of not to exceed 60 days.

"(3) Not later than 90 days after the close of the public comment period on such preliminary stock assessment, the Secretary shall publish in the Federal Register a final stock assessment, after consideration of advice, recommendations, and comments of experts and the general public and the best scientific information available.

"(4) The Secretary shall review stock assessments in accordance with this subsection, and obtain advice and recommendations from experts—

"(A) on an annual basis for stocks listed as critical stocks or for which new information is available; and

"(B) at least once every 3 years for all other marine mammal stocks.

The Secretary shall revise such assessments after notice and opportunity for public comment, if the review indicates revision is necessary.

"(d) INCIDENTAL TAKING PLAN.—(1) The Secretary shall develop and implement an incidental taking plan designed to assist in the recovery of each marine mammal stock that is listed as a critical stock and interacts with commercial fisheries. Such plan shall be developed in consultation with the incidental take team established for the plan under this subsection. If there is insufficient funding available to develop and implement an incidental taking plan for all critical stocks that interact with commercial fisheries, the Secretary shall give highest priority to the development and implementation of *incidental taking plans for* Class 1 stocks. Within a particular class of critical stocks that interact with commercial fisheries, the Secretary shall give highest priority to the development and implementation of plans for stocks that the Secretary considers the most critical within the class.

"(2) Each incidental taking plan developed under this subsection for a critical stock shall include the following:

"(A) A review and evaluation of the information contained in the stock assessment published under subsection (c) and any new information that may be available.

"(B) An evaluation and estimate of the total number and percentage of animals from the stock that are being killed or seriously injured each year as a result of commercial fishing activities.

"(C) Proposed management measures or voluntary actions for the reduction of incidental taking by commercial fisheries. Such proposed measures and actions shall be developed in light of the plan's immediate objective of reducing incidental lethal and serious injury take by commercial fisheries by the same proportion as their proportion of the total lethal and serious injury take from all sources.

"(D) A long-term strategy to reduce, to insignificant rates approaching zero within 10 years, the incidental mortality and serious injury within the stock that results from commercial fishing operations.

"(3) Each incidental taking plan shall include projected dates for achieving the objectives of the plan. If the total lethal take exceeds the calculated acceptable removal level, the plan shall include measures the Secretary expects will reduce, within 6 months after commencement of fishing, the share of the lethal take that exceeds the calculated acceptable removal level and is attributable to commercial fisheries.

"(4)(A) At the earliest possible time (not later than 120 days) after the Secretary issues a final stock assessment listing a stock as a critical stock, the Secretary shall—

"(i) establish an incidental take team for such critical stock and appoint the members of such team in accordance with subparagraph (C); and

"(ii) publish in the Federal Register a notice of the team's establishment, the names of the team's appointed members, the full geographic range of such critical stock, and all the commercial fisheries that have lethal incidental takings from such stock.

"(B) The Secretary may charge an incidental take team to deal with a stock that extends over one or more regions, or multiple stocks within a region, if the Secretary determines that doing so would facilitate the development and implementation of plans required under this subsection.

"(C) Members of incidental take teams shall be individuals knowledgeable and experienced regarding the measures to conserve such stocks and to reduce any takings from such stock incidental to commercial fishing operations. Members may include representatives of Federal and State agencies, regional fishery management councils and commissions, academic and scientific organizations, environmental and fishery groups, and others as the Secretary considers appropriate. Incidental take teams shall, to the maximum extent practicable, consist of an equitable balance among representatives of government, resource user interests, and non-user interests. Incidental take teams shall not be subject to the Federal Advisory Committee Act (5 App. U.S.C.) but their meetings shall be open to the public, after timely publicity on the time and place of such meetings.

"(D) Members of incidental take teams shall serve without compensation, but shall be reimbursed by the Secretary for reasonable travel costs and expenses incurred in performing their duties as members of the team.

"(E) Nothing in this section shall be construed to constrain the Secretary from establishing priority among classes of critical stocks covered by this subsection and exercising discretion (in consultation with scientific experts) to address such stocks in any fiscal year according to that priority.

"(5) Where the total lethal take from such a critical stock is estimated to be greater than the calculated acceptable removal level established in the stock assessment, the fol-

lowing procedures shall apply in the development of the incidental taking plan for the stock:

"(A) Not later than 6 months after the date of establishment of an incidental take team for the stock, the team shall submit a draft incidental taking plan for the critical stock to the Secretary, consistent with the other provisions of this section.

"(B)(i) The Secretary shall take the draft incidental taking plan into consideration and, not later than 60 days after the submission of the draft plan by the team, the Secretary shall publish in the Federal Register a proposed incidental taking plan and proposed regulations to implement such plan, for public review and comment.

"(ii) In the event that the incidental take team does not submit a draft plan to the Secretary within 6 months, the Secretary shall, not later than 8 months after the establishment of the team, publish in the Federal Register a proposed incidental taking plan and implementing regulations, for public review and comment.

"(C) Not later than 60 days after the close of the comment period required under subparagraph (B), the Secretary shall issue a final incidental taking plan and implementing regulations, consistent with the other provisions of this section.

"(D) The Secretary and the incidental take team shall meet every 6 months to monitor the implementation of the final incidental taking plan until such time that the Secretary determines that meetings are no longer necessary.

"(E) The Secretary may, in consultation with the incidental take team, amend the incidental taking plan and implementing regulations as necessary, consistent with the procedures in this section for the issuance of such plans and regulations.

"(6) Where the total lethal take from a critical stock to which this subsection applies is estimated to be less than the calculated acceptable removal level established in the stock assessment, the following procedures shall apply in the development of the incidental taking plan for the stock:

"(A) Not later than 11 months after the date of establishment of an incidental take team for the stock, the team shall submit a draft incidental taking plan for the stock to the Secretary, consistent with the other provisions of this section.

"(B)(i) The Secretary shall take the draft incidental taking plan into consideration and, not later than 60 days following the submission of the draft plan by the team, the Secretary shall publish in the Federal Register a proposed incidental taking plan and implementing regulations, for public review and comment.

"(ii) In the event that the incidental take team does not submit a draft plan to the Secretary within 11 months, the Secretary shall, not later than 13 months after the establishment of the team, publish in the Federal Register a proposed incidental taking plan and implementing regulations, for public review and comment.

"(C) Not later than 60 days after the close of the comment period required under subparagraph (B), the Secretary shall issue a final incidental taking plan and implementing regulations, consistent with the other provisions of this section.

"(D) The Secretary and the incidental take team shall meet on an annual basis to monitor the implementation of the final incidental taking plan until such time that the Secretary determines that [formal] meetings are no longer necessary.

"(E) The Secretary may, in consultation with the incidental take team, amend the incidental taking plan and implementing regulations as necessary, consistent with the procedures in this section for the issuance of such plans and regulations.

"(7) If the Secretary finds, prior to the issuance of a final incidental taking plan, that the incidental taking of marine mammals in a commercial fishery is having an immediate and significant adverse impact on the stock to which the plan would apply, the Secretary may, after consultation with appropriate Regional Fishery Management Councils and State fishery managers, prescribe emergency regulations to reduce, to the maximum extent practicable, such incidental taking. In prescribing such emergency regulations, the Secretary shall take into account the economics of the fishery concerned and the availability of existing technology to prevent or minimize incidental taking of marine mammals, and shall conform such regulations, to the maximum extent practicable, with existing State or regional fishery management plans. Such regulations—

"(A) shall be published in the Federal Register together with the reasons therefor;

"(B) shall remain in effect for not more than 180 days, until such time as a final incidental taking plan for the stock is issued, or until the end of the applicable fishing season, whichever is earlier; and

"(C) may be terminated by the Secretary at an earlier date by publication in the Federal Register of a notice of termination if the Secretary determines the reasons for the emergency regulations no longer exist.

"(e) REGULATORY MEASURES.—(1)(A) The Secretary shall, after notice and opportunity for public comment, promulgate regulations to implement an incidental taking plan necessary to accomplish the objectives set forth in [subsection (i).] *subsections (d) and (i).*

"(B) Nothing in this paragraph shall be construed to limit the authority of the Secretary to modify the incidental taking plan at the request of the appropriate Regional Fishery Management Council or State or tribal management authority.

"(2) In implementing an incidental taking plan issued pursuant to this section, the Secretary may promulgate regulations which include, but are not limited to, measures to—

"(A) establish fishery-specific incidental lethal taking limits or restrict commercial fisheries by time or area;

"(B) register commercial fishing vessels as set forth in subsection (f);

"(C) require the use of alternative gear techniques and new technologies, encourage the development of such gear or technology, or convene expert skippers' panels;

"(D) educate commercial fishermen and other individuals, through workshops and other means, on the importance of reducing the incidental lethal taking of marine mammals from critical stocks; and

"(E) monitor the level of the incidental lethal taking of marine mammals in the course of commercial fishing operations, as set forth in subsection (h).

"(f) REGISTRATION OF VESSELS.—(1) Subject to the provisions of this subsection, the Secretary may develop a system to register commercial fishing vessels and to assess fishery effort, where such system is necessary, to understand the interaction between commercial fisheries and marine mammal stocks in a region.

"(2) In developing a registration system to understand such interactions, the Secretary shall rely upon existing Federal, State, or tribal data bases which provide the following information about an affected commercial fishery:

"(A) The approximate number of vessels participating in the fishery.

"(B) The identity of specific vessels to be registered.

"(C) The owner [of] or operator, or both, of such vessels.

"(D) The time period in which the fishery occurs.

"(E) The approximate geographic location, or its official reporting area where the fishery occurs.

"(F) The description of fishing gear, including the appropriate unit of fishery effort.

"(3) The incidental take teams shall advise the Secretary as to whether existing Federal, State, or tribal data bases are capable of being utilized to understand the interaction between commercial fisheries and critical stocks in a region. If the Secretary determines, after consultation with such a team, that data bases for specific fisheries which provide the information required under paragraph (2) are not available to the Secretary or the team, the Secretary may require through regulation separate registration to obtain the information set forth in paragraph (2).

"(4)(A) The Secretary may, as a condition of accepting a Federal, State, or tribal registration as adequate for the purposes of this section, require such registration to be supplemented by the requirement that the vessels so registered display a decal or other evidence, issued by the registering authority, that indicates the registration is current.

"(B) To the extent the Secretary determines that separate registration is required for a specific fishery pursuant to paragraph (3), the Secretary is authorized to charge a fee for the issuance of a decal or other evidence indicating the registration is current. The fee charged under this subparagraph shall not exceed the administrative costs incurred in issuing the decal or other evidence. Fees collected under this subparagraph shall be available to the Under Secretary of Commerce for Oceans and Atmosphere for expenses incurred in the [issuances] *issuance* of such decal or other evidence.

"(5) The costs of maintaining a separate registry system for a specific fishery pursuant to paragraph (3) shall be covered through Federal appropriations.

"(6) The Secretary may include within a registration system under this subsection only those vessels that fish in a fishery that has frequent or occasional incidental taking of marine mammals.

"(g) REPORTING REQUIREMENT.—The owner or operator of a commercial fishing vessel subject to this Act shall report all incidental lethal and serious injury takings of marine mammals in the course of commercial fishing operations to the Secretary at the end of each fishing trip on a standard form to be developed by the Secretary under this section. Such form shall be readable by computer or other machine and shall require the vessel owner or operator to provide the following:

"(1) The vessel name, and Federal, [State] *State*, or tribal registration numbers of the registered vessel.

"(2) The name and address of the vessel owner or operator.

"(3) The name and description of the fishery.

"(4) The species of marine mammal incidentally killed or seriously injured, and the date and time of such incidental taking.

"(5) The time and period in which the fishery occurred.

"(6) The approximate geographic location of the incidental taking.

"(h) MONITORING.—(1) The Secretary may establish a vessel observer program to monitor incidental lethal and serious injury takings of marine mammals during the course of commercial fishing operations. The purpose of the monitoring program shall be to develop independent information on interactions between commercial fisheries and marine mammals and to verify reporting of incidental lethal and serious injury takings under subsection (g). Observers may perform other tasks including, but not limited to—

"(A) recording other sources of mortality;

"(B) recording the number of marine mammals sighted during the observation period; and

"(C) other scientific investigations, including collection of marine mammal tissues.

"(2) Commercial fishing vessels shall carry observers on board, when requested by the Secretary, to the extent that the vessel can safely accommodate the observer. The owner or operator of a vessel who refuses to carry an observer shall be subject to a civil penalty, pursuant to subsection (j).

"(3)(A) The Secretary may establish an incidental take monitoring program to achieve the objectives of this [paragraph] *subsection*, which may include, but not be limited to, direct observation of fishing activities from vessels, airplanes, video observation, or points on shore.

"(B) Individuals engaged in such monitoring program shall collect scientific information on [fisheries] *marine mammal interactions* consistent with the requirements of this [paragraph] *subsection*.

"(4) The cost of the monitoring program shall be funded by Federal appropriations, and *the* Secretary shall allocate available observers among fisheries consistent with the following priority:

"(A) The highest priority shall be given to fisheries that incidentally lethally take or seriously injure animals from (i) stocks designated as depleted on the basis of their listing as endangered or threatened species under the Endangered Species Act of [1993,] *1973*, or (ii) critical stocks.

"(B) The second highest priority shall be given to fisheries other than those described in subparagraph (A) in which the greatest incidental lethal take and serious injury of marine mammals occurs.

When the Secretary determines [the] *that* sufficient observation of a specific fishery has occurred, the Secretary may discontinue such observation and direct available observer resources to the next fishery in priority. Nothing in this subsection precludes the Secretary from resuming observation of a fishery when necessary to achieve additional verification of the nature of interactions with marine mammal stocks.

"(5) Notwithstanding paragraph (4), the Secretary may initiate, where necessary, additional monitoring programs to gather information on the interaction between commercial fisheries and marine mammal stocks not identified as critical stocks. Such information may be used to verify—

"(A) the numbers of incidental lethal and serious injury takings of marine mammals in a commercial fishery, and the rate of such takings;

"(B) impacts on marine mammals of changes in fishing patterns or technologies; and

"(C) the accuracy of reporting, by vessel owners and operators, of the lethal and serious injury takings of commercial fishing vessels.

"(i) ZERO MORTALITY RATE GOAL.—(1) Commercial fisheries shall reduce their rates of incidental lethal or serious injury taking, to insignificant rates approaching zero within 10 years after the date of enactment of this section.

"(2) Fisheries which maintain insignificant serious injury and mortality rate levels approaching zero shall not be required to further reduce their mortality rates.

"(3) Three years after such date of enactment, the Secretary shall review the [progress,] *progress of commercial fisheries*, by fishery, toward reducing mortality and serious injury rates to insignificant rates approaching zero. The Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report setting forth the results of such review within 1 year after commencement of the review. The Secretary shall note any *commercial* fishery for which no information exists on its incidental serious injury or mortality rate of marine mammals.

"(4) If the Secretary determines after review under paragraph (3) that the rate of incidental lethal and serious injury taking in a *commercial* fishery is not consistent with paragraph (1), then the Secretary shall make recommendations to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives on further actions to achieve the goal specified in paragraph (1).

"(j) PENALTIES.—(1) Except as provided in paragraph (2), a person who violates this section, or any regulations thereunder, may be assessed a civil penalty of not more than $5,000 for each violation, and shall not be subject to penalty under any other provision of this Act. The penalty shall reflect the severity of the violation in relation to preventing the reduction of incidental lethal taking of marine mammals, or the accomplishment of other express objectives of this section.

"(2) Intentional killing of marine mammals, or failure to report incidental lethal takings of marine mammals as required by this section, shall be subject to the penalties in section 105.

"(3) Each owner or operator of a vessel engaged in a fishery that has a remote likelihood of or no known incidental taking of marine mammals, and the master and crew members of such vessel, shall not be subject to penalties under this section or any other provision of this Act for the incidental taking of marine mammals if such owner or operator reports to the Secretary in accordance with subsection [(f)(4)] *(g)(4)*.

"(k) VOLUNTARY MEASURES.—Nothing in this section shall be construed to limit the Secretary's authority to permit voluntary measures to be utilized in reducing the incidental taking of marine mammals in commercial fisheries.

"(l) DEFINITIONS.—For purposes of this section—

"(1) the term 'calculated acceptable removal level' means the realistic minimum population of a stock, multiplied by the net productivity rate of the stock, multiplied (if applicable) by a recovery factor;

"(2) the term 'critical stock' means a marine mammal stock that is listed as a Class 1 or 2 stock pursuant to subsection (c)(1)G);

"(3) the term 'incidental take team' means an incidental take team established under subsection (d)(4);

"(4) the term 'incidental taking plan' means an incidental taking plan developed under subsection (d);

"(5) the term 'maximum net productivity level' means the population size of a stock which results in the greatest net productivity;

"(6) the term 'net productivity' means the estimated or theoretical annual increase in population numbers resulting from additions to the population due to reproduction, less the losses due to mortality;

"(7) the term 'net productivity rate' means the net annual per capita rate of increase of a stock at [is] *its* maximum net productivity level;

"(8) the term 'non-critical stock' means a marine mammal stock that is listed as a Class 3, 4, or 5 stock pursuant to subsection (c)(1)(G);

"(9) the term 'realistic minimum population' means an estimate of the number of animals in a stock that provides reasonable assurance that the population size is equal to or greater than the estimate; and

"(10) the term 'recovery factor' means the number that is applied to the calculation of a calculated acceptable removal level to provide reasonable assurance that a stock will recover to its optimum sustainable population.".

SEC. 7. PENALTIES; PROHIBITIONS.

(a) CIVIL PENALTIES.—Section 105(a)(1) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1375(a)(1)) is amended by inserting ", except as provided in section [118(j).''] *117(j)*," immediately after "thereunder".

(b) CRIMINAL PENALTIES.—Section 105(b) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1375(b)) is amended by inserting "(except as provided in section [118(j))''] *117(j))*" immediately after "thereunder".

(c) PROHIBITIONS.—Section 102(a) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1372(a)) is amended by striking "and 114" *114 of this title or title III*" and inserting in lieu thereof "114, and [118".] *117 of this title and title IV*".

SEC. 8. ALASKA HARBOR SEALS AND GULF OF MAINE HARBOR PORPOISES.

Notwithstanding any other provision of this Act, including section [118] *117* of the Marine Mammal Protection Act of 1972 (as added by this Act), the Secretary of Commerce shall establish an incidental take team for the harbor seal stock in Alaska and for the harbor porpoise stock in the Gulf of Maine, within 60 days after the date of enactment of this Act. The incidental take teams shall begin work immediately on a draft incidental taking plan in accordance with such section [118,] *117*, and shall use the best scientific information available. The draft incidental taking plan shall be reviewed by the Secretary, after consultation with scientific experts as described in subsection (b) of such section [118] *117* and after notice and opportunity for public comment, and shall be approved and implemented as quickly as practicable.

SEC. 9. AUTHORIZATION TO DETER MARINE MAMMALS.

Section 101 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371) is amended by adding at the end the following new subsection:

"(d)(1) Except as provided in paragraph (2), the provisions of this Act shall not apply to the use by any person of measures to deter marine mammals from—

"(A) damaging the gear or catch of commercial or recreational fishermen;

"(B) damaging private or public property; or

"(C) endangering personal safety,

so long as such measures do not result in marine mammal death or serious injury.

"(2) If the Secretary determines, using the best scientific information available, that certain forms of deterrence have a significant adverse effect on marine mammals, the Secretary may prohibit such deterrent methods through regulation under this Act.

"(3) The authority to deter marine mammals pursuant to paragraph (1) applies to all marine mammals, including all stocks designated as depleted under this Act.".

SEC. 10. TREATY RIGHTS.

Nothing in this Act, including any amendments made by this Act, is intended to abrogate or diminish existing Indian treaty fishing or hunting rights, and regulation of Native American fishing and hunting activities shall be limited to measures consistent with existing treaty rights.

SEC. 11. TRANSITION RULE.

Section 114(a)(1) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1383a(a)(1)) is amended by striking "ending April 1, 1994," and inserting in lieu thereof "until superseded by regulations prescribed under section [118,".] *117,*".

SEC. 12. TECHNICAL AMENDMENTS.

(a) DEFINITIONS.—Section 3 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362) is amended by redesignating the last three paragraphs as paragraphs (16), (17), and (18), respectively.

(b) MARINE MAMMAL HEALTH AND STRANDING RESPONSE.—The Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) is amended—

(1) by redesignating title III, as added by Public Law 102-587 (106 Stat. 5060), as title IV; and

(2) by redesignating the sections of that title (16 U.S.C. 1421 through 1421h) as sections 401 through 409, respectively.

SEC. 13. HUMAN ACTIVITIES WITHIN PROXIMITY OF WHALES.

(a) LAWFUL [APPROACHES.—IT] APPROACHERS.—In waters of the United States surrounding the State of Hawaii, it is lawful for a person subject to the jurisdiction of the United States to approach, by any means other than an aircraft, no closer than 100 yards to a humpback whale or any other whale, regardless of whether the approach is made in waters designated under section 222.31 of title 50, Code of Federal Regulations, as cow/calf waters.

(b) TERMINATION OF LEGAL EFFECT OF CERTAIN REGULATIONS.—Subsection (b) of section 222.31 of title 50, Code of Federal Regulations, shall cease to be in force and effect.

SEC. 14. PINNIPED-FISHERY INTERACTION TASK FORCE.

Title I of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371 et seq.), as amended by this Act, is further amended by adding at the end the following new section:

"SEC. 118. PINNIPED-FISHERY INTERACTION TASK FORCE.

"(a) PINNIPED REMOVAL AUTHORITY.—Notwithstanding any other provision of this title, the Secretary may permit the lethal removal of pinnipeds in accordance with this section.

"(b) APPLICATION.—Any person may apply to the Secretary to authorize the lethal removal of pinnipeds identified as habitually exhibiting dangerous or damaging behavior that cannot otherwise be deterred. Any such application shall include a means of identifying the individual pinniped or pinnipeds, and shall include a detailed description of the problem interaction and expected benefits of the removal.

"(c) ACTIONS IN RESPONSE TO APPLICATION.—(1) Within 15 days of receiving an application, the Secretary shall determine whether the application has produced sufficient evidence to warrant establishing a Pinniped-Fishery Interaction Task Force to address the situation described in the application. If the Secretary determines that such sufficient evidence has been provided, the Secretary shall establish a Pinniped-Fishery Interaction Task Force and publish a notice in the Federal Register requesting public comment on the application.

"(2) A Pinniped-Fishery Interaction Task Force established under paragraph (1) shall consist of designated employees of the Department of Commerce, scientists who are knowledgeable about the pinniped interaction that the application addresses, representatives of affected conservation and fishing community organizations, Indian Treaty tribes, the States, and such other organizations as the Secretary deems appropriate.

"(3) Within 60 days after establishment, and after reviewing public comments in response to the Federal Register notice, the Pinniped-Fishery Interaction Task Force shall—

"(A) recommend to the Secretary whether to approve or deny the proposed lethal removal of the pinniped or pinnipeds, including along with the recommendation a description of the specific pinniped individual or individuals, the proposed location, time, and method of removal, criteria for evaluating the success of the action, and the duration of the authority; and

"(B) suggest nonlethal alternatives, if available and practicable, including a recommended course of action.

"(4) Within 30 days after receipt of recommendations from the Pinniped-Fishery Interaction Task Force, the Secretary shall either approve or deny the application. If such application is approved, the Secretary shall immediately take steps to implement the lethal removal, which shall be performed by Federal or State agencies, or qualified individuals under contract to such agencies.

"(5) After implementation of an approved application, the Pinniped-Fishery Interaction Task Force shall evaluate the effectiveness of the permitted lethal removal or alternative actions implemented. If implementation was ineffective in eliminating the problem interaction, the Task Force shall recommend additional actions. If the implementation was effective, the Task Force shall so advise the Secretary and the Secretary shall disband the Task Force.

"(d) CONSIDERATIONS.—In considering whether an application should be approved or denied, the Task Force and the Secretary shall consider—

"(1) population trends, feeding habits, the location of the pinniped interaction, how and when the interaction occurs, and how many individual pinnipeds are involved;

"(2) past efforts to nonlethally deter such pinnipeds, and whether the applicant has demonstrated that no feasible and prudent alternatives exist and that the applicant has taken all reasonable nonlethal steps without success;

"(3) the extent to which such pinnipeds are causing undue harm, impact, or imbalance with other species in the ecosystem, including fish populations; and

"(4) the extent to which such pinnipeds are exhibiting behavior that presents an ongoing threat to public safety.

"(e) LIMITATION.—The Secretary shall not approve lethal removal for any pinniped from a species or stock that is listed as threatened or endangered under the Endangered Species Act of 1973, designated as depleted under this Act, or identified by the Secretary as a critical stock under section 117 of this Act.".

AMENDMENT NO. 1550

(Purpose: To make an amendment in the nature of a substitute)

Mr. JOHNSTON. Madam President, I send a substitute amendment to the desk on behalf of Senators KERRY and STEVENS and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for Mr. KERRY for himself and Mr. STEVENS proposes an amendment numbered 1550.

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

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

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. KERRY. Madam President, today I am joined by my good friend and colleague, Senator TED STEVENS in offering legislation to reauthorize the Marine Mammal Protection Act. I am pleased to bring this legislation to the Senate floor and I hope my colleagues will join us in supporting the important initiative to establish a new regime to protect marine mammal stocks during their interactions with commercial fishing operations.

The bill before us today is a bipartisan effort that is the product of many months of hard work. This substitute amendment to S. 1636 is the result of extensive discussions with and comments from the National Marine Fisheries Service, the Marine Mammal Commission, conservation and animal protection groups and the fishing industry. All have worked tirelessly to meet the April 1, 1994 statutory deadline and I believe we will achieve that goal.

The bill before us has the backing of the vast majority of those groups involved in its development. The Department of Commerce's lead agency, the National Marine Fisheries Service [NMFS] supports this proposal. We have worked closely with the Marine Mammal Commission. Additionally, the fishing industry and a large number of environmental organizations including the Center for Marine Conservation, the World Wildlife Fund, the Audubon Society, and the Marine Mammal Center, among others, endorse this effort as well.

Our legislation addresses a number of issues surrounding the interaction between marine mammal stocks and commercial fishing operations. The legislation includes: First, a prohibition of intentional killing of marine mammals; second, mandatory vessel registration; third, mandatory observer coverage; fourth, general emergency authority for the Secretary of Commerce; fifth, a requirement that stock assessments be made of all stocks and incidental take reduction plans be prepared for those stocks in need; sixth,

provisions for the permitting of endangered marine mammals; and seventh, imposition of liability for noncompliance with incidental take reduction plans.

Overall, we have made some significant additions to strengthen the original Marine Mammal Protection Act [MMPA] and I am attaching a detailed summary of the major provisions in this legislation at the end of this statement. For the first time, the MMPA will now explicitly outlaw the intentional killing of marine mammals by commercial fishermen, which is allowed in the current act. Also included is language that mandates commercial fishing interests to achieve, within 10 years, a zero mortality rate goal.

Additional provisions that do not appear in the original act give the Secretary of Commerce emergency authority to protect any marine mammal stock he concludes may be in danger and to create a scientific advisory group.

I would like to address two issues that I believe have produced a great deal of misinformation about the development of this legislation: The first is the treatment of endangered species. The second is the so-called burden of proof issue.

Regarding endangered marine mammals, some have claimed that this bill would weaken the Existing Marine Mannal Act by allowing the killing of endangered species. In fact, both the current Marine Mammal Protection Act and the Endangered Species Act contain provisions under which permits may be issued to incidentally take an endangered marine mammal. While our bill also provides for such permits, the criteria for issuing such a permit under our substitute amendment are actually tougher than those contained in the existing Endangered Species Act.

With regard to the second issue, we believe that the term "burden of proof" has been misrepresented. Our revised bill would maintain the same moratorium on interactions with marine mammals that has been in place under the interim exemption but it replaces the fishery exception with a detailed, scientifically based process for monitoring and protecting marine mammals that interact with fisheries, placing emphasis on those stocks that come in most frequent contact with fishermen.

In addition, this bill provides numerous safeguards that are not currently provided under the interim exemption. These include: suspension or revocation of an individual fishermen's authorization to take marine mammals if that fisherman is found to have seriously violated the incidental take provisions; authority to the Secretary of Commerce to promulgate regulations to address urgent problems with any stock; conservative procedures for estimating calculated removal levels; mandatory compliance with the incidental take reduction plans; and measures to ensure that marine mammal populations will recover to or remain above the optimum sustainable population level.

To provide some context for the legislation before us, let me summarize the significant relevant events of the 22 years since the original Marine Mammal Protection Act was passed in 1972.

The original MMPA has far exceeded expectations in its protection of dolphins, whales, seals, and sea lions among other marine mammal stocks. Prior to 1972, when the original MMPA was enacted, hundreds of thousands of marine mammals were killed each year, intentionally from hunting and accidentally due to their interactions with commercial fishermen.

Over the years, the act has been reviewed and reauthorized a number of times, most recently in 1988. The 1988 amendments were the direct result of a court ruling, called the Kokechik decision, which blocked the issuance of any new permits to fishermen who interact in any way with marine mammals. If the Congress hadn't responded, this decision would have shut down the commercial fishing industry in the United States.

Therefore, in 1988, Congress passed a 5-year moratorium, called the interim exemption, which established a moratorium on interactions with marine mammals, but provided an exception to the moratorium for commercial fishing operations unless the marine mammals involved were from a depleted stock. In addition, NMFS was required to collect data on unknown marine mammal stocks and develop a new management regime that is legal and workable. To assist NMFS in its information collection the fishermen were required to keep logbooks and carry observers on board their vessels.

NMFS developed a regime and released it for comments in November, 1992. It was resoundingly rejected by the environmental community and the fishing industry and called cumbersome and unworkable. Both the environmentalists and the fishermen decided to begin negotiations to develop their own compromise alternative. This effort began over 1 year ago with participation from over 50 groups representing conservationists, animal protection activities, and fishing interests. In addition, NMFS and the Marine Mammal Commission sent representatives. Meetings were held in Washington, DC, and Washington State over the course of many months.

In June, 1993, on the final day of the mediated session where all the groups were gathered to sign what was termed the "negotiated agreement," many of the animal protection representatives withdrew support while the conservation groups and the fishing industry signed the agreement.

At that point, I requested a hearing by the Senate's National Ocean Policy Study. I chaired a hearing in July 1993, to review several viewpoints—the NMFS proposal, the negotiated agreement signed by the fishing industry and the conservation groups, and the concerns of the animal rights contingent of the environmental community that had not signed on to the agreement.

At that time, Senator STEVENS and I asked all parties to go back and meet again and try to reach consensus on outstanding issues. The parties met for 3 days in August of last year for this purpose. Unfortunately, no agreement was reached.

Congress still faced—and faces—an April 1, 1994, statutory deadline to enact new legislation to replace the 5-year interim exemption. In November, the Senate Commerce Committee considered legislation, S. 1636, based upon the concepts in the negotiated agreement. However, at that time, I stated publicly that this bill before the committee was a work in progress and that many outstanding issues would be addressed over the coming months. We called upon all parties to come in and discuss their concerns and propose specific legislative language changes to our committee proposal.

For the next several months, we collected comments from and met with representatives of all interested parties and prepared a draft substitute that has been circulating and changing for the past several weeks. Either I or my staff have met with everyone who has called us. The agency and the Marine Mammal Commission have now indicated their approval. The fishing industry and many of the conservation groups are satisfied with our compromise product. In addition, I met last week with a number of concerned animal rights groups and I believe that we have addressed 90 percent of their concerns in this final draft. While a compromise, by definition, cannot give all interested parties everything they want, I believe we have developed a strong and fair bill that will protect and conserve marine mammal stocks and bring back those stocks that are depleted, without shutting down our commercial U.S. fisheries.

In conclusion, I would like to take a moment to acknowledge all those who assisted in forging this compromise legislation before us. I thank my staff and the staff of the Commerce Committee who have worked so long and hard to get this bill to the floor. In particular, this bill would not be before us without the efforts of our Lila Helms, Penny Dalton, Earl Comstock, and Trevor McCabe who spent literally hundreds of hours over the past year crafting this legislation. Finally, I want to thank Kate English and Sarah Woodhouse of my office who have been deeply involved in moving this legislation forward.

This bill is an excellent example of bipartisan cooperation in policymaking. If we continue our efforts I know we can achieve our goals of enacting strong, environmentally sound legislation to revise the Marine Mammal Protection Act by the deadline of April 1, 1994. I hope my colleagues will support this important initiative which we are introducing today.

I ask unanimous consent that a section-by-section analysis be printed at this point in the RECORD.

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

SECTION-BY-SECTION SUMMARY OF THE COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE TO S. 1636

SECTION 1. SHORT TITLE

This section lists the title of the bill, which is the Marine Mammal Protection Act Amendments of 1994.

SECTION 2. PURPOSES

This section sets forth six purposes for the reauthorization of the MMPA: (1) authorizing of appropriations; (2) ensuring that the incidental mortality and serious injury in commercial fisheries does not reduce marine mammal populations below sustainable levels; (3) prohibiting the killing of marine mammals in the course of commercial fishing operations; (4) improving efforts for identifying and addressing the most significant problems involving incidental mortality and serious injury of marine mammals in commercial fishing operations; (5) ensuring that the procedures for authorizing the incidental taking of marine mammals in commercial fisheries is consistent with the long term objective of reducing incidental mortality and serious injury from commercial fishing operations to insignificant rates approaching zero; and (6) continuing cost-effective monitoring programs.

SECTION 3. AUTHORIZATION OF APPROPRIATIONS

This section would extend the authorization of appropriations through FY 1999 for the Department of Commerce (DOC), the Department of the Interior (DOI), and the Marine Mammal Commission (Commission) for their responsibilities under the Marine Mammal Protection Act of 1972 (MMPA). There is additional funding to provide observer coverage on commercial fishing vessels which are required to carry observers under new section 118 of MMPA.

SECTION 4. MORATORIUM AND EXCEPTIONS

Section 4(a) would amend section 101 of the MMPA by inserting "harassment" as a distinct classification of action covered by the moratorium imposed by the MMPA. Previously, harassment was included under the definition of "taking."

Section 4(b) would amend section 101(a)(1) of the MMPA to make minor changes in the process for issuing permits for the import of marine mammals for research and public display.

Section 4(c) would amend section 101(a)(2) of the MMPA to reflect the addition of new section 118, which provides the regime for the incidental taking of marine mammals in commercial fisheries.

Section 4(d) amends section 101(a)(5) of the MMPA to add a new paragraph (D) to provide for the annual authorization of activities, other than commercial fisheries, by citizens of the United States, that cause the incidental, but not intentional, harassment of marine mammals. An authorization may only be granted if the Secretary (which is defined in the existing MMPA to mean either the Secretary of Commerce or the Secretary of the Interior, depending on the marine mammal stock in question) finds that the harassment will have no more than a negligible impact on the marine mammal stock, and that the activity will not cause an unmitigable adverse impact on the availability of animals in such stock for taking for subsistence purposes. The paragraph also provides that the Secretary must impose appropriate conditions on the issuance of an authorization to ensure the least practicable impact on the stock and that there is no unmitigable impact on subsistence, and to require an appropriate monitoring and reporting program. In cases where subsistence stocks are impacted, the Secretary must require independent peer review of the monitoring and research proposals related to such authorization. The sponsors intend that the Secretary will encourage extensive consultation between affected parties on appropriate monitoring, reporting and mitigation measures in granting authorizations under this paragraph.

Section 4(f) would further amend section 101(a)(5) by adding a new paragraph (E) in order to allow the Secretary to permit for periods of three years the incidental, but not the intentional, taking in the course of commercial fishing operations of marine mammals stocks designated as depleted because of their listing as endangered or threatened under the Endangered Species Act. A permit would only be granted if the Secretary determines: 1) the incidental mortality and serious injury from commercial fisheries will have a negligible impact on the species or stock; 2) a recovery plan has been developed or is being developed for the stock under the Endangered Species Act; and 3) where required for such stock under new section 118, a monitoring program is established, vessels are registered, and an incidental take reduction plan has been developed or is being developed for such marine mammal species or stock. Upon a determination that these requirements have been met, the Secretary will issue a permit for a three-year period for those vessels required to register under section 118. Those vessels not required to register under section 118 (Category (iii) vessels) would be allowed to conduct operations under a general authorization, but would be subject to penalties if they fail to report any incidental mortality or injury to marine mammals as required under new section 118. If the Secretary determines during a fishing season that incidental mortality or serious injury in a commercial fishery is having more than a negligible impact on a threatened or endangered species or stock, then the Secretary must use the emergency authority granted under section 118 to protect such marine mammal stock or species, and may modify any permit granted as necessary to reduce the impact. The Secretary may suspend or revoke a permit if the conditions and limitations set forth in the permit are not being complied with. It is intended that the Secretary will work to ensure that the requirements imposed on fishermen seeking a permit under this subsection be fully integrated into the incidental take reduction plan process under new section 118, so that the two procedures are as consistent and streamlined as possible. In using a negligible impact standard under this subsection, the bill continues the higher standard of protection found in the existing MMPA, rather than using the lesser "no jeopardy" standard promulgated under the Endangered Species Act at 50 CFR 402.02.

Section 4(g) amends section 101(a) to add a new subsection (6) at the end. New subsection (6) has been added to address a consistent problem with the import ban in the existing MMPA that arises when Alaska Natives engage in cultural exchanges with other Native peoples, and when travelers who have bought authentic Native handicrafts made of marine mammal parts in Alaska attempt to reenter the United States after driving south from Alaska through Canada. Under the existing MMPA, Alaska Natives and other persons who are legitimately in possession of authentic Native handicrafts made of marine mammal parts have those items confiscated when they attempt to enter the United States with those items. New subsection 101(a)(6) of the MMPA would address this problem by allowing persons who have bought authentic Native handicrafts made from marine mammal parts to take those items out of the United States in their personal possession and then reenter the United States with those same items. It would also allow persons who are given gifts or otherwise acquire Native handicrafts made of marine mammal parts as part of a cultural exchange to bring those items back into the United States, and would also allow the Native peoples of other Arctic nations to enter the United States wearing their traditional clothing made of marine mammal parts, as well as bring in raw marine mammal parts for the purpose of sharing their native skills with Alaska Natives and others in the United States. This new provision would not allow the importation of Native handicrafts for commercial purposes, though this restriction is not intended to prohibit the sale of an item that was created as part of a demonstration of handicraft skills in the course of a cultural exchange.

Section 4(h) would amend section 101(b) of the MMPA to add a new paragraph which is intended to ensure that the Secretary bears the burden of proof in any hearing under section 101(b), a proceeding under section 117(b)(2), or any determination or finding made by the Secretary under the Act which affects Alaska Native subsistence users or marine mammal stocks taken for subsistence use. The standard of review set forth in the new paragraph is that of substantial evidence on the basis of the record as a whole. Inclusion of this standard is not intended to create an independent requirement that all actions affecting Alaska Native subsistence users or subsistence stocks be subject to a hearing on the record, rather it is intended that the standard of review for such a hearing be used, with the burden of proof placed upon the Secretary to demonstrate in each case that such standard has been met. A hearing is required whenever specifically provided for in the MMPA, as is the case under the existing provisions of section 101(b) and under new section 117(b)(2). The last sentence of the new paragraph specifically limits the standing to use this provision to Alaska Native organizations representing persons to which subsection 101(b) applies. The term Alaska Native organizations is intended to include any legitimate representative of Alaska Native subsistence users, including local and state governmental entities.

Section 4(i) would amend section 101(c) of the MMPA by deleting the existing language found there, which is no longer applicable, and inserting in its place a new provision which would allow a person to kill a marine mammal in self defense or in defense of another person without violating the MMPA.

Under the existing MMPA no such exemption exists, with the result that persons who have found themselves forced to kill a marine mammal in self-defense have then been exposed to penalties. This amendment would make it legal to kill or wound a marine mammal in self defense, so long as the person reports the incident to the Secretary within 48 hours. It is intended that notification of an incident to either Secretary would suffice.

SECTION 5. PERMITS

Section 5 would amend section 104 of the MMPA with respect to the issuance of permits for scientific research. The amendment would allow the issuance of permits for legitimate scientific research involving the lethal taking of a marine mammal if the Secretary determines, after notice and public comment, that non-lethal methods are not feasible. In addition, the amendment would allow the Secretary to grant a general authorization for research that is not likely to involve the taking or harassment of marine mammals. In order to operate under the general authorization, applicants must notify the Secretary by letter and comply with the requirements.

SECTION 6. CONSERVATION PLANS

Section 6 would amend section 115(b) of the MMPA by adding a new paragraph to clarify that conservation plans issued under that section should incorporate incidental take reduction plans implemented under new section 118.

SECTION 7. STOCK ASSESSMENT

This section would amend title I of the MMPA by adding a new section 117 to provide for stock assessments on all marine mammal stocks. New section 117(a) would require the Secretary, after consultation with the appropriate regional scientific review group, to prepare a draft stock assessment for each marine mammal stock by August 1, 1994. In the draft stock assessment the Secretary is required to categorize each of the stocks in one of two categories, either—(1) being healthy and not in any significant danger of declining; or (2) as being of some concern, because they are depleted, threatened, endangered, or have a level of anthropogenic mortality that exceeds their annual population growth rate. The Secretary is expected to place each stock in either one category or another. The stock assessments are intended to provide an accurate estimate of the status of marine mammal stocks based on the best scientific information currently available. This subsection also directs the Secretary to calculate the number of animals that can be removed from a species or stock while still providing reasonable assurance that the species or stock will eventually recover to its optimum sustainable population. In making such a calculation, the Secretary is required to use the best available scientific information, and it is expected that the determination, including the provision of reasonable assurance, would be made in accordance with accepted scientific methodology.

One of the main objectives of new section 117(a) is to establish a process to identify stocks falling into the second category, so that the Secretary knows where to focus scarce resources. This is the primary purpose of paragraph (7), in which the Secretary is asked to specify stocks in which anthropogenic mortality may be the reason for their decline or failure to recover. In specifying these stocks, it is expected that the Secretary will have some substantive reason to believe that anthropogenic mortality is the problem, because stocks identified under this paragraph are the focus of incidental take reduction plans under new section 118. The Secretary should not use this category as a catch-all for all stocks for which information is uncertain or limited.

Under new section 117(b), a ninety-day public notice and comment period is required, and provision is made for a proceeding on the record, when requested by an Alaska Native to which subsection 101(b) of the MMPA applies, for an assessment involving a stock taken for subsistence. The Secretary is required to publish a final stock assessment not later than 90 days after the close of the public comment period or final action on a subsistence proceeding.

New subsection 117(c) provides for review and revision of stock assessments, at least annually for stocks specified by the Secretary as needing attention or for which there is new information, and at least once every three years for all other stocks.

At least two independent regional scientific review groups are established under new subsection 117(d). These groups are intended to advise the Secretary on all aspects of the stock assessments, and should be a scientifically balanced group composed of individuals who are both knowledgeable and representative of diverse viewpoints and interests.

New subsection 117(e) reaffirms that the stock assessment provided under this new section is not intended to affect or modify the depletion determination and other protections provided to Alaska Native subsistence users under section 101(b) of the MMPA. It is intended that any determination by the Secretary that a stock is depleted would be based on the stock assessment made under new section 117.

SECTION 8. TAKING OF MARINE MAMMALS INCIDENTAL TO COMMERCIAL FISHING OPERATIONS

Section 8 would amend title I of the MMPA by adding a new section 118 to govern the incidental taking of marine mammals in the course of commercial fishing operations. New section 118(a) establishes the scope of coverage of new section 118, as well as reiterates that it is the immediate goal of the MMPA to reduce incidental mortality and serious injury of marine mammals in commercial fishing operations to insignificant levels approaching a zero mortality rate. As stated in paragraph (2), it is intended that both new section 118 and new section 101(a)(5)(E) would govern the incidental taking in commercial fisheries of threatened or endangered marine mammal species or stocks.

New section 118(b) directs the Secretary to establish incidental take reduction plans for each marine mammal stock specified by the Secretary under new section 117(a)(7) which interacts with a commercial fishery listed under new section 117(f)(1)(A)(i) or (ii), which are those fisheries that cause frequent or occasional incidental mortality and serious injury of marine mammals. In addition, the Secretary may establish incidental take reduction plans for other marine mammal stocks, including populations that are not considered to be in danger, that interact with a commercial fishery which causes frequent mortality and serious injury if the Secretary determines that such fishery has an excessive rate, in comparison with other fisheries in the affected area or region, of incidental mortality and serious injury of marine mammals. If insufficient funding is available to allow for the development and implementation of incidental take reduction plans for all stocks to which new subsection (b) applies, then the Secretary is directed to give priority to the establishment of plans for those stocks in which the level of incidental mortality and serious injury exceeds the calculated removal level for that stock, those that have a small population size, and those that are declining most rapidly. These criteria are intended to ensure that scarce resources are focused where they will provide the greatest benefit to marine mammal stocks in the greatest need.

New section 118(b) also establishes detailed guidelines and time-frames for the development and implementation of incidental take reduction plans. Incidental take reduction plans would be required to include management measures or voluntary actions to reduce the incidental mortality and serious injury of marine mammals in fisheries, as well as a strategy for each fishery to reduce the incidental mortality and serious injury of marine mammals in each commercial fishery to insignificant levels approaching a zero mortality rate within ten years. For stocks in which incidental mortality and serious injury from a commercial fishery currently exceeds the calculated removal level, the incidental take reduction plan will be required to include measures the Secretary expects will reduce the mortality and serious injury to a level below the calculated removal level within six months. Where total anthropogenic mortality and serious injury exceeds the calculated removal level, a commercial fishery will have to reduce its incidental mortality and serious injury to the lowest level that is feasible for that fishery within six months.

In implementing incidental take reduction plans, the Secretary would be authorized to impose fishery management measures to the extent necessary to implement an incidental take reduction plan. This could where necessary to protect or restore a marine mammal stock, include, among other measures, actions to: (1) establish fishery-specific limits on incidental mortality and serious injury, or restrict fisheries by time and area; (2) require the use of alternative gear or techniques; (3) educate commercial fishermen through workshops; and (4) monitor the effectiveness of observer coverage.

Section 118(b) would also require the Secretary within 60 days of completing the final stock assessment, to establish and appoint members to incidental take reduction teams to develop incidental take reduction plans for marine mammal stocks. The teams can be requested to address a single stock that extends over one or more regions, or multiple stocks within a single region, based upon the Secretary's determination of which approach will best facilitate the development and implementation of incidental take reduction plans. The Secretary will be required to appoint to the teams individuals knowledgeable about measures to conserve marine mammal stocks and methods to reduce the incidental mortality and serious injury of marine mammals in commercial fishing operations. The teams are required to include representatives of each affected regional fishery management council and State, and may also include representatives of Federal agencies, interstate fishery commissions, academic and scientific organizations, environmental and fishery groups, Alaska Native organizations, Indian Tribes, and others as the Secretary considers appropriate. To the maximum extent practicable, each team is required to provide an equitable balance among interested parties. Incidental take teams would not be subject to the Federal Advisory Committee Act, but will be re-

quired to hold public meetings and provide adequate public notice of the time and location of the meetings. Members will serve without compensation, but will be reimbursed for their reasonable travel costs and expenses.

Incidental take reduction plans would be developed under new section 118(b) according to two timetables. A shorter timetable would apply for the development of incidental take reduction plans by teams in cases where the anthropogenic mortality and serious injury to a marine mammal stock specified under section 117(a)(7) is estimated to be greater than the calculated removal level for the stock. For stocks where incidental mortality and serious injury does not exceed the calculated removal level, a longer timetable would be applied. In the first case, a draft plan must be submitted by the team to the Secretary within six months of the team's establishment, while in the second it would be within eleven months. The incidental take reduction plans are required to be developed by consensus among the team members. To the extent that consensus cannot be reached, the team must advise the Secretary of the views of both the majority and minority. Upon receipt of a team's proposal, the Secretary must publish, within 60 days, a draft incidental take reduction plan in the Federal Register, specifying any changes the Secretary has made to the team's recommendations, including the reasons for the changes. A final incidental take reduction plan must be published in the Federal Register following a 90-day public comment period. The Secretary will continue to meet every six months with teams focusing on stocks whose incidental mortality exceeds the calculated removal level, and annually with teams for stocks where the incidental mortality is below the calculated removal level, until the Secretary determines that the objectives of the incidental take reduction plan are met.

New section 118(c) would allow the Secretary to take emergency action to protect marine mammal stocks that the Secretary finds are suffering an immediate and significant adverse impact from incident mortality and serious injury due to commercial fishing. In taking such action, it is intended that the Secretary would, to the extent practicable, consult with the Marine Mammal Commission, regional fishery management councils and state fishery management authorities, and the appropriate incidental take reduction team before taking any emergency action, and should, whenever possible, take such action in a manner consistent with existing fishery management plans.

New section 118(d) would require the Secretary to continue the observer coverage established under section 114 of the existing Act. Vessel owners engaging in fisheries with frequent and occasional incidental mortality and serious injury of marine mammals must carry observers if requested to do so by the Secretary. The purpose of observer coverage is to enhance the quality of and verify the information received from reports submitted by vessel owners or operators. The assignment of observers must be fair and equitable, and no one individual or vessel or one group of individuals or vessels would be subject to overly burdensome observer coverage. This subsection also would mandate that the Secretary give priority to the allocation of observers to those fisheries that have incidental mortality and serious injury of marine mammal stocks designated as depleted on the basis of their listing as endangered or threatened under the Endangered Species Act, and then to those fisheries that have incidental mortality and serious injury of marine mammal stocks specified under section 117(a)(7) having the second highest priority. The Secretary must have the consent of the vessel owner of a vessel listed under section (f)(1)(A)(iii) to station an observer on the vessel, except when using the emergency authority available under subsection (c).

New section 118(e) reaffirms the MMPA's commitment to reducing incidental mortality and serious injury in commercial fisheries to insignificant levels approaching a zero mortality and serious injury rate within 10 years. The Secretary is required to review the progress of commercial fisheries toward that goal three years after the date of enactment of this bill, and to submit to Congress a report on that progress within four years of such date. This subsection also provides that fisheries which maintain an insignificant level of incidental mortality and serious injury shall not be required to reduce those levels further. This provision is intended to ensure that commercial fisheries which have achieved this goal will not be shut down to achieve further insignificant reductions in marine mammal mortality and serious injury.

New section 118(f) would require the Secretary to continue, with modifications, the registration system developed under the 1988 amendments to the MMPA. The revised system would modify the existing classification and listing of fisheries which frequently, occasionally, or rarely take marine mammals. Under the new section 118(f), the Secretary would register vessels in fisheries which have frequent or occasional incidental mortality and serious injury of marine mammals. The Secretary would continue to charge a fee to cover the administrative costs of the program.

Under new section 118(f) category (i) and (ii) vessels would be authorized to engage in the lawful incidental taking of marine mammals provided that they have registered, the decal that may be required is displayed, they report any incidental mortality or injury of marine mammals, and they take on board an observer if requested by the Secretary. If the owner of a vessel is holding a valid certificate of exemption issued under section 114, then that vessel is deemed to have registered for the purposes of this subsection for the period during which the registration is valid. If the owner of a vessel fails to obtain or maintain an authorization, then the owner is deemed to have violated this title, and if the owner of a vessel fails to ensure that the decal or other physical evidence is displayed, then the owner is subject to a fine of not more than $100 for each offense. The owner of a vessel must be in compliance with any regulations to implement an incidental take reduction plan otherwise the owner is subject to the penalties of this title.

Further, new section 118(f) provides that any vessel listed in category (iii) is authorized to take marine mammals without registering provided that the owner adhere to the reporting requirements, and such vessels would not be subject to penalties for the indential taking of marine mammals as long as the owner reports any incidental mortality or injury to the Secretary in the appropriate manner.

New subsection 118(g) is similar to the reporting requirements found under existing section 114 of the MMPA. The owner or operator is required to report, on a standardized postage-paid form, all incidental mortality and injury of marine mammals. Specific language is included in the new subsection to require that the form used be capable of being readily entered into and usable by a computer data processing system. This requirement was included to prevent a repeat of what occurred under the reporting requirements of existing section 114, in which fishermen were required to file extensive, handwritten observations in log books which were never utilized by the federal government because money and personnel were not available to translate and enter the data into a computer system. It is intended that the new reporting forms will be simple and will result in usable data on marine mammal mortality that is readily accessible to the agency and the public.

New section 118(h) sets forth the penalties applicable under this section. It is intended that the Secretary shall use the discretion provided to ensure that the penalty is appropriate to the violation.

New subsections (i) and (j) clarify that nothing in this section prohibits the Secretary from employing voluntary measures to reduce marine mammal mortality, and, since the term "Secretary" is defined to mean the Secretary of Commerce for purposes of new section 118, that the Secretary of Commerce shall consult with the Secretary of the Interior on matters affecting marine mammal stocks under the Interior Secretary's jurisdiction.

SECTION 9. PENALTIES; PROHIBITIONS

This section makes technical and conforming changes to the provisions of the MMPA dealing with penalties and prohibitions.

SECTION 10. AUTHORIZATION TO DETER MARINE MAMMALS NONLETHALLY

This section would allow for the nonlethal deterrence of marine mammals which are damaging gear or catch by the owner of the fishing gear or catch or the employee or agent of the owner, which are damaging private property by the owner of private property, which are endangering personal safety, or which are damaging public property by a government employee. The measures used could not result in the death of or serious injury to a marine mammal. The Secretary must publish guidelines for use in safely deterring marine mammals in the Federal Register, and in the case of marine mammals designated as threatened or endangered under the Endangered Species Act, the Secretary must recommend specific measures which could be used to nonlethally deter marine mammals. If actions to deter marine mammals are not consistent with the guidelines, or specific measures in the case of marine mammals designated as threatened or depleted, the individual would be in violation of this Act. The Secretary could also prohibit any methods of deterrence through regulation if the Secretary determines, based on the best scientific information available, that the method of deterrence would have a significant adverse effect on marine mammals. Finally, the authority to deter marine mammals applies to all marine mammals.

SECTION 11. TREATY RIGHTS; ALASKA NATIVE SUBSISTENCE

This section provides that nothing in this bill alters any treaty between the United States and any Indian tribe, and that, other than as specifically provided in the amendment made in section 4(h), nothing in this bill would alter or modify section 101(b) of the MMPA.

SECTION 12. TRANSITION RULE

This section provides for the transition between existing section 114 and new section 118 of the MMPA.

SECTION 13. TECHNICAL AND CONFORMING AMENDMENTS

This section makes technical and conforming changes to the MMPA and the Marine Mammal Health and Stranding Response Act.

SECTION 14. DEFINITIONS

This section adds the definitions of "calculated removal level", "Council", "harassment", "incidental take reduction plan", "incidental take reduction team", "net productivity rate", and "minimum population estimate" to the MMPA.

SECTION 15. HUMAN ACTIVITIES IN THE PROXIMITY OF WHALES

This section would allow individuals to approach lawfully a humpback whale or any other whale by any means other than aircraft at a distance no closer than 100 yards. The approach standard would apply only to the waters off the coast of Hawaii, and would include areas designated in regulation as cow/calf waters.

SECTION 16. PINNIPED-FISHERY INTERACTION TASK FORCE

This section would establish a new section 119 of the MMPA to govern the lethal and humane removal of identifiable nuisance pinnipeds that habitually exhibit dangerous or damaging behavior that cannot be deterred by any other means, and require a study of pinniped-fishery interactions in the Northwest.

The language of the bill remains as described in the January 25, 1994 Committee Report, except for the addition of a new section 119(f). This new section directs the Secretary of Commerce to conduct a study of not less than three high predation areas in anadromous fish migration corridors within the Northwest Region of the National Marine Fisheries Service on the interaction between fish and pinnipeds. The Secretary is to consult with other State and Federal agencies with expertise in pinniped-fishery interaction.

The study will evaluate fish behavior in the presence of predators generally; holding times and passage rates of anadromous fish in areas where they are vulnerable to predation; whether additional facilities exist, or could be reasonably developed, that could improve escapement of anadromous fish; and other relevant issues.

Subject to availability of funds, within 18 months after the passage of the Act the Secretary will report on the results of the study to the Senate Commerce Committee and the House Merchant Marine and Fisheries Committee.

The Secretary would not be able to use the study for determining whether to establish a Pinniped-Fishery Interaction Task Force, or in determining whether to approve or deny an application, until the study is complete. Further, the Secretary would not be able to delay or defer a decision to establish a Task Force or to approve or deny an application while the study is pending.

SECTION 17. MARINE MAMMAL COOPERATIVE AGREEMENTS IN ALASKA

This section provides for cooperative agreements between the Secretary and Alaska Native organizations related to the conservation of marine mammals and co-management of subsistence use.

SECTION 18. BERING SEA MARINE ECOSYSTEM PROTECTION

This section provides for a study of the marine ecosystem of the Bering Sea in order to determine the causes of population declines in marine mammals, seabirds, and other living marine resources of that region.

SECTION 19. INTERJURISDICTIONAL FISHERIES ACT OF 1986

This section amends the provision of the Interjurisdictional Fisheries Act of 1986 which authorizes appropriations for a commercial fisheries failure or serious disruption affecting future production due to a fishery resource disaster. Authorized spending under this provision would be increased to $65 million annually for each of fiscal years 1994 and 1995.

SECTION 20. COASTAL ECOSYSTEM HEALTH

This section provides for conveyance of property on the Charleston Naval Base to the Department of Commerce for use by the National Oceanic and Atmospheric Administration. The Naval Base in Charleston is slated for closure in 1996 and the transfer is necessary in order to renovate a facility for other federal use.

Mr. STEVENS. Madam President, I give my thanks to Senator KERRY and his staff—in particular Lila Helms and Penny Dalton of the majority staff of the Commerce Committee—for their assistance in this bipartisan effort.

The 1988 reauthorization of the Marine Mammal Protection Act included an interim regime to govern commercial fisheries interactions with marine mammals. It followed a court of appeals' decision in Kokechik Fishermen's Association versus Federation of Japan Salmon Fisheries.

The interim regime set up a process to gather data, and directed the Secretary of Commerce to develop a new program for commercial fisheries' interactions with marine mammals.

The Secretary presented a proposed regime to Congress in the fall of 1992. But the fishing industry and the environmental community had serious concerns about the proposal.

In January 1993, representatives of the fishing industry and environmental organizations began working together on an alternative proposal. They completed it last June.

One month later, at a July Commerce Committee hearing, Senator KERRY and I reviewed the negotiated proposal and the administration's proposal. We asked the groups, the administration, and our staffs to sit down and blend the two proposals.

On November 9, 1993, Senator KERRY and I introduced S. 1636, which contained elements of both the administration proposal and the negotiated proposal. The bill was reported by the Commerce Committee on November 10, 1993.

Over the past months, Senator KERRY and I, and our staffs, have worked diligently to revise and improve the bill.

We have worked together to combine the many suggestions we have received.

And, Madam President, we have kept the process entirely bipartisan.

We have tried to find a balance between the fishing industry, the environmental community, the administration, and the Alaska Native community, whose interest in the commercial fisheries regime stems from a historical dependence on marine mammals for subsistence.

The revised bill provides increased protection for marine mammals—particularly for endangered and threatened marine mammals.

I believe the revised bill is one that the commercial fishing industry can work within. It is one that will allow our fisheries to continue without unnecessary disruption or burden.

ALASKA PROVISIONS

Senator KERRY and I worked together on the section-by-section analysis in the RECORD, which provides a summary of the provisions in the substitute bill.

Some of the items in the bill important to Alaska include:

The authorization of funding through 1999 for continued marine mammal research, and for the new commercial fishery regime.

A streamlined permitting process for scientific research not likely to result in the taking or harassment of marine mammals. This would make research on marine mammals in Alaska easier to accomplish.

The bill codifies the arrangement that has been worked out between Native subsistence harvesters, the oil industry and executive branch agencies regarding the authorization of activities—such as oil exploration—which disturb, or incidentally harass, small numbers of marine mammals.

The bill adds a new paragraph to section 101(b) of the MMPA to ensure that the Secretary bears the burden of proof when making regulations restricting subsistence taking—or any stock assessment which impacts subsistence stocks—or any determination or finding under this act which would affect subsistence users or stocks.

In my view, the Secretary should have to demonstrate, by substantial evidence on the record as a whole, that the Government is correct before taking action or publishing information that would restrict a legislatively-granted exemption. This provision does not in any way increase the Secretary's authority to regulate subsistence users.

This provision would make it be clear that the Secretary would have the burden of showing—based on substantial evidence—that a determination of depletion is justified.

Native subsistence users would also be allowed to request a hearing on the record if they disagree with the stock assessment under the new section 117. As with the hearing on regulations limiting the taking of subsistence stocks, the Secretary would have the burden of demonstrating that the stock assessment is supported by substantial evidence on the record as a whole.

These changes would help Alaska Natives to avoid being unnecessarily regulated under the existing law. The

changes would also help Alaska Natives to avoid spending millions of dollars to refute faulty stock assessments under the new section 117.

The bill would solve a problem relating to the MMPA's import ban which has occurred when Alaska Natives engage in cultural exchanges with other indigenous peoples. The bill would also help those who lawfully own marine mammal products to bring the items back into the United States after traveling.

A new subsection 101(a)(6) of the MMPA would allow marine mammal products to be imported into the United States when the item was carried out of the United States in conjunction with travel, or when it was acquired outside the United States as part of a cultural exchange by Alaska Indians, Aleuts, or Eskimos.

The provision also allows marine mammal products to be imported by Native inhabitants of Russia, Canada and Greenland in conjunction with their travel to the United States, or as part of their cultural exchanges with Alaska Indians, Aleuts and Eskimos.

This provision is particularly important to Alaskans in Western Alaska and in the Arctic as they continue to rekindle their ties with family and friends in Russia.

It is also important to visitors to Alaska who purchase Native handicrafts, and who in the past have had the handicrafts confiscated when they drive through Canada and try to reenter the United States.

The bill also includes a provision authorizing the Secretary to enter into cooperative agreements with Native organizations to conserve marine mammals. I have worked with the Indigenous People's Council for Marine Mammals to develop this provision. I believe it would allow the Alaska Native community to conserve marine mammals and protect their historic harvest rights to marine mammals.

The bill also creates a scientific research program to monitor the health and stability of the Bering Sea ecosystem and to resolve uncertainties about the decline in some Bering Sea marine mammal stocks.

I refer to the section-by-section analysis which Senator KERRY and I have submitted for the RECORD for a description of the other provisions of the bill, including the new commercial fisheries interaction program, but I wanted to briefly mention some of the other provisions which are important to Alaska.

Mr. HOLLINGS. Madam President, I am pleased that we are considering the Marine Mammal Protection Act Amendments of 1994. The legislation before the Senate is an amendment in the nature of a substitute to S. 1636, which was introduced by Senators KERRY, STEVENS, and PACKWOOD on November 8, 1993, and was reported without objection by the Commerce Committee last session. S. 1636 reauthorizes the Marine Mammal Protection Act [MMPA] for 6 years, and amends the Act to provide for a regime to govern the interactions between marine mammals and commercial fishermen. The amendment under consideration today reflects careful consideration and balancing of diverse viewpoints among the Committee members and addresses the legitimate concerns of the various interest groups which participated in its development.

In 1972, when the Congress enacted the MMPA, there was considerable debate over how far we should go in protecting marine mammals. Some environmentalists preferred tough restrictions which could have crippled our domestic fishing industry, while the fishing industry favored no regulations at all. The debate centered on striking the proper balance between the desire to protect marine mammals and the need to preserve important commercial fisheries. After long deliberation, Congress finally reached what has proven to be an effective compromise. The number of marine mammals taken by our fishermen has been reduced dramatically without seriously damaging the economic viability of most sectors of our domestic fishing fleet.

In the years since 1972, the central issue has changed very little. In reauthorizing this Act, we must again strike the proper balance. After long negotiations, I believe that we have reached such a compromise. Although I understand that not everyone is completely satisfied with all aspects of this bill, such is the nature of a compromise, and I am pleased to support the Marine Mammal Protection Act Amendments of 1994. I believe this legislation fine-tunes the MMPA, increasing the protection afforded to marine mammals without hurting the competitiveness of the American fishing industry.

The legislation before us today contains a new regime for protecting marine mammals in the course of commercial fishing with the following provisions: specific time tables and procedures for conducting marine mammal stock assessments and preparing incidental take reduction plans for those marine mammal population stocks in most need of attention; a prohibition against the intentional killing of marine mammals; a mandatory vessel registration system for those vessels that have frequent and occasional interaction with marine mammals; a mandatory observer program to verify the data on takes of marine mammals; and effective emergency authority for the Secretary of Commerce—Secretary—to control circumstances in which stocks are declining. The substitute amendment also contains a 6-year reauthorization of appropriations to carry out Federal activities under the MMPA.

More specifically, the interim system established by the 1988 amendments was designed to collect information regarding fishery-marine mammal interactions in order to develop a permanent regime to govern those interactions. S. 1636 would require publication of a stock assessment for each marine mammal stock based on the data that has been collected during the past 5 years.

The legislation also would establish a regulatory process to govern the interactions between marine mammals and commercial fisheries. Once the Secretary has completed the stock assessment, the Secretary determines whether the condition of the marine mammal population requires development of a plan for reducing incidental takings by fishermen so that the population may recover. The legislation also reiterates the longstanding goal of the Marine Mammal Protection Act, "to reduce incidental mortality and serious injury from commercial fishing operations to significant rates approaching zero," establishing a 10-year time line for that goal.

The proposed regime in S. 1636 as amended is based on an agreement reached between representatives of the fishing industry and several conservation organizations after extensive negotiations. Fishermen who interact with marine mammals must register and report their interactions. Fisheries which frequently take marine mammals also will be required to participate in an observer program.

S. 1636 will allow protection of all marine mammals with greatest emphasis being placed on those populations that are depleted and need the most assistance to recover. I commend the representatives of both the fishing industry and those conservation organizations that continued to participate in legislative discussions and made constructive recommendations on S. 1636.

In summary, the legislation before us today will strengthen and extend the protection afforded to marine mammals under the MMPA without damaging our important commercial fisheries. The legislation is consistent with the original goals and intent of the MMPA and will facilitate our attempts to meet these goals. Passage of S. 1636 as amended reaffirms our commitment to preserving and protecting this group of animals, and I urge my colleagues' support.

(By request of Mr. JOHNSTON, the following statement was ordered to be printed in the RECORD:)

Mrs. MURRAY. Madam President, I rise today in support of S. 1636, a bill to reauthorize the Marine Mammal Protection Act. I do so with some reservation, however.

Mr. President, the Pacific Northwest has been struggling for many years over the appropriate management of our natural resources, including water, timber, and salmon. It is this latter category I am concerned about today.

Of all the things we value in the Northwest, salmon are perhaps the greatest symbol of our cultural heritage.

Over the past decade, as bureaucrats have bickered and politicians have debated, the condition of this tremendous resource has deteriorated badly. On rivers throughout the region—rivers with dams, rivers without dams—once mighty salmon runs are withering away. At the same time, another valuable resource, marine mammals native to the region, have come back in great strength. In fact, you cannot take a boat ride anywhere in Puget Sound without encountering a seal or sea lion these days.

The combination of these two factors has created a very difficult and unfortunate circumstance: because they are voracious eaters, marine mammals now pose a direct threat, in many cases, to the continued viability of certain salmon populations.

Madam President, this bill provides limited authority to lethally remove marine mammals that can be identified as posing a threat to certain fish populations. This is a narrowly focused, short-term management tool designed to protect the continued viability of such populations. I support this provision, and believe it is needed in order to address critical situations.

I must say however, that I am sad it has come to this. The decline of our salmon runs is not news. We have known there are problems for a while now. Unfortunately, the wheels of government are slow to turn; even today, the region is without a comprehensive plan to conserve salmon habitat. There are efforts underway to address habitat issues. The President's forest plan calls for important riparian protection; the Northwest Power Planning Council has proposed a regional salmon strategy; and NMFS is working even now on a recovery plan for Columbia and Snake River salmon. These efforts will not come soon enough to save the steelhead that spawn—or used to spawn—in the Cedar and Sammamish Rivers. But I think ultimately, this issue will only be resolved through comprehensive habitat conservation planning.

I am pleased to recognize the committee substitute contains language at my suggestion that requires further study of salmon-pinniped interaction on a regionwide basis. This problem, while graphically illustrated by the Ballard Locks issue, is not limited to that area. I hope that the Secretary will examine this issue closely; specifically, we need to look at the root causes of predation, the effect of predation on species viability, and possible long-term solutions. In short, we must not convince ourselves that treating the symptom—rather than the cause—will solve the underlying problem. We need to know how much of a threat predation is, and we need to know what effect habitat conditions have on interactions.

I will conclude by commending the committee, especially Chairman HOLLINGS and Chairman KERRY, for their timely and judicious action in this matter. We live in a time where desperate measures appear to be needed; I sincerely hope we will see a day in the Pacific Northwest where we won't need to resort to killing seals and sea lions in order to preserve salmon.

Mr. PACKWOOD. Madam President, I rise today as a cosponsor of S. 1636, the Marine Mammal Protection Act Amendments of 1994.

This bill reflects a bipartisan effort and many months of discussions and drafting that included the Congress, the environmental and conservation groups, and the fishing industry.

All participants are to be praised for their achievement in crafting this very balanced bill that improves the program to reduce the incidental taking of marine mammals in the course of commercial fishing operations.

If this bill is not passed by Congress and signed by the President by April 1, the commercial fishing industry will simply come to a halt because the industry will have no exemption from its unavoidable interactions with marine mammals while fishing. The economic impacts would be dire for my State and for the Nation.

The bill also includes incidental take reduction plans for stocks in need. It takes into account the limited funding available by addressing those stocks in the greatest peril first.

Also, an excellent and realistic change has been made to address problems fishermen have had with the present cumbersome reporting system. The act now directs the reporting process to be done simply by a postage paid card or by computer within 48 hours, rather than requiring fishermen to keep logbooks throughout the season.

This is a difficult time for the fishing communities of my State of Oregon and the Pacific Northwest, Madam President, as once again, the chance of any commercial or recreational salmon fishing season this year looks bleak.

In many of these communities, people stand by and watch as factors beyond their control from El Nino to the growing seal and sea lion populations that feed on our salmon, lead to diminished salmon runs.

This bill will neither make those who think these pinniped populations are growing out of control completely happy nor those who seek to totally protect all marine mammals. What it is, through, is a fair balance that should serve both groups well.

Also, the Exon amendments to the act that I have cosponsored thoughtfully addresses the care and maintenance of marine mammals used for education and public display.

Again, this was done through many months of work by the Congress, the public display community, and some of the environmental and conservation groups, and also has bipartisan support.

I was pleased to receive word that our own Washington Park Zoo in Portland, one that Oregonians are justifiably proud of, has given the public display amendment its total support.

How many of us here on the Senate floor, as a fascinated kid, saw our first marine mammal at a zoo or aquarium; an experience that brought those magnificent creatures of the sea right before our very eyes.

The legislation before us reflects our respect and admiration for marine mammals and addresses the stability of our fishing communities and marine mammals in the wild. I ask for your support for its passage.

Mr. GORTON. Madam President, today the Senate considers a bill which is, in large part, the result of the collaborative efforts of various individuals and groups which have a vested interest in the reauthorization of this important act. These groups put aside their differences and worked hard to put together the bill which is before us today. The groups—the Center for Marine Conservation, Trout Unlimited, Northwest Indian Fisheries Commission, commercial and recreational fisheries organizations, and more—put forward a proposal to reauthorize the act which would allow economic and environmental interests to work together.

In addition,the groups recognized the very serious budget constraints which we are operating under, and have proposed a system to allocate Federal resources to those marine mammal stocks which are in the most serious need of recovery. I applaud the hard work which went into this process and only wish that more groups would be willing to iron out their differences to achieve a workable balance between economic and environmental concerns.

PINNIPED-FISHERY INTERACTION TASK FORCE

Included within S. 1636, is an amendment which I offered during the Commerce Committee markup of the legislation. This provision, entitled the "Pinniped-Fishery Interaction Task Force," was the result of negotiation and collaboration on behalf of various groups concerned with predation by "nuisance" animals.

The task force provision may appear as obscure to some, but in fact it addresses a decade-long problem in Washington State which has the potential to put two major environmental laws at odds with one another.

Briefly, the situation is this: Each year a wild run of steelhead salmon return to spawn at the Ballard Locks in Seattle, WA. Not coincidentally, 10 or so California sea lions have made the Ballard Locks their feeding ground for well over a decade. As a result of the incredible appetite of these sea lions, there has been a dramatic decline in a

run of wild steelhead salmon. Consequently, this fish run—a run which 10 years ago numbered nearly 2,000—today numbers less than 40.

In addition, a similar mammal-fishery interaction on the Columbia River is widely believed to have caused a decline in fish runs along the river. Although this case is not nearly as well documented as the Ballard Locks, it too deserve careful attention by fishery officials from the State and Federal level.

At the Ballard Locks, numerous nonlethal means of removal have been attempted by the Washington State Department of Wildlife, National Marine Fisheries Service, with assistance from the U.S. Fish and Wildlife. The non-lethal means of removal have ranged from underwater fireworks, underwater ultrasound, underwater lights, and physically transporting the nuisance sea lions back to California—only to have them return to the Locks a few short weeks later.

The task force provision would allow any person to apply to the Secretary to authorize the legal removal of identified nuisance animals. The application must include a means of identifying the individual mammal(s) as well as a detailed description of the problem interaction and the expected benefits of the removal.

The Secretary must review the application within 15 days upon receipt. If the application contains sufficient evidence, the Secretary would be authorized to establish a Task Force, and publish notice in the Federal Register requesting public comment on the application.

In making its recommendation, the task force will consider criteria such as: population trends; feeding habits; location of the interaction; time of occurrence of the interaction; number of animals involved; past efforts to nonlethally deter the animal(s); a demonstration that all reasonable nonlethal steps have been taken with no success; the extent of harm, impact or imbalance with other species in the ecosystem; and the extent of behavior that presents an ongoing threat to public safety.

The task force shall consist of Department of Commerce staff, scientist familiar with the fishery, representatives of interested conservation and fishing groups, tribes, State wildlife officials, and others.

Within 60 days of establishment of the task force, the task force would make a recommendation to the Secretary either approving or disapproving the application for removal of the nuisance animal. The recommendation would include: a description of the specific animal(s); proposed location, time and method of removal; criteria for evaluating the success of the removal; and the duration of the authority for removal. The task force may also suggest nonlethal alternatives.

After receiving the recommendation, the Secretary would have 30 days to either approve or deny the application. Upon approval, the Secretary would begin immediately to implement the lethal removal. The removal must be performed by a Federal or State agency, or a qualified individual under contract to a Federal or State agency.

As you can tell there are numerous opportunities for public comment and safeguards in this provision to ensure a careful and thoughtful deliberation of the request to lethally remove a nuisance animal.

Over the past several weeks, as many groups in the Pacific Northwest have written to me in support of the task force provision. I would like to read from a few of these letters for you.

The National Fisheries Institute calls the task force—

the best way to address each particular situation [of nuisance predation] in a professional and scientific manner. Everyone would have an opportunity to participate [in the process].

The Pacific States Marine Fisheries Commission, which represents the States of Washington, Oregon, and California, wrote and said:

We support your amendment to S. 1636 * * * PSMFC views that provision as a step toward achieving a balanced ecosystem management approach within the MMPA.

Trout Unlimited, which was one of the authors of the provision, states that,

As Congress and the Nation struggle to preserve our fish and wildlife resources, it appears to us that appropriate changes in the MMPA can help. In our view, your task force provision provides the best tool for this situation, and others like it which may arise in the future.

And the Pacific Fisheries Legislative Task Force, which is made up of members from California, Alaska, Hawaii, Idaho, Oregon, and Washington, wrote in support of my provision, stating,

Your [provision] will help control the exploding populations of California Sea lions and harbor seals, and will help us save our west coast fishery resources. Your amendment is a modest approach.

The Northwest Indian Fisheries Commission, another author of the provision, states:

This very narrow provision is necessary to protect other valuable main resources in the ecosystem, such as Pacific Salmon and Steelhead, from extraordinary predation by marine mammals. * * * This is common sense.

The Washington State Wildlife Commission wrote in support of the task force, stating:

The Commission believes that the proposed Pinniped-Fishery Interaction Task Force, with its well-balanced representation, will use sound judgment when recommending to the Secretary approval or denial of an application for lethal removal of problem marine mammals.

Rob Turner, director of the Washington State Department of Fish and Wildlife, wrote to tell me that,

I fully support this approach that will provide the Secretary of Commerce and the State of Washington with the flexibility that will help us to avoid future listings of settlehead and salmon stocks on our rivers.

The Mountaineers, a conservation group in Washington State which represents over 14,000 members, supports my provision.

The Sportfishing Alliance, which is a coalition of major Washington State county sportsman councils, and represents over 20,000 members, supports the task force provision.

The King County Outdoor Sports Council "strongly supports" the task force provision.

And I have received letters from concerned fishermen, like Thomas Wilken, of Port Orchard, WA, who wrote that,

I regret lethal removal of the sea lions but I feel it is necessary to protect the steelhead. After all other previous attempts to save the sea lions have failed, lethal removal is the only viable and economic solution to the problem.

And the Lake City Sportsmen's club wrote to tell me that,

The wild salmon and steelhead should not be allowed to become extinct. Control and management of sea lions and harbor seals is needed now to remove these predators from the locks, so the steelhead and wild salmon can return to their spawning streams.

I have even more letters of support which I could read from today, however, I believe I have established the wide support for my provision from groups throughout the Pacific Northwest.

At this time, however, I would like to further clarify my position on the issue of lethal removal. My task force provision does not, much to my regret, effectively address the sea lion predation problem on the Columbia River. The task force provision does not address how to manage robust populations of mammals, in large part because the provision was the result of negotiation and compromise. Unfortunately, I anticipate that a few years from now, I may be required to come before the committee once again to attempt to correct the situation on the Columbia River.

The Columbia River is, perhaps, an even more disturbing and potentially more difficult problem than that of the Ballard Locks. The Columbia River is home to one endangered fish stock, two threatened, and the potential listing of several more. Combined with the fact that, according to the recommendations of the recovery team assigned to exploring options for recovery of these stocks. California sea lions have appeared as far up river as the Bonneville Dam and Wilamette Falls. Since 1991, the report states, partial counts of the sea lions number 200. The harbor seal also consistently feeds upon fish along the Columbia River. If you read the task force provision included within the Senate bill, you quickly realize that this provision will do nothing to

correct the situation presented by the herds of hungry seals and sea lions on the Columbia River.

HOUSE OF REPRESENTATIVES

While I am pleased that the Senate will go on record as supporting the task force provision, I continue to be concerned with recent actions in the House of Representatives on this issue.

As I have outlined here today, the task force provision addresses an issue of concern to people in my State, and to an extent the Pacific Northwest. The situation which we face at the Ballard Locks is unique to Washington State, and in the opinion of this Senator, those individual, scientists, environmentalists, recreational and commercial fishing interests, and interested parties should be able to give their recommendation to the Secretary of Commerce on how to best solve it.

The House, in its bill to reauthorize the MMPA, has elected to tie the hands of Washington State by linking Secretarial authority to allow for the lethal removal of nuisance animals to the listing of the preyed-upon species under the Endangered Species Act. Mr. President, in doing this, the House of Representatives places itself in the ironic position of advocating for the listing of a species before allowing an act to save it. It is ironic, for this Senator, that under the guise of advocating for the preservation of a few marine mammals, proven to be a nuisance, that the House committee would advocate for an ESA listing of a wild run of steelhead salmon. This Senator does not pretend to have the answers to such difficult questions, but knows that the House provision will not solve the problem of nuisance mammals in the Northwest, but rather will create new ones.

I realize that my dissatisfaction with the House provision on nuisance animals will carry little weight with the members of that committee. I will fight hard during the House-Senate conference for the adoption of the Senate-approved provision because it reflects the input and views of Washington interests knowledgeable in this specific fishery-pinniped interaction.

Mr. LOTT. Madam President, I rise in support of the amendment offered by Senators EXON and DANFORTH.

Public display and scientific research institutions in Mississippi and throughout the United States play an essential role in marine mammal conservation. Over 100 million people annually visit such institutions and learn about the conservation of these magnificent creatures. The Marine Mammal Protection Act creates a special, favorable category for these activities, and it provides for simplified, nonburdensome procedures for them.

It is essential that permits continue to be granted for these beneficial purposes, and that they be granted on a timely and nonburdensome basis. This amendment accomplishes two important goals. First, it reaffirms the role of public display in increasing public awareness and understanding about marine mammals. Second, it simplified and clarifies the public display permitting process.

Madam President, I am pleased to cosponsor this amendment. It represents a carefully crafted compromise that his bipartisan support. It is identical to language added to companion legislation in the House of Representatives by the Merchant Marine and Fisheries Committee.

Mr. CHAFEE. Madam President, I would like to direct a question on S. 1636 to my distinguished colleague, Senator STEVENS. Section 4(f) of S. 1636 provides for the granting of permits under the Marine Mammal Protection Act for the incidental take of marine mammals that are designated as depleted because they are listed as endangered or threatened under the Endangered Species Act. My understanding is that this provision does not affect any requirements of the Endangered Species Act, including the requirements of section 7 of the Endangered Species Act. Is this correct?

Mr. STEVENS. The requirements of the Endangered Species Act, including section 7 requirements, are not affected by this bill.

Mr. BAUCUS. Madam President, I share the concerns of Senator CHAFEE regarding the Endangered Species Act, which is within the jurisdiction of the Environment and Public Works Committee. I ask the distinguished chairman of the Commerce Committee whether he agrees that nothing in S. 1636 alters or amends the Endangered Species Act.

Mr. HOLLINGS. Yes, I agree.

Mr. BAUCUS. I thank the Senator.

The ACTING PRESIDENT pro tempore. Are there further amendments to be proposed?

AMENDMENT NO. 1551

(Purpose: To provide procedures relating to permits for the public display of marine mammals)

Mr. JOHNSTON. Madam President, I send a further amendment to the desk.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON] for Mr. EXON, for himself, Mr. DANFORTH, Mr. GRAHAM, Mr. INOUYE, Mr. MACK, Mrs. HUTCHISON, Mr. PACKWOOD, Mr. PRESSLER, Mr. COCHRAN, Mr. LOTT, Mr. GORTON, Mr. KERREY, Mr. DASCHLE, Mr. DECONCINI, Mr. SIMON, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, and Mr. D'AMATO, proposes an amendment numbered 1551.

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

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

The amendment is as follows:

Strike all on page 13, line 15, through page 15, line 19, and insert the following:

SEC. 5. PERMITS.

(a) PROHIBITIONS.—Section 102(a) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1372(a)) is amended—

(1) in paragraph (2)(B), by striking "for any purpose in any way connected with the taking or importation of" and inserting in lieu thereof "to take or import"; and

(2) by amending paragraph (4) to read as follows:

"(4) for any person to transport, purchase, sell, export, or offer to purchase, sell, or export any marine mammal or marine mammal product—

"(A) that is taken in violation of this Act; or

"(B) for any purpose other than public display, scientific research, or enhancing the survival of a species or stock as provided for under section 104(c); and".

(b) PERMITS.—Section 104(a) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1374(a)) is amended—

(A) by inserting ", harassment," immediately after "taking"; and

(B) by inserting "except for the incidental taking of marine mammals during the course of commercial fishing operations" immediately before the period at the end.

(2) Section 104(c)(1) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1374(c)(1) is amended by striking "and after" in the first sentence.

(3) Paragraph (2) of section 104(c) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1374(c)) is amended to read as follows:

"(2)(A) A permit may be issued to take or import a marine mammal for the purpose of public display only to a person which the Secretary determines—

"(i) offers a program for education or conservation purposes that is based on professionally recognized standards of the public display community;

"(ii) is registered or holds a license issued under the Animal Welfare Act (7 U.S.C. 2131 et seq.); and

"(iii) maintains facilities for the public display of marine mammals that are open to the public on a regularly scheduled basis and that access to such facilities is not limited or restricted other than by charging of an admission fee.

"(B) A permit under this paragraph shall grant to the person to which it is issued the right, without obtaining any additional permit or authorization under this Act, to—

"(i) take, import, purchase, offer to purchase, possess, or transport the marine mammal that is the subject of the permit; and

"(ii) sell, export, or otherwise transfer possession of the marine mammal, or offer to sell, export, or otherwise transfer possession of the marine mammal—

"(I) for the purpose of public display, to a person that meets the requirements of clauses (i), (ii), and (iii) of subparagraph (A);

"(II) for the purpose of scientific research, to a person that meets the requirements of paragraph (3); or

"(III) for the purpose of enhancing the survival or recovery of a species or stock, to a person that meets the requirements of paragraph (4).

"(C) A person to which a marine mammal is sold or exported or to which possession of a marine mammal is otherwise transferred under the authority of subparagraph (B) shall have the rights and responsibilities described in subparagraph (B) with respect to the marine mammal without obtaining any

additional permit or authorization under this Act. Such responsibilities shall—

"(i) for the purpose of public display, be limited to the responsibility to meet the requirements of clauses (i), (ii), and (iii) of subparagraph (A);

"(ii) for the purpose of scientific research, be limited to the responsibility to meet the requirements of paragraph (3); and

"(iii) for the purpose of enhancing the survival or recovery of a species or stock, be limited to the responsibility to meet the requirements of paragraph (4).

"(D) If the Secretary—

"(i) finds, in concurrence with the Secretary of Agriculture, that a person that holds a permit under this paragraph for a marine mammal, or a person exercising rights under subparagraph (c), no longer meets the requirements of subparagraph (A)(ii) and is not reasonably likely to meet those requirements in the near future, or

"(ii) finds that a person that holds a permit under this paragraph for a marine mammal, or a person exercising rights under subparagraph (C), no longer meets the requirements of subparagraph (A)(i) or (iii) and is not reasonably likely to meet those requirements in the near future,

the Secretary may revoke the permit in accordance with section 104(e), seize the marine mammals, or cooperate with other persons authorized to hold marine mammals under this Act for disposition of the marine mammal. The Secretary may recover from the person expenses incurred by the Secretary for that seizure.

"(E) No marine mammal held pursuant to a permit issued under subparagraph (A) may be sold, purchased, exported, or transported unless the Secretary is notified of such action no later than 15 days before such action, and such action is for purposes of public display, scientific research, or enhancing the survival or recovery of a species or stock. The Secretary may only require the notification to include the information required for the inventory established under paragraph (10).".

(4) Paragraph (3) of section 104(c) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1374(c)) is amended to read as follows:

"(3)(A) A permit may be issued, for scientific research purposes that are likely to result in the taking or harassment of a marine mammal, to an applicant who submits information with the permit application indicating that the taking or harassment is required to further a bona fide scientific purpose. The Secretary is authorized to issue permits under this paragraph prior to the end of the mandatory public review and comment period if delaying the issuance of such permit could result in harm to a species, stock, or individual marine mammal, or result in loss of unique research opportunities.

"(B) No permit issued for purposes of scientific research under subparagraph (A) shall authorize the lethal taking of a marine mammal unless the applicant submits documentation to the Secretary that a nonlethal method of conducting the research is not feasible. The Secretary shall not issue a permit for research which involves the lethal taking of a marine mammal from a species or stock designated as depleted, unless the Secretary determines that the results of such research will directly benefit that species or stock, or that such research fulfills a critically important research need.

"(C) Not later than 60 days after the date of enactment of the Marine Mammal Protection Act Amendments of 1994, the Secretary shall grant a general authorization and shall issue implementing regulations allowing bona fide scientific research that is not likely to result in the taking or harassment of a marine mammal. Such authorization shall apply to persons who submit, at least 60 days prior to commencement of the research, a letter of intent to the Secretary specifying—

"(i) the species or stock of marine mammal on which the research will be conducted;

"(ii) the geographic location of the research;

"(iii) the period of time over which the research will be conducted;

"(iv) the purpose of the research, including a description of how the definition of bona fide research as established by the Secretary under this Act would apply; and

"(v) the methods used to conduct the research.

Not later than 30 days after receipt of a letter of intent to conduct scientific research under the general authorization, the Secretary may notify the applicant that the proposed research is likely to result in the taking or harassment of a marine mammal, and that the provisions of subparagraph (A) apply. If no such notification is received, the proposed research shall be covered under the general authorization.".

(5) Section 104(c) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1374(c)) is amended by adding at the end the following new paragraphs:

"(7) Upon request by a person for a permit under paragraph (2), (3), or (4) for a marine mammal which is in the possession of any person authorized to possess it under this Act and which is determined under guidance under section 402(a) not to be releasable to the wild, the Secretary shall issue the permit to the person requesting the permit if that person—

"(A) meets the requirements of clauses (i), (ii), and (iii) of paragraph (2)(A), in the case of a request for a permit under paragraph (2);

"(B) meets the requirements of paragraph (3), in the case of a request for a permit under that paragraph; or

"(C) meets the requirements of paragraph (4), in the case of a request for a permit under that paragraph.

"(8)(A) No additional permit or authorization shall be required to possess, sell, purchase, transport, export, or offer to sell or purchase the progeny of marine mammals taken or imported under this subsection, if such possession, sale, purchase, transport, export, or offer to sell or purchase is—

"(i) for the purpose of public display, and by or to, respectively, a person which meets the requirements of clauses (i), (ii), and (iii) of paragraph (2)(A);

"(ii) for the purpose of scientific research, and by or to, respectively, a person which meets the requirements of paragraph (3); or

"(iii) for the purpose of enhancing the survival or recovery of a species or stock, and by or to, respectively, a person which meets the requirements of paragraph (4).

"(B)(i) A person which has possession of a marine mammal pursuant to a permit under paragraph (2), or a persons exercising rights under paragraph (2)(C), that gives birth to progeny shall—

"(I) notify the Secretary of the birth of such progeny within 30 days after the date of birth; and

"(II) notify the Secretary of the sale, purchase, or transport of such progeny no later than 15 days before such action.

"(ii) The Secretary may only require notification under clause (i) to include the information required for the inventory established under paragraph (10).

"(C) Any progeny of a marine mammal born in captivity before the date of enactment of the Marine Mammal protection Act Amendments of 1994 and held in captivity for the purpose of public display shall be treated as though born after that date of enactment.

"(9) No marine mammal may be exported for the purpose of public display, scientific research, or enhancing the survival or recovery of a species or stock unless the receiving facility meets standards that are comparable to the requirements that a person must meet to receive a permit under this subsection for that purpose.

"(10) The Secretary shall establish and maintain an inventory of all marine mammals possessed pursuant to permits issued under paragraph (2) and all progeny of such marine mammals. The inventory shall contain, for each marine mammal, only the following information, which shall be provided by a person holding a marine mammal under this Act:

"(A) The name of the marine mammal or other identification.

"(B) The sex of the marine mammal.

"(C) The estimated or actual birth date of the marine mammal.

"(D) The date of acquisition or disposition of the marine mammal by the permit holder.

"(E) The source from whom the marine mammal was acquired, including the location of the take from the wild, if applicable.

"(F) If the marine mammal is transferred, the name of the recipient.

"(G) A notion if the animal was acquired as the result of a stranding.

"(H) The date of death of the marine mammal and the cause of death when determined.".

(c) EXISTING PERMITS.—Any permit issued under section 104(c)(2) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1374(c)(2)) before the date of the enactment of this Act is hereby modified to be consistent with that section, as amended by this Act.

Mr. EXON. Madam President, I am pleased to file an amendment to the Marine Mammal Protection Act to improve the administration of the act as it relates to zoos, aquariums, and scientific research institutions. This amendment has broad bipartisan support from all regions of the country. It embraces a compromise worked out in the House of Representatives between those who display marine mammals, and the Clinton administration.

In 1992 alone, over 108 million people visited American zoos and aquariums. In fact, I can think of no better form of family entertainment and education. Research has also shown that wildlife public display programs are not only educational, they enhance public commitment to conservation.

In Nebraska, we are blessed with a number of premier zoos. The Henry Doorly Zoo in Omaha, the Riverside Zoo in Scottsbluff, and the Folsom's Children's Zoo in Lincoln, NE are nationally and internationally known. And the Henry Doorly Zoo will soon be the home of a world class aquarium.

America's public display institutions are playing an absolutely critical role in the conservation of marine mammals and endangered species. They have taken their responsibilities to the

public, their animals and future generations very seriously. Self regulation among America's zoos, aquariums, and marine parks significantly exceeds minimum Federal and State standards.

In recent months, the U.S. Department of Agriculture and the U.S. Department of Commerce have been engaged in a jurisdictional tussle, which, if unresolved threatens to significantly complicate zoo and aquarium operations. Unless the Congress acts, there will be confusion, duplication, and added expense for virtually all American zoos and aquariums.

This amendment, worked out between the public display community, the House Environment and Natural Resources Subcommittee and the Clinton administration takes a common sense approach and attempts to untangle a complicated knot of regulation and oversight.

The amendment will clarify the lines of responsibility, between the U.S. Department of Commerce and the U.S. Department of Agriculture, streamline the paperwork required when animals are transferred between exhibitors, improve the animal inventory system, maintain high standards for animal care and facilities and give Federal authorities the ability to act quickly to protect marine mammals when facilities and care fall below acceptable levels.

I encourage my colleagues to join in support for this common sense compromise. Thank you Madam President.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment (No. 1551) was agreed to.

Mr. JOHNSTON. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The ACTING PRESIDENT pro tempore. If there are no further amendments to be proposed, the substitute amendment, as amended, is agreed to.

So the amendment (No. 1550), as amended, was agreed to.

The ACTING PRESIDENT pro tempore. The bill is deemed read three times and passed.

So the bill (S. 1636) was deemed read three times and passed, as follows:

S. 1636

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 "Marine Mammal Protection Act Amendments of 1994".

SEC. 2. PURPOSES.

The purposes of this Act are to—

(1) authorize appropriations to carry out the Marine Mammal Protection Act of 1972 for the fiscal years 1994 through 1999;

(2) ensure that the incidental mortality and serious injury of marine mammals in commercial fisheries does not cause any species or stock of marine mammals to be reduced to or maintained at, for significant periods of time, a level that is below the lower limit of its optimum sustainable population range;

(3) prohibit intentional killing of marine mammals during commercial fishing;

(4) improve efforts to identify and address the most significant problems involving incidental mortality and serious injury of marine mammals in commercial fishing operations, considering the population size and status of the affected marine mammal stocks and the numbers of marine mammals that are incidentally killed or injured in commercial fisheries;

(5) ensure that the procedure for authorizing the incidental taking of marine mammals in commercial fisheries is consistent with the long-term objective of identifying and taking such steps as may be practicable to reduce incidental mortality and serious injury from commercial fishing operations to insignificant rates approaching zero; and

(6) continue cost-effective programs for reliably monitoring (A) the levels of incidental mortality and serious injury of marine mammals in commercial fisheries and (B) the size and current population trends of the affected marine mammal stocks.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

(a) DEPARTMENT OF COMMERCE.—Section 7(a) of the Act entitled "An Act to improve the operation of the Marine Mammal Protection Act of 1972, and for other purposes", approved October 9, 1981 (16 U.S.C. 1384(a)), is amended to read as follows:

"(a) DEPARTMENT OF COMMERCE.—(1) There are authorized to be appropriated to the Department of Commerce, for purposes of carrying out such functions and responsibilities as it may have been given under title I of the Marine Mammal Protection Act of 1972 (other than sections 117 and 118 of that Act), $12,138,000 for fiscal year 1994, $12,623,000 for fiscal year 1995, $13,128,000 for fiscal year 1996, $13,653,000 for fiscal year 1997, $14,200,000 for fiscal year 1998, and $14,768,000 for fiscal year 1999.

"(2) There are authorized to be appropriated to the Department of Commerce, for purposes of carrying out sections 117 and 118 of the Marine Mammal Protection Act of 1972, $15,000,000 for each of the fiscal years 1994 through 1999.".

(b) DEPARTMENT OF THE INTERIOR.—Section 7(b) of the Act entitled "An Act to improve the operation of the Marine Mammal Protection Act of 1972, and for other purposes", approved October 9, 1981 (16 U.S.C. 1384(b)), is amended to read as follows:

"(b) DEPARTMENT OF THE INTERIOR.—There are authorized to be appropriated to the Department of the Interior, for purposes of carrying out such functions and responsibilities as it may have been given under title I of the Marine Mammal Protection Act of 1972, $8,000,000 for fiscal year 1994, $8,600,000 for fiscal year 1995, $9,000,000 for fiscal year 1996, $9,400,000 for fiscal year 1997, $9,900,000 for fiscal year 1998, and $10,296,000 for fiscal year 1999.".

(c) MARINE MAMMAL COMMISSION.—Section 7(c) of the Act entitled "An Act to improve the operation of the Marine Mammal Protection Act of 1972, and for other purposes", approved October 9, 1981 (16 U.S.C. 1407), is amended to read as follows:

"(c) MARINE MAMMAL COMMISSION.—There are authorized to be appropriated to the Marine Mammal Commission, for purposes of carrying out such functions and responsibilities as it may have been given under title II of the Marine Mammal Protection Act of 1972, $1,350,000 for fiscal year 1994, $1,400,000 for fiscal year 1995, $1,450,000 for fiscal year 1996, $1,500,000 for fiscal year 1997, $1,550,000 for fiscal year 1998, and $1,600,000 for fiscal year 1999.".

SEC. 4. MORATORIUM AND EXCEPTIONS.

(a) IN GENERAL.—In introductory matter of section 101(a) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)) is amended—

(1) by inserting ", harassment," immediately before "and importation"; and

(2) by inserting "or harassment" immediately after "for the taking".

(b) PERMITS FOR RESEARCH, DISPLAY, ENHANCING SURVIVAL OR RECOVERY.—Section 101(a)(1) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(1)) is amended to read as follows:

"(1) Consistent with the provisions of section 104, permits may be issued by the Secretary for the taking, harassment, and importation of marine mammals for purposes of scientific research, public display, or enhancing the survival or recovery of a species or stock. Such permits may be issued if the taking, harassment, or importation proposed to be made is first reviewed by the Marine Mammal Commission and the Committee of Scientific Advisors on Marine Mammals established under title II. The Commission and the Committee shall recommend any proposed taking, harassment, or importation which is consistent with the purpose and policies of section 2. The Secretary shall, if the Secretary grants approval for importation, issue to the importer concerned a certificate to that effect which shall be in such form as the Secretary of Treasury prescribes and such importation may be made upon presentation of the certificate to the customs officer concerned.".

(c) AUTHORIZATION FOR INCIDENTAL TAKING DURING COMMERCIAL FISHERIES.—The first sentence of section 101(a)(2) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(2)) is amended by inserting immediately before the period at the end the following: ", or in lieu of such permits, authorizations may be granted therefor under section 118, subject to regulations prescribed under that section by the Secretary without regard to section 103.".

(d) TAKING OR IMPORTATION FROM DEPLETED STOCKS.—(1) Section 101(a)(3)(A) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(3)(A)) is amended by inserting ", except as provided in paragraph (6)," after "that" in the second proviso.

(2) Section 101(a)(3)(B) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(3)(B)) is amended by inserting ", or as provided for under paragraph (5) of this subsection," immediately after "subsection,".

(e) AUTHORIZATION FOR HARASSMENT OF SMALL NUMBERS OF MARINE MAMMALS.—Section 101(a)(5) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(5)) is amended—

(1) in subparagraph (A), by inserting "or harassment" immediately after "taking" each place it appears; and

(2) by adding at the end the following new subparagraph:

"(D)(i) Upon request therefor by citizens of the United States who engage in a specified activity (other than commercial fishing) within a specific geographic region, the Secretary shall authorize, for periods of not more than one year, subject to such conditions as the Secretary may specify, the incidental, but not intentional, harassment of small numbers of marine mammals of a spe-

cies or population stock by such citizens while engaging in that activity within that region if the Secretary finds that such harassment during each period concerned—

"(I) will have a negligible impact on such species or stock; and

"(II) will not have an unmitigable adverse impact on the availability of such species or stock for taking for subsistence uses pursuant to subsection (b), or section 109(f), or pursuant to a cooperative agreement under section 120.

"(ii) The authorization for such activity shall prescribe, where applicable—

"(I) permissible methods of taking pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for subsistence uses pursuant to subsection (b), or section 109(f), or pursuant to a cooperative agreement under section 120;

"(II) the measures that the Secretary determines are necessary to ensure no unmitigable adverse impact on the availability of the species or stock for subsistence uses pursuant to subsection (b), or section 109(f), or pursuant to a cooperative agreement under section 120; and

"(III) requirements pertaining to the monitoring and reporting of such taking, including requirements for the independent peer review of proposed monitoring plans or other research proposals where the proposed activity may affect the availability of a species or stock for taking for subsistence uses pursuant to subsection (b), or section 109(f), or pursuant to a cooperative agreement under section 120.

"(iii) The Secretary shall publish a proposed authorization not later than 45 days after receiving an application under this subparagraph and request public comment through notice in the Federal Register, newspapers of general circulation, and appropriate electronic media and to all locally affected communities for a period of 30 days after publication. Not later than 45 days after the close of the public comment period, if the Secretary makes the findings set forth in clause (i), the Secretary shall issue an authorization with appropriate conditions to meet the requirements of clause (ii).

"(iv) The Secretary shall modify, suspend, or revoke an authorization if the Secretary finds that the provisions of clauses (i) and (ii) are not being met.

"(v) A person conducting an activity for which an authorization has been granted under this subparagraph shall not be subject to the penalties of this Act for harassment that occurs in compliance with such authorization.".

(f) PERMITS CONCERNING ENDANGERED OR THREATENED MARINE MAMMAL STOCKS.—Section 101(a)(5) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(5)), as amended by this Act, is further amended by adding at the end the following new subparagraph:

"(E)(i) During any period of three consecutive years, the Secretary shall allow the incidental, but not the intentional, taking or harassment by persons using vessels of the United States or vessels which have valid fishing permits issued by the Secretary in accordance with section 204(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)), while engaging in commercial fishing operations, of marine mammals from a species or stock designated as depleted because of its listing as an endangered or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) if the Secretary, after notice and opportunity for public comment, determines that—

"(I) the incidental mortality and serious injury from commercial fisheries will have a negligible impact on such species or stock;

"(II) a recovery plan has been developed or is being developed for such species or stock pursuant to the Endangered Species Act of 1973; and

"(III) where required under section 118, a monitoring program is established under subsection (d) of such section, vessels engaged in such fisheries are registered in accordance with such section, and an incidental take reduction plan has been developed or is being developed for such species or stock.

"(ii) Upon a determination by the Secretary that the requirements of clause (i) have been met, the Secretary shall publish in the Federal Register a list of those fisheries for which such determination was made, and, for vessels required to register under section 118, shall issue an appropriate permit for each authorization granted under such section to vessels to which this paragraph applies. Vessels engaged in a fishery included in the notice published by the Secretary under this clause which are not required to register under section 118 shall not be subject to the penalties of this Act for the incidental taking of marine mammals to which this paragraph applies, so long as the owner or master of such vessel reports any incidental mortality or injury of such marine mammals to the Secretary in accordance with section 118.

"(iii) If, during the course of the commercial fishing season, the Secretary determines that the level of incidental mortality or serious injury from commercial fisheries for which a determination was made under clause (i) has resulted or is likely to result in an impact that is more than negligible on the endangered or threatened species or stock, the Secretary shall use the emergency authority granted under section 118 to protect such species or stock, and may modify any permit granted under this paragraph as necessary.

"(iv) The Secretary may suspend for a time certain or revoke a permit granted under this subparagraph only if the Secretary determines that the conditions or limitations set forth in such permit are not being substantially complied with. The Secretary may amend or modify, after notice and opportunity for public comment, the list of fisheries published under clause (ii) whenever the Secretary determines there has been a substantial change in the information or conditions used to determine such list.

"(v) Sections 103 and 104 shall not apply to the taking of marine mammals under the authority of this subparagraph.".

(g) IMPORTATION OF CERTAIN PRODUCTS.—Section 101(a) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)) is amended by adding at the end the following new paragraph:

"(6)(A) A marine mammal product may be imported into the United States if the product—

"(i) was owned and exported by any person in conjunction with travel outside the United States;

"(ii) was acquired outside of the United States as part of a cultural exchange by an Indian, Aleut, or Eskimo residing in Alaska; or

"(iii) is owned by a Native inhabitant of Russia, Canada, or Greenland and is imported for noncommercial purposes in conjunction with travel within the United States or as part of a cultural exchange with an Indian, Aleut, or Eskimo residing in Alaska.

"(B) For the purposes of this paragraph, the term—

"(i) 'Native inhabitant of Russia, Canada, or Greenland' means a person residing in Russia, Canada, or Greenland who is related by blood, is a member of the same clan or ethnological grouping, or shares a common heritage with an Indian, Aleut, or Eskimo residing in Alaska; and

"(ii) 'cultural exchange' means the sharing or exchange of ideas, information, gifts, clothing, or handicrafts between an Indian, Aleut, or Eskimo residing in Alaska and a Native inhabitant of Russia, Canada, or Greenland, including rendering of raw marine mammal parts as part of such exchange into clothing or handicrafts through carving, painting, sewing, or decorating.".

(h) ACTIONS AFFECTING SECTION 101(b).—Section 101(b) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(b)) is amended by adding at the end the following new sentence: "In promulgating any regulation or making any assessment pursuant to a hearing or proceeding under this subsection or section 117(b)(2), or in making any determination or finding under this Act that affects stocks or persons to which this subsection applies, the Secretary shall be responsible for demonstrating that such regulation, assessment, determination, or finding is supported by substantial evidence on the basis of the record as a whole. The preceding sentence shall only be applicable in an action brought by one or more Alaska Native organizations representing persons to which this subsection applies.".

(i) TAKING IN DEFENSE OF SELF OR ANOTHER PERSON.—Section 101(c) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(c)) is amended to read as follows:

"(c) It shall not be a violation of this Act to take a marine mammal if—

"(1) such taking is imminently necessary in self-defense or to save the life of a person in immediate danger; and

"(2) such taking is reported to the Secretary within 48 hours and, whenever feasible, any carcass is made available to the Secretary intact.".

SEC. 5. PERMITS.

(a) PROHIBITIONS.—Section 102(a) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1372(a)) is amended—

(1) in paragraph (2)(B), by striking "for any purpose in any way connected with the taking or importation of" and inserting in lieu thereof "to take or import"; and

(2) by amending paragraph (4) to read as follows:

"(4) for any person to transport, purchase, sell, export, or offer to purchase, sell, or export any marine mammal or marine mammal product—

"(A) that is taken in violation of this Act; or

"(B) for any purpose other than public display, scientific research, or enhancing the survival of a species or stock as provided for under section 104(c); and".

(b) PERMITS.—(1) Section 104(a) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1374(a)) is amended—

(A) by inserting ", harassment," immediately after "taking"; and

(B) by inserting "except for the incidental taking of marine mammals during the course of commercial fishing operations" immediately before the period at the end.

(2) Section 104(c)(1) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1374(c)(1) is amended by striking "and after" in the first sentence.

(3) Paragraph (2) of section 104(c) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1374(c)) is amended to read as follows:

"(2)(A) A permit may be issued to take or import a marine mammal for the purpose of public display only to a person which the Secretary determines—

"(i) offers a program for education or conservation purposes that is based on professionally recognized standards of the public display community;

"(ii) is registered or holds a license issued under the Animal Welfare Act (7 U.S.C. 2131 et seq.); and

"(iii) maintains facilities for the public display of marine mammals that are open to the public on a regularly scheduled basis and that access to such facilities is not limited or restricted other than by charging of an admission fee.

"(B) A permit under this paragraph shall grant to the person to which it is issued the right, without obtaining any additional permit or authorization under this Act, to—

"(i) take, import, purchase, offer to purchase, possess, or transport the marine mammal that is the subject of the permit; and

"(ii) sell, export, or otherwise transfer possession of the marine mammal, or offer to sell, export, or otherwise transfer possession of the marine mammal—

"(I) for the purpose of public display, to a person that meets the requirements of clauses (i), (ii), and (iii) of subparagraph (A);

"(II) for the purpose of scientific research, to a person that meets the requirements of paragraph (3); or

"(III) for the purpose of enhancing the survival or recovery of a species or stock, to a person that meets the requirements of paragraph (4).

"(C) A person to which a marine mammal is sold or exported or to which possession of a marine mammal is otherwise transferred under the authority of subparagraph (B) shall have the rights and responsibilities described in subparagraph (B) with respect to the marine mammal without obtaining any additional permit or authorization under this Act. Such responsibilities shall—

"(i) for the purpose of public display, be limited to the responsibility to meet the requirements of clauses (i), (ii), and (iii) of subparagraph (A);

"(ii) for the purpose of scientific research, be limited to the responsibility to meet the requirements of paragraph (3); and

"(iii) for the purpose of enhancing the survival or recovery of a species or stock, be limited to the responsibility to meet the requirements of paragraph (4).

"(D) If the Secretary—

"(i) finds, in concurrence with the Secretary of Agriculture, that a person that holds a permit under this paragraph for a marine mammal, or a person exercising rights under subparagraph (C), no longer meets the requirements of subparagraph (A)(ii) and is not reasonably likely to meet those requirements in the near future, or

"(ii) finds that a person that holds a permit under this paragraph for a marine mammal, or a person exercising rights under subparagraph (C), no longer meets the requirements of subparagraph (A) (i) or (iii) and is not reasonably likely to meet those requirements in the near future,

the Secretary may revoke the permit in accordance with section 104(e), seize the marine mammal, or cooperate with other persons authorized to hold marine mammals under this Act for disposition of the marine mammal. The Secretary may recover from the person expenses incurred by the Secretary for that seizure.

"(E) No marine mammal held pursuant to a permit issued under subparagraph (A) may be sold, purchased, exported, or transported unless the Secretary is notified of such action no later than 15 days before such action, and such action is for purposes of public display, scientific research, or enhancing the survival or recovery of a species or stock. The Secretary may only require the notification to include the information required for the inventory established under paragraph (10).".

(4) Paragraph (3) of section 104(c) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1374(c)) is amended to read as follows:

"(3)(A) A permit may be issued, for scientific research purposes that are likely to result in the taking or harassment of a marine mammal, to an applicant who submits information with the permit application indicating that the taking or harassment is required to further a bona fide scientific purpose. The Secretary is authorized to issue permits under this paragraph prior to the end of the mandatory public review and comment period if delaying the issuance of such permit could result in harm to a species, stock, or individual marine mammal, or result in loss of unique research opportunities.

"(B) No permit issued for purposes of scientific research under subparagraph (A) shall authorize the lethal taking of a marine mammal unless the applicant submits documentation to the Secretary that a nonlethal method of conducting the research is not feasible. The Secretary shall not issue a permit for research which involves the lethal taking of a marine mammal from a species or stock designated as depleted, unless the Secretary determines that the results of such research will directly benefit that species or stock, or that such research fulfills a critically important research need.

"(C) Not later than 60 days after the date of enactment of the Marine Mammal Protection Act Amendments of 1994, the Secretary shall grant a general authorization and shall issue implementing regulations allowing bona fide scientific research that is not likely to result in the taking or harassment of a marine mammal. Such authorization shall apply to persons who submit, at least 60 days prior to commencement of the research, a letter of intent to the Secretary specifying—

"(i) the species or stock of marine mammal on which the research will be conducted;

"(ii) the geographic location of the research;

"(iii) the period of time over which the research will be conducted;

"(iv) the purpose of the research, including a description of how the definition of bona fide research as established by the Secretary under this Act would apply; and

"(v) the methods used to conduct the research.

Not later than 30 days after receipt of a letter of intent to conduct scientific research under the general authorization, the Secretary may notify the applicant that the proposed research is likely to result in the taking or harassment of a marine mammal, and that the provisions of subparagraph (A) apply. If no such notification is received, the proposed research shall be covered under the general authorization.".

(5) Section 104(c) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1374(c)) is amended by adding at the end the following new paragraphs:

"(7) Upon request by a person for a permit under paragraph (2), (3), or (4) for a marine mammal which is in the possession of any person authorized to possess it under this Act and which is determined under guidance under section 402(a) not to be releasable to the wild, the Secretary shall issue the permit to the person requesting the permit if that person—

"(A) meets the requirements of clauses (i), (ii), and (iii) of paragraph (2)(A), in the case of a request for a permit under paragraph (2);

"(B) meets the requirements of paragraph (3), in the case of a request for a permit under that paragraph; or

"(C) meets the requirements of paragraph (4), in the case of a request for a permit under that paragraph.

"(8)(A) No additional permit or authorization shall be required to possess, sell, purchase, transport, export, or offer to sell or purchase the progeny of marine mammals taken or imported under this subsection, if such possession, sale, purchase, transport, export, or offer to sell or purchase is—

"(i) for the purpose of public display, and by or to, respectively, a person which meets the requirements of clauses (i), (ii), and (iii) of paragraph (2)(A);

"(ii) for the purpose of scientific research, and by or to, respectively, a person which meets the requirements of paragraph (3); or

"(iii) for the purpose of enhancing the survival or recovery of a species or stock, and by or to, respectively, a person which meets the requirements of paragraph (4).

"(B)(i) A person which has possession of a marine mammal pursuant to a permit under paragraph (2), or a person exercising rights under paragraph (2)(C), that gives birth to progeny shall—

"(I) notify the Secretary of the birth of such progeny within 30 days after the date of birth; and

"(II) notify the Secretary of the sale, purchase, or transport of such progeny no later than 15 days before such action.

"(ii) The Secretary may only require notification under clause (i) to include the information required for the inventory established under paragraph (10).

"(C) Any progeny of a marine mammal born in captivity before the date of enactment of the Marine Mammal Protection Act Amendments of 1994 and held in captivity for the purpose of public display shall be treated as though born after that date of enactment.

"(9) No marine mammal may be exported for the purpose of public display, scientific research, or enhancing the survival or recovery of a species or stock unless the receiving facility meets standards that are comparable to the requirements that a person must meet to receive a permit under this subsection for that purpose.

"(10) The Secretary shall establish and maintain an inventory of all marine mammals possessed pursuant to permits issued under paragraph (2) and all progeny of such marine mammals. The inventory shall contain, for each marine mammal, only the following information, which shall be provided by a person holding a marine mammal under this Act:

"(A) The name of the marine mammal or other identification.

"(B) The sex of the marine mammal.

"(C) The estimated or actual birth date of the marine mammal.

"(D) The date of acquisition or disposition of the marine mammal by the permit holder.

"(E) The source from whom the marine mammal was acquired, including the location of the take from the wild, if applicable.

"(F) If the marine mammal is transferred, the name of the recipient.

"(G) A notation if the animal was acquired as the result of a stranding.

"(H) The date of death of the marine mammal and the cause of death when determined.".

(c) EXISTING PERMITS.—Any permit issued under section 104(c)(2) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1374(c)(2)) before the date of the enactment of this Act is hereby modified to be consistent with that section, as amended by this Act.

SEC. 6. CONSERVATION PLANS.

Section 115(b) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1383b(b)) is amended by adding at the end the following new paragraph:

"(4) If the Secretary determines that an incidental take reduction plan is necessary to reduce the incidental taking of marine mammals in the course of commercial fishing operations from a stock specified under section 117(a)(7), or for stocks which interact with a commercial fishery for which the Secretary has made a determination under section 118(b)(1), any conservation plan prepared under this subsection for such stock shall incorporate the incidental take reduction plan required under section 118 for such stock.".

SEC. 7. STOCK ASSESSMENTS.

(a) IN GENERAL.—Title I of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371 et seq.) is amended by adding at the end the following new section:

"SEC. 117. STOCK ASSESSMENTS.

"(a) IN GENERAL.—Not later than August 1, 1994, the Secretary shall, after consultation with the appropriate regional scientific working group established under subsection (d), prepare a draft stock assessment for each marine mammal stock which occurs in waters under the jurisdiction of the United States. Each draft stock assessment, based on the best scientific information available, shall—

"(1) describe the geographic range of the affected stock, including any seasonal or temporal variation in such range;

"(2) provide for such stock the minimum population estimate, current and maximum net productivity rates, and current population trend, including a description of the information upon which these are based;

"(3) estimate the annual anthropogenic mortality and serious injury of the stock and, for a stock specified under paragraph (7), other factors that may be causing a decline or impeding recovery of the stock, including effects on marine mammal habitat and prey;

"(4) describe commercial fisheries that interact with the stock, including—

"(A) the approximate number of vessels actively participating in each such fishery;

"(B) the estimated level of incidental mortality and serious injury of the stock by each such fishery on an annual basis;

"(C) seasonal or area differences in such incidental mortality or serious injury; and

"(D) the rate, based on a unit of fishing effort, of such incidental mortality and serious injury, and an analysis stating whether such level is insignificant and is approaching a zero mortality and serious injury rate;

"(5) categorize the status of the stock as one that either—

"(A) has a level of anthropogenic mortality and serious injury that is not likely to cause the stock to be reduced below its optimum sustainable population; or

"(B)(i) meets the criteria described under paragraph (7);

"(ii) is listed as threatened or endangered under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), or designated as depleted under this Act; or

"(iii) meets the criteria specified in both clauses (i) and (ii);

"(6) estimate the calculated removal level for the stock, describing the information used to calculate it, including the recovery factor; and

"(7) specify whether the Secretary has reason to believe that the level of anthropogenic mortality and serious injury for the stock is such that it may cause the stock to be reduced or maintained below its optimum sustainable population.

"(b) PUBLIC COMMENT.—(1) The Secretary shall publish in the Federal Register a notice of the availability of a draft stock assessment or any revision thereof and provide an opportunity for public review and comment during a period of 90 days. Such notice shall include a summary of the assessment and a list of the sources of information or published reports upon which the assessment is based.

"(2) Subsequent to the notice of availability required under paragraph (1), if requested by a person to which section 101(b) applies, the Secretary shall conduct a proceeding on the record prior to publishing a final stock assessment or any revision thereof for any stock subject to taking under section 101(b).

"(3) After consideration of the best scientific information available, the advice of the appropriate regional scientific review group established under subsection (d), and the comments of the general public, the Secretary shall publish in the Federal Register a notice of availability and a summary of the final stock assessment or any revision thereof, not later than 90 days after—

"(A) the close of the public comment period on a draft stock assessment or revision thereof; or

"(B) final action on an agency proceeding pursuant to paragraph (2).

"(c) REVIEW AND REVISION.—(1) The Secretary, in consultation with the appropriate regional scientific review group established under subsection (d), shall review stock assessments under this section—

"(A) annually for stocks specified under subsection (a)(7) or for which substantial new information is available; and

"(B) at least once every 3 years for all other marine mammal stocks.

"(2) If the review under paragraph (1) indicates that the status of the stock has changed or can be more accurately determined, the Secretary shall revise the stock assessment in accordance with subsection (b).

"(d) REGIONAL SCIENTIFIC REVIEW GROUPS.—(1) Not later than 60 days after the date of enactment of this section, the Secretary of Commerce shall, in consultation with the Secretary of the Interior (with respect to marine mammals under that Secretary's jurisdiction), the Governors of affected adjacent coastal States, regional fishery and wildlife management authorities, Alaska Native organizations and Indian tribes, environmental and fishery groups, establish at least two independent regional scientific review groups consisting of individuals with expertise in marine mammal biology and ecology, population dynamics and modeling, commercial fishing technology and practices, and stocks taken under section 101(b). The Secretary of Commerce shall, to the maximum extent practicable, attempt to achieve a balanced representation of viewpoints among the individuals on each regional scientific working group. The regional scientific review groups shall advise the Secretary on all aspects of the stock assessments required under this section.

"(2) The regional scientific review groups established under this section shall not be subject to the Federal Advisory Committee Act (5 App. U.S.C.).

"(3) Members of the regional scientific review groups shall serve without compensation, but may be reimbursed by the Secretary, upon request, for reasonable travel costs and expenses incurred in performing their duties as members of such regional scientific review groups.

"(4) The Secretary may appoint or reappoint individuals to the regional scientific working groups under paragraph (1) as needed.

"(e) EFFECT ON SECTION 101(b).—This section shall not affect or otherwise modify the provisions of section 101(b).".

SEC. 8. TAKING OF MARINE MAMMALS INCIDENTAL TO COMMERCIAL FISHING OPERATIONS.

Title I of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371 et seq.), as amended by this Act, is further amended by adding at the end the following new section:

"SEC. 118. TAKING OF MARINE MAMMALS INCIDENTAL TO COMMERCIAL FISHING OPERATIONS.

"(a) IN GENERAL.—(1) Effective on the date of enactment of this section, and except as provided in section 114 and in paragraphs (2), (3), and (4) of this section, the provisions of this section shall govern the incidental taking of marine mammals in the course of commercial fishing operations by persons using vessels of the United States or vessels which have valid fishing permits issued by the Secretary in accordance with section 204(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)). In any event it shall be the immediate goal that the incidental mortality or serious injury of marine mammals occurring in the course of commercial fishing operations be reduced to insignificant levels approaching a zero mortality and serious injury rate.

"(2) In the case of the incidental taking of marine mammals from species or stocks designated under this Act as depleted on the basis of their listing as threatened or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), both this section and section 101(a)(5)(E) of this Act shall apply.

"(3) Sections 104(h) and title III, and not this section, shall govern the taking of marine mammals in the course of commercial purse seine fishing for yellowfin tuna in the eastern tropical Pacific Ocean.

"(4) This section shall not govern the taking of marine mammals from the California population of sea otters to which the Act of November 7, 1986 (Public Law 99-625; 100 Stat. 3500) applies.

"(5) Sections 103 and 104 shall not apply to the incidental taking of marine mammals under the authority of this section.

"(6) Except as provided in section 101(c)(2), the intentional killing of any marine mammal in the course of commercial fishing operations is prohibited.

"(b) INCIDENTAL TAKE REDUCTION PLANS.—(1) The Secretary shall develop and implement an incidental take reduction plan designed to assist in the recovery of each marine mammal stock that is specified under section 117(a)(7) which interacts with a commercial fishery listed under subsection (f)(1)(A) (i) or (ii), and may develop and implement such a plan for any other marine

mammal stocks which interact with a commercial fishery listed under subsection (f)(1)(A)(i) which the Secretary determines, after notice and opportunity for public comment, has an excessive rate of mortality and serious injury across a number of such marine mammal stocks.

"(2) If there is insufficient funding available to develop and implement an incidental take reduction plan for all such stocks that interact with commercial fisheries listed under subsection (f)(1)(A) (i) or (ii), the Secretary shall give highest priority to the development and implementation of incidental take reduction plans for species or stocks whose level of incidental mortality and serious injury exceeds the calculated removal level, those that have a small population size, and those which are declining most rapidly.

"(3) Each incidental take reduction plan developed under this subsection for a stock shall include the following:

"(A) A review and evaluation of the information contained in the stock assessment published under section 117 and any substantial new information that may be available.

"(B) An evaluation and estimate of the total number and percentage of animals from the stock that are being killed or seriously injured each year as a result of commercial fishing activities.

"(C) Proposed management measures and voluntary actions for the reduction of incidental mortality and serious injury of marine mammals in commercial fisheries which interact with such stock.

"(D) A long-term strategy to reduce, to insignificant levels approaching a zero rate within 10 years, the incidental mortality and serious injury of marine mammals from the stock in the course of commercial fishing operations.

"(4)(A) Each incidental take reduction plan shall include projected dates for achieving the objectives of the plan.

"(B) For any stock in which incidental mortality and serious injury from commercial fisheries exceeds the calculated removal level established under section 117, the plan shall include measures the Secretary expects will reduce, within 6 months after commencement of operations by commercial fisheries that interact with that stock, such mortality and serious injury to a level below the calculated removal level.

"(C) For any stock in which anthropogenic mortality and serious injury exceeds the calculated removal level, other than a stock to which subparagraph (B) applies, the plan shall include measures the Secretary expects will reduce, to the maximum extent practicable within 6 months after commencement of operations by commercial fisheries that interact with that stock, the incidental mortality and serious injury by such commercial fisheries from that stock. For purposes of this subparagraph, the term 'maximum extent practicable' means to the lowest level that is feasible for such fisheries within the 6-month period.

"(5)(A) At the earliest possible time (not later than 60 days) after the Secretary issues a final stock assessment for a stock specified under section 117(a)(7), the Secretary shall, and for stocks that interact with a fishery listed under subsection (f)(1)(A)(i) for which the Secretary has made a determination under paragraph (1), the Secretary may—

"(i) establish an incidental take reduction team for such stock and appoint the members of such team in accordance with subparagraph (C); and

"(ii) publish in the Federal Register a notice of the team's establishment, the names of the team's appointed members, the full geographic range of such stock, and a list of all commercial fisheries that cause incidental mortality and serious injury of marine mammals from such stock.

"(B) The Secretary may charge an incidental take reduction team to address a stock that extends over one or more regions or fisheries, or multiple stocks within a region or fishery, if the Secretary determines that doing so would facilitate the development and implementation of plans required under this subsection.

"(C) Members of incidental take reduction teams shall be individuals knowledgeable and experienced regarding measures to conserve such stocks and to reduce incidental mortality and serious injury to such stock from commercial fishing operations. Members may include representatives of Federal and State agencies, Councils, interstate fishery commissions, academic and scientific organizations, environmental and fishery groups, Alaska Native organizations and Indian tribes, and others as the Secretary considers appropriate. Incidental take reduction teams shall include a representative of each affected Council and State, and shall, to the maximum extent practicable, include an equitable balance among representatives of government, resource user interests, and public interest groups. Incidental take reduction teams shall not be subject to the Federal Advisory Committee Act (5 App. U.S.C.) but their meetings shall be open to the public, after timely notice of the time and place of such meetings.

"(D) Members of incidental take reduction teams shall serve without compensation, but may be reimbursed by the Secretary, upon request, for reasonable travel costs and expenses incurred in performing their duties as members of the team.

"(6) Where the anthropogenic mortality and serious injury from a stock specified under section 117(a)(7) is estimated to be equal to or greater than the calculated removal level established under section 117 for such stock and such stock interacts with a fishery listed under subsection (f)(1)(A) (i) or (ii), the following procedures shall apply in the development of the incidental take reduction plan for the stock:

"(A)(i) Not later than 6 months after the date of establishment of an incidental take reduction team for the stock, the team shall submit a draft incidental take reduction plan for such stock to the Secretary, consistent with the other provisions of this section.

"(ii) Such draft incidental take reduction plan shall be developed by consensus. In the event consensus cannot be reached, the team shall advise the Secretary in writing on the range of possibilities considered by the team, and the views of both the majority and minority.

"(B)(i) The Secretary shall take the draft incidental take reduction plan into consideration and, not later than 60 days after the submission of the draft plan by the team, the Secretary shall publish in the Federal Register the plan proposed by the team, any changes proposed by the Secretary with an explanation of the reasons therefor, and proposed regulations to implement such plan, for public review and comment during a period of not to exceed 90 days.

"(ii) In the event that the incidental take reduction team does not submit a draft plan to the Secretary within 6 months, the Secretary shall, not later than 8 months after the establishment of the team, publish in the Federal Register a proposed incidental take reduction plan and implementing regulations, for public review and comment during a period of not to exceed 90 days.

"(C) Not later than 90 days after the close of the comment period required under subparagraph (B), the Secretary shall issue a final incidental take reduction plan and implementing regulations, consistent with the other provisions of this section.

"(D) the Secretary and the incidental take reduction team shall meet every 6 months, or at such other intervals as the Secretary determines are necessary, to monitor the implementation of the final incidental take reduction plan until such time that the Secretary determines that the objectives of such plan have been met.

"(E) the Secretary shall amend the incidental take reduction plan and implementing regulations as necessary to meet the requirements of this section, in accordance with the procedures in this section for the issuance of such plans and regulations.

"(7) Where the anthropogenic mortality and serious injury from a stock specified under section 117(a)(7) is estimated to be less than the calculated removal level established under section 117 for such stock and such stock interacts with a fishery listed under subsection (f)(1)(A) (i) or (ii), or for any marine mammal stocks which interact with a commercial fishery listed under subsection (f)(1)(A)(i) for which the Secretary has made a determination under paragraph (1), the following procedures shall apply in the development of the incidental take reduction plan for such stock:

"(A)(i) Not later than 11 months after the date of establishment of an incidental take reduction team for the stock, the team shall submit a draft incidental take reduction plan for the stock to the Secretary, consistent with the other provisions of this section.

"(ii) Such draft incidental take reduction plan shall be developed by consensus. In the event consensus cannot be reached, the team shall advise the Secretary in writing on the range of possibilities considered by the team, and the views of both the majority and minority.

"(B)(i) The Secretary shall take the draft incidental take reduction plan into consideration and, not later than 60 days after the submission of the draft plan by the team, the Secretary shall publish in the Federal Register the plan proposed by the team, any changes proposed by the Secretary with an explanation of the reasons therefor, and proposed regulations to implement such plan, for public review and comment during a period of not to exceed 90 days.

"(ii) In the event that the incidental take reduction team does not submit a draft plan to the Secretary within 11 months, the Secretary shall, not later than 13 months after the establishment of the team, publish in the Federal Register a proposed incidental take reduction plan and implementing regulations, for public review and comment during a period of not to exceed 90 days.

"(C) Not later than 90 days after the close of the comment period required under subparagraph (B), the Secretary shall issue a final incidental take reduction plan and implementing regulations, consistent with the other provisions of this section.

"(D) The Secretary and the incidental take reduction team shall meet on an annual basis, or at such other intervals as the Secretary determines are necessary, to monitor the implementation of the final incidental take reduction plan until such time that the Secretary determines that the objectives of such plan have been met.

"(E) The Secretary shall amend the incidental take reduction plan and implement-

ing regulations as necessary to meet the requirements of this section, in accordance with the procedures in this section for the issuance of such plans and regulations.

"(8) In implementing an incidental take reduction plan developed pursuant to this subsection, the Secretary may, where necessary to implement an incidental take reduction plan to protect or restore a marine mammal stock or species covered by such plan, promulgate regulations which include, but are not limited to, measures to—

"(A) establish fishery-specific limits on incidental mortality and serious injury of marine mammals in commercial fisheries or restrict commercial fisheries by time or area;

"(B) require the use of alternative commercial fishing gear or techniques and new technologies, encourage the development of such gear or technology, or convene expert skippers' panels;

"(C) educate commercial fishermen, through workshops and other means, on the importance of reducing the incidental mortality and serious injury of marine mammals in affected commercial fisheries; and

"(D) monitor the effectiveness of measures taken to reduce the level of incidental mortality and serious injury of marine mammals in the course of commercial fishing operations, as set forth in subsection (d).

"(9)(A) Notwithstanding paragraph (5), in the case of any stock to which paragraph (5) applies for which a final stock assessment has not been published under section 117(b)(3) by April 1, 1995, due to a proceeding under section 117(b)(2), or any Federal court review of such proceeding, the Secretary shall establish an incidental take reduction team under paragraph (5) for such stock as if a final stock assessment had been published.

"(B) The draft stock assessment published for such stock under section 117(b)(1) shall be deemed the final stock assessment for purposes of preparing and implementing an incidental take reduction plan for such stock under this section.

"(C) Upon publication of a final stock assessment for such stock under section 117(b)(3) the Secretary shall immediately reconvene the incidental take reduction team for such stock for the purpose of amending the incidental take reduction plan, and any regulations issued to implement such plan, if necessary, to reflect the final stock assessment or court action. Such amendments shall be made in accordance with paragraph (6)(E) or (7)(E), as appropriate.

"(D) A draft stock assessment may only be used as the basis for an incidental take reduction plan under this paragraph for a period of not to exceed two years, or until a final stock assessment is published, whichever is earlier. If, at the end of the two-year period, a final stock assessment has not been published, the Secretary shall categorize such stock under section 117(a)(5)(A) and shall revoke any regulations to implement an incidental take reduction plan for such stock.

"(E) Subparagraph (D) shall not apply for any period beyond two years during which a final stock assessment for such stock has not been published due to review of a proceeding on such stock assessment by a Federal court. Immediately upon final action by such court, the Secretary shall proceed under subparagraph (C).

"(10) Incidental take reduction plans developed under this section for a species or stock listed as a threatened or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) shall be consistent with any recovery plan developed for such species or stock under section 4 of such Act.

"(c) EMERGENCY REGULATIONS.—(1) If the Secretary finds that incidental mortality and serious injury of marine mammals from commercial fisheries is having, or is likely to have, an immediate and significant adverse impact on a stock or species, the Secretary shall take action as follows:

"(A) In the case of a stock or species for which an approved incidental take reduction plan is in effect, the Secretary shall—

"(i) prescribe emergency regulations that, consistent with such plan to the maximum extent practicable, reduce such incidental mortality and serious injury in that fishery; and

"(ii) approve and implement, on an expedited basis, any amendments to such plan that are recommended by the incidental take reduction team to address such adverse impact.

"(B) In the case of a stock or species for which an incidental take reduction plan is being developed, the Secretary shall—

"(i) prescribe emergency regulations to reduce such incidental mortality and serious injury in that fishery; and

"(ii) approve and implement, on an expedited basis, such plan, which shall provide methods to address such adverse impact if still necessary.

"(C) In the case of a stock or species for which an incidental take reduction plan does not exist and is not being developed, or in the case of a commercial fishery listed under subsection (f)(1)(A)(iii) which the Secretary believes may be contributing to such adverse impact, the Secretary shall—

"(i) prescribe emergency regulations to reduce such incidental mortality and serious injury in that fishery, to the extent necessary to mitigate such adverse impact;

"(ii) immediately review the stock assessment for such stock or species under section 117 and the classification of such commercial fishery under subsection (f)(1)(A) to determine if an incidental take reduction team should be established under this section; and

"(iii) may, where necessary to address such adverse impact, require the placement of observers pursuant to subsection (d) upon vessels in a commercial fishery listed under subsection (f)(1)(A)(iii), if the Secretary has reason to believe that such vessels may be causing incidental mortality and serious injury to marine mammals from such stock.

"(2) Prior to taking action under paragraph (1) (A), (B), or (C), the Secretary shall consult with the Marine Mammal Commission, all appropriate Councils, State fishery managers, and the appropriate incidental take reduction team (if established).

"(3) Emergency regulations prescribed under this subsection—

"(A) shall be published in the Federal Register, together with an explanation thereof;

"(B) shall remain in effect for not more than 180 days, or until the end of the applicable commercial fishing season, whichever is earlier; and

"(C) may be terminated by the Secretary at an earlier date by publication in the Federal Register of a notice of termination, if the Secretary determines that the reasons for the emergency regulations no longer exist.

"(4) If the Secretary finds that incidental mortality and serious injury of marine mammals in a commercial fishery is continuing to have an immediate and significant adverse impact on a stock or species, the Secretary may extend the emergency regulations for an additional period of not more than 90 days or until reasons for the emergency no longer exist, whichever is earlier.

"(d) MONITORING OF INCIDENTAL TAKES.—(1) The Secretary shall establish a program to monitor incidental mortality and serious injury of marine mammals during the course of commercial fishing operations for commercial fisheries listed under subsection (f)(1)(A) (i) or (ii). The purposes of the monitoring program shall be to—

"(A) obtain statistically reliable estimates of incidental mortality and serious injury;

"(B) determine the reliability of reports of incidental mortality and serious injury under subsection (g); and

"(C) report on the impacts of changes in commercial fishing methods or technology.

"(2) Pursuant to paragraph (1), the Secretary is authorized to place observers on board vessels as necessary, subject to the provisions of this section. Observers may perform other tasks including, but not limited to—

"(A) recording other sources of mortality;

"(B) recording the number of marine mammals sighted and the behavior of such mammals observed in the vicinity of commercial fishing gear;

"(C) other related scientific or fishery management observations; and

"(D) collection of marine mammals tissues, where such collection can be done safely and without interruption of commercial fishing operations.

"(3) When determining the distribution of observers among fisheries and vessels within a fishery, the Secretary shall be guided by the following standards:

"(A) the need to obtain the best scientific information available;

"(B) the requirement that assignment of observers be fair and equitable among fisheries and among vessels in a fishery;

"(C) the requirement that no individual person or vessel, or group of persons or vessels, be subject to excessive or overly burdensome observer coverage; and

"(D) where practicable, the need to minimize costs and avoid duplication.

"(4) To the extent practicable, the Secretary shall allocate observers among commercial fisheries in accordance with the following priority:

"(A) The highest priority for allocation shall be for commercial fisheries that have incidental mortality or serious injury of marine mammals from stocks designated as depleted on the basis of their listing as endangered or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

"(B) The second highest priority for allocation shall be for commercial fisheries that have incidental mortality and serious injury of marine mammals from stocks specified under section 117(a)(7).

"(C) The third highest priority for allocation shall be for commercial fisheries that have incidental mortality or serious injury of marine mammals from stocks for which the level of incidental mortality and serious injury is uncertain.

"(5) Notwithstanding paragraph (1), the Secretary may establish an alternative observer program to provide statistically reliable information on the species and number of any marine mammals incidentally taken in the course of commercial fishing operations. The alternative program may include, but need not be limited to, direct observation of fishing activities from vessels, airplanes, or points on shore.

"(6) The Secretary may, with the consent of the vessel owner, station an observer on board a vessel engaged in a commercial fishery not listed under subsection (f)(1)(A) (i) or (ii).

"(7) The Secretary shall not be required to place an observer on a vessel in a commerical fishery if the Secretary finds that—

"(A) in a situation where harvesting vessels are delivering fish to a processing vessel and the catch is not taken on board the harvesting vessel, statistically reliable information can be obtained from an observer on board the processing vessel to which the fish are delivered;

"(B) the facilities of a vessel for quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized; or

"(C) for reasons beyond the control of the Secretary, an observer is not available.

"(8) Any proprietary information collected under this subsection shall be confidential and shall not be disclosed except—

"(A) to Federal employees whose duties require access to such information;

"(B) to State or tribal employees pursuant to an agreement with the Secretary that prevents public disclosure of the identity or business of any person;

"(C) when required by court order; or

"(D) in the case of scientific information involving fisheries, to employees of Councils who are responsible for fishery management plan development and monitoring.

"(9) The Secretary shall prescribe such procedures as may be necessary to preserve the confidentiality of proprietary information collected under this subsection, except that the Secretary shall release or make public upon request any such information in aggregate, summary, or other form which does not directly or indirectly disclose the identity or business of any person.

"(e) ZERO MORTALITY RATE GOAL.—(1) Commercial fisheries shall reduce incidental mortality and serious injury of marine mammals to insignificant levels approaching a zero mortality and serious injury rate within 10 years after the date of enactment of this section.

"(2) Fisheries which maintain insignificant serious injury and mortality levels approaching a zero rate shall not be required to further reduce their mortality rates.

"(3) Three years after such date of enactment, the Secretary shall review the progress of all commercial fisheries, by fishery, toward reducing incidental mortality and serious injury to insignificant levels approaching a zero rate. The Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report setting forth the results of such review within 1 year after commencement of the review. The Secretary shall note any commercial fishery for which inadequate information exists on the level of incidental mortality and serious injury of marine mammals in the fishery.

"(4) If the Secretary determines after review under paragraph (3) that the rate of incidental mortality and serious injury of marine mammals in a commercial fishery is not consistent with paragraph (1), then the Secretary shall take appropriate action under subsection (b), and shall make recommendations to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives on any legislative changes needed to achieve the goal specified in paragraph (1).

"(f) REGISTRATION AND AUTHORIZATION.—(1) The Secretary shall, within 90 days after the date of enactment of this section—

"(A) publish in the Federal Register for public comment, for a period of not less than 90 days, any necessary changes to the Secretary's list of commercial fisheries published under section 114 (along with an explanation of such changes and a statement of the marine mammals and the approximate number of vessels or persons actively involved in each such fishery) that have—

"(i) frequent incidental mortality and serious injury of marine mammals;

"(ii) occasional incidental mortality and serious injury of marine mammals; or

"(iii) a remote likelihood of or no known incidental mortality or serious injury of marine mammals;

"(B) after the close of the period for such public comment, publish in the Federal Register a revised list of commercial fisheries and an update of information required by subparagraph (A), together with a summary of the provisions of this section and information sufficient to advise vessel owners on how to obtain an authorization and otherwise comply with the requirements of this section; and

"(C) at least once each year thereafter, and at such other times as the Secretary considers appropriate, reexamine, based on information gathered under this Act and other relevant sources and after notice and opportunity for public comment, the classification of commercial fisheries and other determinations required under subparagraph (A) and publish in the Federal Register any necessary changes.

"(2)(A) An authorization shall be granted by the Secretary in accordance with this section for a vessel engaged in a commercial fishery listed under paragraph (1)(A) (i) or (ii) upon receipt by the Secretary of a completed registration form providing the name of the vessel owner and operator, the name and description of the vessel, the fisheries in which it will be engaged, the approximate time, duration, and location of such fishery operations, and the general type and nature of use of the fishing gear and techniques used. Such information shall be in a readily usable format that can be efficiently entered into and utilized by an automated or computerized data processing system. A decal or other physical evidence that the authorization is current and valid shall be issued by the Secretary at the time an authorization is granted, and so long as the authorization remains current and valid, shall be reissued annually thereafter.

"(B) No authorization may be granted under this section to the owner of a vessel unless such vessel—

"(i) is a vessel of the United States; or

"(ii) has a valid fishing permit issued by the Secretary in accordance with section 204(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)).

"(C) Except as provided in subsection (a), an authorization granted under this section shall allow the incidental taking of all species and stocks of marine mammals to which this Act applies.

"(3)(A) An owner of a vessel engaged in any fishery listed under paragraph (1)(A) (i) or (ii) shall, in order to engage in the lawful incidental taking of marine mammals in a commercial fishery—

"(i) have registered as required under paragraph (2) with the Secretary in order to obtain for each such vessel owned an authorization for the purpose of incidentally taking marine mammals in accordance with this section, except that owners of vessels holding valid certificates of exemption under section 114 are deemed to have registered for purposes of this subsection for the period during which such registration is valid;

"(ii) ensure that a decal or such other physical evidence of a current and valid authorization as the Secretary may require is displayed on or is in the possession of the master of each such vessel; and

"(iii) report as required by subsection (g).

"(B) Any owner of a vessel receiving an authorization under this section for any fishery listed under paragraph (1)(A) (i) or (ii) shall, as a condition of that authorization, take on board an observer if requested to do so by the Secretary.

"(C) An owner of a vessel engaged in a fishery listed under paragraph (1)(A) (i) or (ii) who—

"(i) fails to obtain from the Secretary an authorization for such vessel under this section;

"(ii) fails to maintain a current and valid authorization for such vessel; or

"(iii) fails to ensure that a decal or other physical evidence of such authorization issued by the Secretary is displayed on or is in possession of the master of the vessel,

and the master of any such vessel engaged in such fishery, shall be deemed to have violated this title. Such owner and master shall be subject to penalty under sections 105 and 107 for a violation of clause (i) or (ii), and shall be subject to a fine of not more than $100 for each offense for a violation of clause (iii).

"(D) If the owner of a vessel has obtained and maintains a current and valid authorization from the Secretary under this section and meets the requirements set forth in this section, including compliance with any regulations to implement an incidental take reduction plan under this section, the owner of such vessel, and the master and crew members of the vessel, shall not be subject to the penalties set forth in this title for the incidental taking of marine mammals while such vessel is engaged in a fishery to which the authorization applies.

"(E) Each owner of a vessel engaged in any fishery not listed under paragraph (1)(A) (i) or (ii), and the master and crew members of such a vessel, shall not be subject to the penalties set forth in this title for the incidental taking of marine mammals if such owner reports to the Secretary, in the form and manner required under subsection (g), instances of incidental mortality or injury of marine mammals in the course of that fishery.

"(4) The Secretary shall suspend or revoke an authorization granted under this section and shall not issue a decal or other physical evidence of the authorization for any vessel until the owner of such vessel complies with the reporting requirements under subsection (g) and such requirements to take on board an observer under paragraph (3)(B) as are applicable to such vessel. Previous failure to comply with the requirements of section 114 shall not bar the grant of an authorization under this section for an owner who complies with the requirements of this section. The Secretary may suspend or revoke an authorization granted under this subsection, and may not issue a decal or other physical evidence of the authorization for any vessel which fails to comply with regulations implementing an incidental take reduction plan or emergency regulations issued under this section.

"(5)(A) The Secretary shall develop, in consultation with the appropriate States, affected Councils, and other interested persons, the means by which the granting and administration of authorizations under this section shall be integrated and coordinated,

to the maximum extent practicable, with existing fishery licenses, registrations, and related programs.

"(B) The Secretary shall utilize newspapers of general circulation, fishery trade associations, electronic media, and other means of advising commercial fishermen of the provisions of this section and the means by which they can comply with its requirements.

"(C) The Secretary is authorized to charge a fee for the granting of an authorization under this section. The level of fees charged under this subparagraph shall not exceed the administrative costs incurred in granting an authorization. Fees collected under this subparagraph shall be available to the Under Secretary of Commerce for Oceans and Atmosphere for expenses incurred in the granting and administration of authorizations under this section.

"(g) REPORTING REQUIREMENT.—The owner or operator of a commercial fishing vessel subject to this Act shall report all incidental mortality and injury of marine mammals in the course of commercial fishing operations to the Secretary by mail or other means acceptable to the Secretary within 48 hours after the end of each fishing trip on a standard postage-paid form to be developed by the Secretary under this section. Such form shall be capable of being readily entered into and usable by an automated or computerized data processing system and shall require the vessel owner or operator to provide the following:

"(1) The vessel name, and Federal, State, or tribal registration numbers of the registered vessel.

"(2) The name and address of the vessel owner or operator.

"(3) The name and description of the fishery.

"(4) The species of each marine mammal incidentally killed or injured, and the date, time, and approximate geographic location of such occurrence.

"(h) PENALTIES.—Except as provided in subsection (f), any person who violates this section shall be subject to the provisions of section 105 and 107, and may be subject to section 106 as the Secretary establishes by regulations.

"(i) VOLUNTARY MEASURES.—Nothing in this section shall be construed to limit the Secretary's authority to permit voluntary measures to be utilized in reducing the incidental taking of marine mammals in commercial fisheries.

"(j) CONSULTATION WITH SECRETARY OF THE INTERIOR.—The Secretary shall consult with the Secretary of the Interior on measures promulgated under this section which affect species or stocks under such Secretary's jurisdiction.".

SEC. 9. PENALTIES; PROHIBITIONS.

(a) CIVIL PENALTIES.—Section 105(a)(1) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1375(a)(1)) is amended by inserting ", except as provided in section 118," immediately after "thereunder" and by inserting ", harassment," immediately after "taking".

(b) CRIMINAL PENALTIES.—Section 105(b) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1375(b)) is amended by inserting "(except as provided in section 118)" immediately after "thereunder".

(c) PROHIBITIONS.—Section 102(a) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1372(a)) is amended by striking "and 114 of this title or title III" and inserting in lieu thereof "114, and 118 of this title and title IV".

SEC. 10. AUTHORIZATION TO DETER MARINE MAMMALS NONLETHALLY.

Section 101 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371) is amended by adding at the end the following new subsection:

"(d)(1) Except as provided in paragraph (2), the provisions of this Act shall not apply to the use of measures—

"(A) by the owner of fishing gear or catch, or an employee or agent of such owner, to deter a marine mammal from damaging the gear or catch;

"(B) by the owner of other private property, or an agent, bailee, or employee of such owner, to deter a marine mammal from damaging private property;

"(C) by any person, to deter a marine mammal from endangering personal safety; or

"(D) by a government employee, to deter a marine mammal from damaging public property,

so long as such measures do not result in the death or serious injury of the marine mammal.

"(2) The Secretary shall, through consultation with appropriate experts, and after notice and opportunity for public comment, publish in the Federal Register a list of guidelines for use in safely deterring marine mammals. In the case of marine mammals designated as threatened or endangered under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), the Secretary shall recommend specific measures which may be used to nonlethally deter such marine mammals. Actions to deter marine mammals consistent with such guidelines or specific measures shall not be a violation of this Act.

"(3) If the Secretary determines, using the best scientific information available, that certain forms of deterrence have a significant adverse effect on marine mammals, the Secretary may prohibit such deterrent methods, after notice and opportunity for public comment, through regulation under this Act.

"(4) The authority to deter marine mammals pursuant to paragraph (1) applies to all marine mammals, including all stocks designated as depleted under this Act.".

SEC. 11. INDIAN TREATY RIGHTS; ALASKA NATIVE SUBSISTENCE.

Nothing in this Act, including any amendments to the Marine Mammal Protection Act of 1972 made by this Act—

(1) alters or is intended to alter any treaty between the United States and one or more Indian tribes; or

(2) affects or otherwise modifies the provisions of section 101(b) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(b)), except as specifically provided in the amendment made by section 4(h) of this Act.

SEC. 12. TRANSITION RULE; IMPLEMENTING REGULATIONS.

(a) TRANSITION RULE.—Section 114(a)(1) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1383a(a)(1)) is amended by striking "ending April 1, 1994," and inserting in lieu thereof "until superseded by regulations prescribed under section 118, or until December 31, 1996, whichever is earlier,".

(b) IMPLEMENTING REGULATIONS.—Except as provided otherwise in this Act, or the amendments to the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) made by this Act, the Secretary of Commerce or the Secretary of the Interior, as appropriate, shall, after notice and opportunity for public comment, promulgate regulations to implement this Act and the amendments made by this Act within 270 days after the date of enactment of this Act.

SEC. 13. TECHNICAL AND CONFORMING AMENDMENTS.

(a) DEFINITIONS.—Section 3 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362) is amended—

(1) by striking paragraph (17);

(2) by redesignating the second paragraph (15) and paragraph (16) as paragraphs (16) and (17), respectively; and

(3) in paragraph (12)(B), by striking "in title III" and inserting in lieu thereof "In section 118 and in title IV".

(b) MARINE MAMMAL HEALTH AND STRANDING RESPONSE.—The Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) is amended—

(1) by redesignating title III, as added by Public Law 102-587 (106 Stat. 5060), as title IV; and

(2) by redesignating the sections of that title (16 U.S.C. 1421 through 1421h) as sections 401 through 409, respectively.

(c) UNUSUAL MORTALITY EVENT FUND.—Section 405(a) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1421d(a)), as so redesignated by subsection (b)(2) of this section, is amended by striking "a fund" and inserting in lieu thereof "an interest bearing fund".

SEC. 14. DEFINITIONS.

Section 3 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362), as amended by this Act, is further amended—

(1) in paragraph (12), as redesignated by section 15 of this Act, by striking "harass," each place it appears; and

(2) by adding at the end the following new paragraphs:

"(18) The term 'calculated removal level' for a marine mammal stock is the product of the following factors:

"(A) the minimum population estimate of the stock;

"(B) one-half the maximum theoretical or estimated net productivity rate for the stock at a small population size; and

"(C) if the stock is specified under section 117(a)(7), listed as endangered or threatened under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), or designated as depleted under this Act, a recovery factor that is no greater than 1.0 to ensure that the stock will recover to its optimum sustainable population.

The recovery factor under subparagraph (C) shall not be less than 0.1 for an endangered stock, shall not be less than 0.3 for a threatened or depleted stock, and shall not be less than 0.5 for any other stock.

"(19) The term 'Council' means any Regional Fishery Management Council established under section 302 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852).

"(20) The term 'harassment' means any act of approach, pursuit, torment, or annoyance which—

"(A) has the potential to harm a marine mammal in the wild; or

"(B) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including but not limited to migration, respiration, nursing, breeding, feeding, and sheltering.

"(21) The term 'incidental take reduction plan' means a plan developed under section 118.

"(22) The term 'incidental take reduction team' means a team established under section 118.

"(23) The term 'net productivity rate' means the annual per capita rate of increase in a stock resulting from additions due to reproduction, less losses due to mortality.

"(24) The term 'minimum population estimate' means an estimate of the number of animals in a stock that—

"(A) is based on the best available scientific information on abundance, incorporating the precision and variability associated with such information; and

"(B) provides reasonable assurance that the stock size is equal to or greater than the estimate.".

SEC. 15. HUMAN ACTIVITIES WITHIN PROXIMITY OF WHALES.

(a) LAWFUL APPROACHES.—In waters of the United States surrounding the State of Hawaii, it is lawful for a person subject to the jurisdiction of the United States to approach, by any means other than an aircraft, no closer than 100 yards to a humpback whale or any other whale, regardless of whether the approach is made in waters designated under section 222.31 of title 50, Code of Federal Regulations, as cow/calf waters.

(b) TERMINATION OF LEGAL EFFECT OF CERTAIN REGULATIONS.—Subsection (b) of section 222.31 of title 50, Code of Federal Regulations, shall cease to be in force and effect.

SEC. 16. PINNIPED-FISHERY INTERACTION TASK FORCE.

Title I of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371 et seq.), as amended by this Act, is further amended by adding at the end the following new section:

"SEC. 119. PINNIPED-FISHERY INTERACTION TASK FORCE.

"(a) PINNIPED REMOVAL AUTHORITY.—Notwithstanding any other provision of this title, the Secretary may permit the lethal removal of pinnipeds in accordance with this section.

"(b) APPLICATION.—Any person may apply to the Secretary to authorize the lethal removal of pinnipeds identified as habitually exhibiting dangerous or damaging behavior that cannot otherwise be deterred. Any such application shall include a means of identifying the individual pinniped or pinnipeds, and shall include a detailed description of the problem interaction and expected benefits of the removal.

"(c) ACTIONS IN RESPONSE TO APPLICATION.—(1) Within 15 days of receiving an application, the Secretary shall determine whether the application has produced sufficient evidence to warrant establishing a Pinniped-Fishery Interaction Task Force to address the situation described in the application. If the Secretary determines that such sufficient evidence has been provided, the Secretary shall establish a Pinniped-Fishery Interaction Task Force and publish a notice in the Federal Register requesting public comment on the application.

"(2) A Pinniped-Fishery Interaction Task Force established under paragraph (1) shall consist of designated employees of the Department of Commerce, scientists who are knowledgeable about the pinniped interaction that the application addresses, representatives of affected conservation and fishing community organizations, Indian treaty tribes, the States, and such other organizations as the Secretary deems appropriate.

"(3) Within 60 days after establishment, and after reviewing public comments in response to the Federal Register notice, the Pinniped-Fishery Interaction Task Force shall—

"(A) recommend to the Secretary whether to approve or deny the proposed lethal removal of the pinniped or pinnipeds, including along with the recommendation a description of the specific pinniped individual or individuals, the proposed location, time, and method of removal, criteria for evaluating the success of the action, and the duration of the authority; and

"(B) suggest nonlethal alternatives, if available and practicable, including a recommended course of action.

"(4) Within 30 days after receipt of recommendations from the Pinniped-Fishery Interaction Task Force, the Secretary shall either approve or deny the application. If such application is approved, the Secretary shall immediately take steps to implement the lethal removal, which shall be performed by Federal or State agencies, or qualified individuals under contract to such agencies.

"(5) After implementation of an approved application, the Pinniped-Fishery Interaction Task Force shall evaluate the effectiveness of the permitted lethal removal or alternative actions implemented. If implementation was ineffective in eliminating the problem interaction, the Task Force shall recommend additional actions. If the implementation was effective, the Task Force shall so advise the Secretary, and the Secretary shall disband the Task Force.

"(d) CONSIDERATIONS.—In considering whether an application should be approved or denied, the Task Force and the Secretary shall consider—

"(1) population trends, feeding habits, the location of the pinniped interaction, how and when the interaction occurs, and how many individual pinnipeds are involved;

"(2) past efforts to nonlethally deter such pinnipeds, and whether the applicant has demonstrated that no feasible and prudent alternatives exist and that the applicant has taken all reasonable nonlethal steps without success;

"(3) the extent to which such pinnipeds are causing undue harm, impact, or imbalance with other species in the ecosystem, including fish populations; and

"(4) the extent to which such pinnipeds are exhibiting behavior that presents an ongoing threat to public safety.

"(e) LIMITATION.—The Secretary shall not approve lethal removal for any pinniped from a species or stock that is—

"(1) listed as threatened or endangered under the Endangered Species Act of 1973;

"(2) designated as depleted under this Act; or

"(3) specified under section 117(a)(7) of this Act.

"(f) REGIONWIDE PINNIPED-FISHERY INTERACTION STUDY.—(1)(A) The Secretary shall conduct a study, of not less than three high predation areas in anadromous fish migration corridors within the Northwest Region of the National Marine Fisheries Service, on the interaction between fish and pinnipeds. In carrying out the study, the Secretary shall consult with other State and Federal agencies with expertise in pinniped-fishery interaction. The study shall evaluate—

"(i) fish behavior in the presence of predators generally;

"(ii) holding times and passage rates of anadromous fish stocks in areas where such anadromous fish are vulnerable to predation;

"(iii) whether additional facilities exist, or could be reasonably developed, that could improve escapement for anadromous fish; and

"(iv) other issues the Secretary considers relevant.

"(B) Subject to the availability of appropriations, the Secretary shall, not later than 18 months after the date of enactment of this section, transmit a report on the results of the study required by this paragraph to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives.

"(C) There are authorized to be appropriated to the Secretary $700,000 for the purpose of carrying out the study required by this paragraph.

"(2) The study conducted under this subsection shall not be considered relevant in any determination under subsection (c), nor reviewed by any task force in connection with considerations under subsection (d), until such study is completed, and may not be used by the Secretary as a reason for delaying or deferring a determination under subsection (C).".

SEC. 17. MARINE MAMMAL COOPERATIVE AGREEMENTS IN ALASKA.

Title I of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371 et seq.), as amended by this Act, is further amended by adding at the end the following new section:

"SEC. 120. MARINE MAMMAL COOPERATIVE AGREEMENTS IN ALASKA.

"(a) IN GENERAL.—The Secretary may enter into cooperative agreements with Alaska Native organizations to conserve marine mammals and provide co-management of subsistence use by Alaska Natives.

"(b) GRANTS.—Agreements entered into under this section may include grants to Alaska Native organizations for, among other purposes—

"(1) collecting and analyzing data on marine mammal populations;

"(2) monitoring the harvest of marine mammals for subsistence use;

"(3) participating in marine mammal research conducted by the Federal Government, States, academic institutions, and private organizations; and

"(4) developing marine mammal co-management structures with Federal and State agencies.

"(c) EFFECT OF JURISDICTION.—Nothing in this section is intended or shall be construed—

"(1) as authorizing any expansion or change in the respective jurisdiction of Federal, State, or tribal governments over fish and wildlife resources; or

"(2) as altering in any respect the existing political or legal status or Alaska Natives, or the governmental or jurisdictional status of Alaska Native communities or Alaska Native entities.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the purposes of carrying out this section—

"(1) $1,500,000 to the Secretary of Commerce for each of the fiscal years 1994, 1995, 1996, 1997, 1998, and 1999; and

"(2) $1,000,000 to the Secretary of the Interior for each of the fiscal years 1994, 1995, 1996, 1997, 1998, and 1999.

The amounts authorized to be appropriated under this subsection are in addition to the amounts authorized to be appropriated under section 7 of the Act entitled 'An Act to improve the operation of the Marine Mammal Protection Act of 1972, and for other purposes', approved October 9, 1981 (16 U.S.C. 1384).".

SEC. 18. BERING SEA MARINE ECOSYSTEM PROTECTION.

Section 110 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1380) is amended by striking subsection (c) and inserting in lieu thereof the following:

"(c)(1) The Secretary of Commerce, in consultation with the Secretary of the Interior, the Marine Mammal Commission, the State of Alaska, Alaska Native organizations, and fishery and environmental groups, shall, not

later than 180 days after the date of enactment of the Marine Mammal Protection Act Amendments of 1994, undertake a scientific research program to monitor the health and stability of the Bering Sea marine ecosystem and to resolve uncertainties concerning the causes of population declines of marine mammals, sea birds, and other living resources of that marine ecosystem. The program shall address the research recommendations developed by previous workshops on Bering Sea living marine resources, and shall include research on subsistence uses of such resources and ways to provide for the continued opportunity of such uses.

"(2) To the maximum extent practicable, the research program undertaken pursuant to paragraph (1) shall be conducted in Alaska. The Secretary shall utilize, where appropriate, traditional local knowledge and may contract with a qualified Alaska Native organization to conduct such research.

"(3) The Secretary of Commerce, the Secretary of the Interior, and the Commission shall address the status and findings of the research program in their annual reports to Congress required by sections 103(f) and 204.".

SEC. 19. INTERJURISDICTIONAL FISHERIES ACT OF 1986.

Section 308(b) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(b)) is amended by striking "$2,500,000 for each of the fiscal years 1989, 1990, 1991, 1992, 1993, 1994, and 1995" and inserting in lieu thereof "$65,000,000 for each of the fiscal years 1994 and 1995".

SEC. 20. COASTAL ECOSYSTEM HEALTH.

(a) REQUIREMENT TO CONVEY.—Not later than September 30, 1994, the Secretary of the Navy shall convey, without payment or other consideration, to the Secretary of Commerce, all right, title, and interest to the property comprising that portion of the Naval Base, Charleston, South Carolina, bounded by Hobson Avenue, the Cooper River, the landward extension of the northwest side of Pier R, and the fenceline between the buildings knows as RTC–1 and 200. Such property shall include Pier R, the buildings known as RTC–1 and RTC–4, and all walkways and parking areas associated with such buildings and Pier R.

(b) SURVEY; EFFECT ON LIABILITY OF SECRETARY OF THE NAVY.—The acreage and legal description of the property to be conveyed pursuant to this section shall be determined by a survey approved by the Secretary of the Navy. Such conveyance shall not release the Secretary of the Navy from any liability arising prior to, during, or after such conveyance as a result of the ownership or occupation of the property by the United States Navy.

(c) USE BY NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.—The property conveyed pursuant to this section shall be used by the Secretary of Commerce in support of the operations of the National Oceanic and Atmospheric Administration.

(d) REVERSION RIGHTS.—Conveyance of the property pursuant to this section shall be subject to the condition that all right, title, and interest in and to the property so conveyed shall immediately be conveyed to the public entity vested with ownership of the remainder of the Charleston Naval Base, if and when—

(1) continued ownership and occupation of the property by the National Oceanic and Atmospheric Administration no longer is compatible with the comprehensive plan for reuse of the Charleston Naval Base developed by the community reuse committee and approved by the Secretary of the Navy; and

(2) such public entity provides for relocation of the programs and personnel of the National Oceanic and Atmospheric Administration occupying such property, at no further cost to the United States Government, to comparable facility, including adjacent waterfront and pier, within the Charleston area.

Mr. JOHNSTON. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

NATIONAL PARK SERVICE CONCESSIONS POLICY REFORM ACT OF 1994

The Senate continued with the consideration of the bill.

Mr. JOHNSTON. Madam President, I ask unanimous consent that we resume consideration of S. 208.

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

PRIVILEGE OF THE FLOOR

Mr. WALLOP. Madam President, I ask unanimous consent that Jim Beirne, Jim O'Toole, Jim Tate, Kelly Fischer, Carol Craft, Gerry Hardy, and Camille Heninger of the Senate minority staff be permitted the privileges of the floor during the pendency of S. 208.

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

The Senator from Louisiana.

Mr. JOHNSTON. Madam President, S. 208 as reported from the Energy and Natural Resources Committee would reform the process by which the National Park Service awards contracts to private persons or corporations who seek to do business inside our national parks. The legislation has been before our committee in one form or another for many, many years. It has been the subject of numerous hearings, some as early as 1979, and has been considered at several committee business meetings. Throughout this process, under the leadership of the Senator from Arkansas, Mr. [BUMPERS], who is the chairman of the Subcommittee on Public Lands, National Parks and Forests, we have crafted a very reasonable and progressive bill. This measure is a bipartisan measure. It was ordered reported by the committee by a vote of 16 to 4.

Our colleague from Utah, Senator BENNETT, worked very closely with Senator BUMPERS to craft the compromise bill before us today. In fact, Senator BENNETT, who is one of the renowned businessmen of this body, put a businessman's approach to the matter of concessions in national parks, and I think our result is one that utilizes the best of business principles, that is competition, so that the park concessions will be awarded to the very best of the applicants.

Madam President, under today's law before this bill is enacted we do not have a competitive situation in our national parks. To the contrary, those that have the concessions are almost guaranteed that they will get a renewal of that contract. That is so because of two features of the present law. The first is what we call the possessory interest so that all of the improvements that are made in a national park are, in effect, the property of the concessioner so that when it comes time to renew the contract, anyone who wishes to compete must pay the full or "sound" value, what in effect is the fair market value, for all of the improvements made at that national park. Improvements at our big national parks total hundreds of millions of dollars. In effect, if you build a hotel at a national park, then there is no depreciation of that asset. Rather the concessioner gets to keep the assets, and at the termination of the contract anyone who wishes to bid for that new contract must pay the full nondepreciated value of that asset.

The second basis on which it is almost impossible to compete is that concessioners get a preferential right to renew. That means that if someone goes to all of the expense, trouble, difficulty and time of putting together a bid for a concession, then the existing concessioner has the right to come in and equal or exceed that bid.

So, on that basis, no one is going to go through the trouble and expense to make the bid and, indeed, have to put up all the money for the assets and then find that he or she is unable to get the contract because the existing concessioner equals the bid that they made.

So what we have done, Madam President, is provide for a competitive selection process. It prohibits the preferential right of renewal unless the contract is less than $500,000. In those very small contracts, the Park Service is permitted to go ahead with the preferential right of renewal. In all others, it must be done on a competitive basis.

With respect to the possessory interest, those who have assets, concessioners who have these assets at the present time, will be able to keep those assets. So, if an existing concessioner wishes to, or is not successful in getting a renewal of the contract, then the person who gets the contract would have to pay him the full possessory interest, the full fair value of those assets. However, if the concessioner is able to get a renewal of the contract, then he must begin to depreciate that asset on the basis of the number of years provided by the Internal Revenue Code, which, in today's code, would provide for 39 years.

So, Madam President, what we have here is a bill that will ensure that national park concessions are managed not only in the interest of the taxpayers, so as to maximize the return to the taxpayer, but so that we will be

able to get the best concessioner, the one who competitively is able to bid for the contract.

I think, Madam President, what we have in this bill is national park policy which is realistic and combines the very best of park policy with the best of business policy.

For that reason, Madam President, this bipartisan measure was, as I mentioned earlier, passed out of committee by a vote of 16 to 4.

Madam President, the instant bill before us really is a tribute to Senators BUMPERS and BENNETT, who worked this bill out. They worked out complicated, difficult and, I might say, controversial provisions of this bill. In doing so, it was able to garner the overwhelming support of the Senate Energy Committee. Both of those Senators have my congratulations for an excellent job done in putting together a difficult bill.

I yield the floor.

Mr. WALLOP addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming.

Mr. WALLOP. Madam President, I am sure it is a very rare occasion upon which I would disagree with the business judgment or the political judgment of my friend from Utah, Senator BENNETT. And rarely have I been on the other side of a bill that the committee has brought to the floor from the Senator from Louisiana. In fact, the two of us, I still believe, passed the only really major piece of legislation in the last Congress, the national energy strategy.

Madam President, I find, from talking to colleagues, the first thing everybody wonders is, what is all the fuss about? I mean, who can be worrying about a couple of hot dog stands? That is what the concessions are. They do not know, the average person in this body does not have a clue, what we are talking about. And possessory interest puts them straight to sleep. It is a word not often used in the rest of business.

But, it is important I think to realize what the concessions are. They are the hotels, they are the dude ranches, they are the rafting operations, they are the gasoline and convenience stores, they are riding, guiding, sight-seeing operations, depending on the nature of the park; they are the bus systems, they are boating opportunities, they are what America has asked the private sector to do for it.

The Senator from Louisiana said, quite correctly, that these assets run to hundreds of millions of dollars. Madam President, that is precisely correct, and the taxpayer did not pay a dime for it. Nor would the taxpayer have paid a dime for it; not even during the plush times of absolute abandon on deficits and Government spending, would we have ever funded what the private sector has funded.

That, Madam President, was the whole point when Congress passed Concessions Policy Act of 1965. We intended, on purpose, to discourage the turnover of concession operations.

As a matter of Federal policy—and a darn good one it has been, too—we decided that the private sector should be encouraged to provide the visitor services. They would be regulated and they would be allowed to make a reasonable profit. In exchange, they, and not the Federal Government and not the taxpayers of America, would be required to raise the capital to construct and maintain facilities to standards set by the Federal Government.

Continuity of good services at reasonable rates to our park visitors was judged to be more important than the collection of receipts. That was at a time when the national parks were to be considered public treasures for the benefit of the public. That was before reinventing Government tried to turn them into cash registers for the Federal Government.

Madam President, I will talk for a minute about the right of possessory interest and the preferential right of renewal, along with the ability to award long-term contracts. These were all included in the Concessions Policy Act to provide the contractor with the necessary collateral to take to a lending institution—a bank or whatever; investors, even—so that moneys could be borrowed to fund park improvements for the visitor.

We have gotten off on the idea, somehow or another, that these were processes for the concessionaires. The Congress made a specific decision—and a wise one it has been—that these moneys would be invested for the pleasure of the visiting public, the convenience of and the safety of. And this was consistent with our view that these types of improvements and services should be furnished by the private sector and not the taxpayer.

The success of the program in concessions is obvious, if you look at the privately operated visitor facilities in America's national parks today. Under no set of circumstances—I defy anybody in either body to tell me that they believe that the Federal Government would have developed, would have constructed, and would have maintained the hundreds of visitor facilities throughout the park system without this private sector involvement and, more importantly, without making major trips to the Federal Treasury for buckets of money.

Has it been entirely, 100 percent perfect? Of course it has not. But I will tell the Senate this: it has been more successful than darn near any Federal program that anybody can point out to me. And we are on the threshold of toying with it for a new idea.

The situation in the parks has not changed and, in fact, has become gravely worse, given the budget constraints and our unending appetite to add more parks.

One of the things we are about to do is add another park in California called East Mojave. This, after having accepted the Presidio, which is going to cost us more than Yellowstone, more than even Yosemite, and more than most of the rest of the parks in the system combined. But we are not going to add any more personnel and we are not going to add any more money. And guess what is going to happen?

The Secretary has already taken 400 people out of the National Park System and put 301 of them in his office. And we are sitting around here taking the one thing that works, and my guarantee is that it will add somewhere between $150 and $200 million a year out of a budget of $1 billion to the National Park System's problems.

These facilities that exist in our parks are, by and large, wonderful. There are facilities that still need to be developed, and there are some that need to be replaced and some that need to be maintained. It is unfortunate that the very fundamental building blocks of the successful and cost-effective program have been undermined and eliminated by the legislation reported by our committee. It is unfortunate the Appropriations Committee does not understand the magnitude of the expenses they will bear if this legislation is to pass.

Let there be no misunderstanding; the parks will receive their money, although not all they need. Other programs will suffer as well.

While I understand and do not quarrel with the proponents of this legislation, who believe their efforts will result in increased competition and revenue, it is my belief that, as reported, this legislation will exact an enormous price from the taxpayers, and worse still, will result in a degradation to the National Park System and a very specific degradation to the services provided to the visitors of the National Park System.

The Senator from Louisiana said, "It is going to maximize the return to the taxpayer. It gets you the very best franchisee." Madam President, the very best franchisee has nothing to do with this. It will get you the cheapest franchisee—who may or may not be a good franchisee—but he will darned sure be the cheapest. His effort to try to maximize the return of the investment that he is about to make will result either in lower fees from the National Park Service charged to the franchisee, or higher costs to the visitors. That is what this will get you.

Under current law and under current practice, concessionaires are encouraged to make investments to the infrastructure to accommodate park visitors, and so they should. They obtain their own capital and comply with all Federal requirements. Title to all the facilities resides with the United States, and that is wherein this crazy

word "possessory interest" comes, because while there the title resides, the franchisee, if he is to lose that for reasons of malperformance or other reasons, then the Park Service and the Government owes him the fair market value of those improvements.

Possessory interest is calculated as to the sound value of those improvements, and that possessory interest has to be either acquired by the Government or a new concessionaire if the current one does not obtain a renewal of his contract. That is the basis upon which people can go to borrow money. There is nothing strange in the business world about that. The guy goes to the bank. He says, "Here is what my interest is. Here is what you can get from me should I collapse and fail. This is the reason I am able to come to you, Mr. Banker, and borrow money."

The new concessionaire is going to say, "I have a contract from the United States Government. That guarantees me at the end of time I get half the value, a depreciated half of this thing. But I have no possessory interest in it. It is declining."

These changes will simply have to be reflected, and I am certain my colleague from Utah, as a businessman, will understand that. They have to be reflected. Nobody is going to absorb them by ignoring them. So it certainly eliminates the collateral basis upon which to finance improvements. My concern is the practical effect of failing to grandfather those existing possessory interests.

The legislation as reported applies a schedule to reduce the value of any existing possessory interest if the present contract is renewed. That is a cute theory, but let us examine the implications of that in practice, in the actual business world in which these people are going to have to operate. Assume for the sake of argument this is an existing concessionaire who has invested in a modest facility which provides limited accommodations, meals, supplies, and fuel for visitors in a park with a very limited season. Not all our parks have the 12-month season of the parks in the chairman's State, or in Florida, California, or Arizona. A lot of them, as in my State and Alaska and the State of the Senator from Utah, have a limited season. The money they make, the return on their investment, has to be made in 4 months, 5 months—certainly not 12.

The possessory interest that exists today, of a concession the likes of which I described, could be in the neighborhood of $5 million, based on sound market value. The contract is coming up now for renewal. Let us assume the new contract will be for 10 years with a 20-year devaluation schedule. A concessionaire, who is the investor today, is faced with a choice. Should the concessionaire renew, he will directly forfeit approximately $2.5 million over the life of the contract under this legislation. So now he either makes that up in higher charges or gets it back from the Park Service in lower franchise fees, or he will simply leave and ask for his $5 million for some other enterprise. These people are not fools. They have a great affection for the national parks and they have a great affection for the jobs they do. But they are not fools and $5 million is better than $2.5 million. The latter is the more likely scenario.

That possibility is even more likely if you consider the time value of the funds. If the concessionaire stays, the $5 million interest will be reduced to $2.5 million under the terms contained in this bill. If he were to take the $5 million and invest it at 7 percent over the same period, it would be worth $10 million. Do we really expect people to forgo $7.5 million for the privilege of being abused by the Department of Interior?

There are family operations where the possessory interest represents a large portion of their estate, and keep in mind that a lot of these concessions about which we are talking are family operations. The former Director of the Fish and Wildlife Service, Mr. John Turner, his family has been operating in Grand Teton National Park since before it was a national park. So these are a portion of an estate.

What responsible family is going to leave their estate to be divided in half by the Federal Government? Sadly and reluctantly, they will leave, the people who have been providing this kind of service to visitors to the National Park System. And you are telling me that you are going to get a better concessionaire than people who have been able to stay in business for 75 years as a family? They have been able to stay because they have been good, because they have run good businesses, because people like to come and have the guided nature tours, and to ride the horses that they have, and to go on the pack outfitting trips and run the river. They have been good for all this time. But this is their family's estate and they dare not leave it on the table; they just dare not.

So assuming the existing concessionaire does what is likely, who gets to pick up the tab? Under current law, it would be the new concessionaire, who would then hold a possessory interest and, in fact, would use the possessory interest as collateral for the loan to pay off the existing concessionaire.

However, under the legislation in front of us, any new concessionaire is faced with the same prospect of paying $5 million and watching that investment dwindle to $2.5 million over the contract term.

Again, Madam President, these people are not fools, either the ones that are there or the ones that will be coming in. That investment will have to be recouped in higher charges to the national park visitor or lower fees from the National Park Service. Somewhere or another, it is not going to come just out of the tax advantages of being able to depreciate property. It will not.

The statute that sits in front of us eliminates the value of the purchased interest as collateral. I do not know why that is hard to see. I really do not know why it is hard to see. These operations are not such gold mines in their entirety—there may be one or two—but in their entirety, they are small businesses yielding very little return. They are yielding livings to mom-and-pop operations. They are yielding the ability to create small estates, like the rest of America's businessmen and women have.

The most likely result is that all the parties are simply going to let the Federal Government buy out the existing concessionaire and then bid on contracts without any possessory interest. That contract is not going to be of the same value. No businessman around is going to do it. The Park Service is going to hold an item that it has paid for with taxpayers' money that immediately has a diminished value as a consequence of the passage of this bill. Why is that hard to understand?

It accomplishes the goal of the legislation, gets it out of the hands of the existing concessionaire, and it gets people to bid for it. It gets them to bid, I will grant you that. But it does so at the expense of a beleaguered national park system, and out of the limited funds available to the Appropriations Committee and ultimately out of the ability of the National Park System to take care of the national parks under its control.

The entire budget for the National Park Service in 1994 is just over $1 billion. A lot of us are, with good reason, concerned about the present level of park maintenance and, even more so, Madam President, about the backlog in land acquisition. We should be concerned when 20 percent of the Park Service budget or 15 percent over the next 10 years goes to paying off possessory interest when we have taken the property of Americans and refuse to pay for them.

A lot of Americans do not realize that this Congress annually authorizes new parks, many of which have private property holdings. Congress has the biggest appetite in the world for parks. We use it to run for reelection. We use it to say great things about America. But, Madam President, we have absolutely no stomach in the world for paying for it. In the Chair's own State, in California, in Wyoming, in Indiana, in Utah and Florida, in virtually every State, there are Americans whose property has been declared national parks for which we have not paid.

Now all of a sudden we are going to put concessionaires at the front of the

line and virtually force them into the decision of saying, yes, pay for these. A, it is not right; B, it is bad business; and C, it further diminishes the capacity of the National Park System to pursue its mission. We are not going to add any more money to it. We absolutely are not. And we are already taking personnel away from it while adding more parks to it.

There is something really silly about this operation, and I do not know how to get the attention of the Senate to say how absolutely silly it is. We have all the right words and all the right names: Competition; revenues to the Treasury; it will pay us more. But an examination of this bill shows us the opposite.

There is fundamentally something wrong with this picture. On the one hand, we, as the Congress, and this administration, are advocating private ownership of lands and facilities within the former Soviet Union. On the other, we now seem to be striving to get more Government ownership of the private facilities which occupy our Federal lands.

The cost to purchase existing possessory interests will be expensive—as the Senator from Louisiana mentioned the values of them—and it is unnecessary and it is counterproductive. The appropriators ought to be paying attention. Somebody is going to have to pay. It is not going to come for nothing. It will not be the new concessionaire. It will be the taxpayer and a system that is underfunded and under siege.

The legislation will do enormous harm to a system that has served very successfully, very handsomely the parks' visitor for over three-quarters of a century. Visitors who have become accustomed to a high quality of service may some day ask us: "What happened? Why did you do it?"

We are not even going to try this thing before we put it in play; we are just going to do it.

In the interim, revenues to the Treasury almost certainly will be decreased. Services in our parks will become too expensive for the average visitor to afford. Maybe that is the way we can limit the visitors to America's national parks, by making them just the playgrounds of the upper-middle class and the rich—no longer the playgrounds of the great touring American.

The process of using concessions must go up. Somebody has to pay and it is going to be the visitor or it is going to be the Treasury, and we do not have it in the Treasury and we are not going to let the parks disappear. The private facilities will either begin to degrade or eventually be owned by the Government and then they will degrade, if history is any judge, and at some point in time, it is going to cost fortunes to rehabilitate what we have allowed to be destroyed.

Guess how we are going to do it? We are going to go back to the system that we have today which grants a possessory interest so that people can get the capital to do it. That is the only way it is going to be. I promise you that nobody in Congress is going to give you money to rebuild the Lake Hotel in Yellowstone or any of the other wonderful facilities that exist. Congress is not going to do that.

I really appreciate the efforts of the colleagues who have attempted to reform the Concessions Policy Act. I do not charge them with acting in bad faith. Far from it. I honestly believe that they think that this is going to be better than the system that exists. I thoroughly and I completely disagree. I have grown up in national parks. I have had friends and family who have worked in the national parks. I know what these things are about.

If enacted, this legislation will produce practically no additional revenue if it works perfectly. And guess what? The revenue is not going to go to the national parks. The revenue, whatever little there is, is going to go to the Treasury. We tried. Senator JOHNSTON and I and others worked very hard to get the entrance fees raised so that: First, they were worth collecting; and, second, that they could stay in the parks, but they were raised. It was no sooner passed and all that Americans got out of it was higher entrance fees. They sure did not get an improvement in trails or improvement in visitor facilities or sure did not get an increased number of America's acres that have been confiscated and paid for. Nothing happened good to the parks out of raising the fees, and we all tried very hard to see to it that that was the specific result of it.

I have long advocated that concessions should be paying higher franchise fees. Madam President, that is not the fault of the system. That is the fault of the business managers of the National Park Service, and that can be changed. If people really want to put these things on a more business-like basis, all they have to do is write a better contract.

Some of the contracts that have been written by the system are a joke, but that is not the fault of the act. That is the fault of incompetence in governing, and incompetence in governing is not a franchise of either party. It is the mark of both parties. It is the mark of Government. But you can do better, and there is no reason to tear down a system that has provided excellence from one end to the other in order to do better.

To think differently is basically to think and to subscribe to the administration's views that this great national park system is for amusements to be run for money and not for the purpose of setting them aside to preserve them and protect them for the future and provide for the current enjoyment of Americans. That is why they were put together. They are not to be a coin machine for the Treasury, especially when the Treasury refuses through the offices of the Congress to provide the money to run those parks well, and now we are going to take on the additional load of buying concessions and operating them until we get new concessionaires?

It is a joke, Madam President. The current system is the best example I know of how a private/public partnership should work. It provided millions and millions and millions of dollars in vital infrastructure and services to the visitors to the parks all at no cost to the taxpayers and all with the result of good, solid facilities for America's parks visitors to enjoy when they are in the parks.

The committee chose to change the conditions of the right to possessory interest and in so doing, in my judgment, will initiate the biggest buyout that the Park Service has ever had. Existing concession operators will have no alternative but to leave their businesses on termination date unless they are very, very big and they can write these things off in other ways.

What you may see is just a swap of ownership; that which TW Services now owns will go to the market and ARA will buy it, and that which ARA now owns TW Services will buy, all of them trying to recoup a capital situation which they now understand and which they entered into with good faith. And their new judgment is going to be, I trust, the Congress not to change it again when they go to the bank for more capital.

In my judgment, existing concession operators have no alternative but to leave their businesses on the termination date, and in my judgment that will result in a Government buyout because successor interests will have the same problem—unless, of course, it can be acquired more cheaply, and the only way you can acquire it more cheaply is to buy it from the Park Service, which will be forced to buy them out.

Now, unfortunately, not all the concessions are small in size. This legislation will be an extraordinarily expensive piece of business. There is no accurate record of how much the total possessory interests held by concessionaires is worth in today's dollars, but one has only to look at the hotels and the lodges and the restaurants and marinas and other facilities around the service to realize that as concession operators opt out for more lucrative pastures, the cost to the Government could run into billions.

In all fairness, there will be some concessionaires who do elect to stay in business, but they will be few and they will be corporate interests, certainly not family interests—corporate interests that can move these kinds of investments.

Sheer economics will dictate others to leave. It just does not make any sense. They can simply leave their present contract, pocket taxpayer funds which the legislation so graciously gives them and then go right back in and bid. They will be richer, the Federal Government poorer, but we will have satisfied the need to look very fine in front of those who say that we do not have enough competition in the current system. They will never judge us. We will not be around to be seen when this turns out to be as I predict.

I will have a couple of amendments to offer today, one which will provide a standby option to deal with possessory interest, which would leave the Secretary with his current discretion to continue it on renewal or negotiate a different arrangement should my views prove to be correct.

My second amendment is, lest we lose track of all of this and become anonymous, as we so often do, will mandate certain reports to Congress so that our successors may judge if we were right or wrong in our actions today.

I hope I am wrong. It will be good for the park system. It would be very good for the park system if I am wrong. But I do not think I am. We have not gotten around to figuring out how to try this. We are just going to go do it even though we have in hand a system which has worked and we know it to have worked. But there is something that bothers people about people being successful when they have franchises from the Government. There is something that makes us as legislators feel very uncomfortable that somebody is making money without ever realizing what the somebody making money is providing for the citizen. He is providing the best visitor facilities of any national park system that exists anywhere in the world.

I have been all over the world, Madam President. I have been on the African Continent, been in China, been in Japan, been in Europe, been in Britain, been in South America. I have been to parks in all of these places. They do not hold a candle to what we have done, and I tell you we deal with it carefully or we abandon it.

The intent of the amendment is to allow the Secretary the discretion to allow any concessioner the right to retain his possessory interest, and only to the extent that the continuation of such interest advances the policy objectives of the act. By passing this amendment we can possibly avoid a cost to the Government that will be in the billions of dollars.

Possessory interest is a right under current law and in many cases worth a substantial amount of money. If Congress chooses to eliminate the right of possessory interest the owner of the right is entitled to just compensation.

By maintaining possessory interest in a facility a concessioner will be expected to continue to invest their own money in capital improvements. If the existing concessioner changes he or she would be reimbursed for their possessory interest and the new concessioner would have the possessory interest if the Secretary has determined that continuation would advance the policy set forth in the committee amendment. Voting for this amendment gives us a way out of coming up with money we do not have, and in addition our counties will not be impacted quite as soon.

For example, the Park Service eliminated possessory interest at Yosemite National Park. This means that Mariposa County will have a $700,000 short fall—1993 dollars—to its tax base. This is something that the residents of Mariposa will have to make up from other sources.

Madam President, another point that I must make is to describe the situation facing an existing concessioner. If for a moment we assume that at a park in your State there is a concessioner we will call "A" with a possessory interest of $1 million in real property. "A" faces a renewal of a 10-year contract with an assumed 20-year schedule for reducing the value of the possessory interest. At the present time, A's possessory interest is worth $1 million and can be used as collateral. The real property's value as collateral is devalued upon enactment of the legislation because the legislation would reduce the value over time. The value is also minimal for any new concessioner upon enactment of this legislation.

For A, however, the cost of renewal is not simply the decrease in value over the 10-year contract period of $500,000—$1 million times length of contract divided by reduction schedule. Instead, the cost of renewal to "A" is the difference between that value—$500,000—and the time value of the $1 million over the same period. $1 million invested at 7 percent compound interest would be worth $2 million at the end of 10 years, so the actual cost of renewal to "A" is $1.5 million at the end of 10 years. Coupled with the loss of the interest as further collateral, this legislation should discourage present concessionaires from continuing, unless the Park Service buys them out. And it discourages a new concessioner from coming in, until the Park Service buys out the current concessioner. Either way, business decisions dictate that the Federal Government must buy out the current possessory interest.

My amendment simply allows the Secretary the discretion to avoid the problems presented in this scenario. If he so chooses, he can continue possessory interest for the purposes of fiscal responsibility and integrity. In addition to the cost of concessionaires leaving and taking the value of their real property with them, we must consider the potential cost of the concession bill on appropriations. The Congressional Budget Office estimates that within the next 5 years, 90 percent of all franchise fees will be going into the new fund established by this legislation. Assuming that perhaps 90 percent of the contracts will have been renewed, I present this plausible scenario—Concessioner "A" has a possessory interest. If "A" chooses to renew, which is not likely based on what I just told you, "A" knows that the value of the possessory interest will be reduced over a period of years.

If "A" does not renew, either the Park Service or a new concessioner would have to pay "A" the full value of the real property in the possessory interest. A likely scenario is that existing concessionaires will decide to capture their possessory interest and reinvest it elsewhere. This scenario is particularly likely where the possessory interest is significant, or represents the major assets of a firm or family. For a family, that possessory interest may represent funds for children's education, retirement, or inheritance.

If the existing concessioner walks, other potential concessionaires may very well wait until the Park Service pays concessioner "A" so they do not have to absorb the cost. Only then will all future bids on the concession be free of the expense of the value of the possessory interest.

We do not have a firm estimate on the total amount of possessory interests outstanding in the hands of current concessionaires. However, a brief survey of some of the existing concessionaires has yielded figures of over $500 million, with individual figures ranging from $100,000 to almost $150 million. And, this is only a partial inventory with the value of some major concessions unknown. If the final figure winds up around $1 billion, and one assumes that 90 percent of the contracts will come up over the next 5 years, as CBO did, then Interior and related agencies will assume a potential indebtedness of about $180 million each year. That $180 million will come at the expense of National Park maintenance and other programs funded by Interior and related agencies. The other alternative is that the Secretary will reduce fees to enable the concessionaires to recapture his investment. That would reduce Federal revenues and increase the deficit.

The easy way to avoid the possibility of present concessionaires leaving, and taking the value of their assets with them is to provide the Secretary with some discretion on all current possessory interests. Over time, the Park Service may be able to buy out existing interests, but that is something that can be controlled in appropriations.

I need to stress again that my amendment cures the problems pre-

sented in this scenario by allowing the Secretary the discretion to continue possessory interest if it meets the policy objectives of the act.

In this manner the Secretary has some control over the maintenance of fiscal responsibility during the appropriations process. We have discussed the likely scenario that existing concessionaires may decide to capture their possessory interest and reinvest it elsewhere. And, we have discussed the undesirable effect to this legislation on the appropriations process. If passed as currently written, there is the potential that the need for appropriated funds will be totally unpredictable, and possibly overwhelming.

My amendment reserves the options of the Secretary to meet the policy objectives of the act without further direction from Congress.

I yield the floor.

Mr. BENNETT addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Utah.

Mr. BENNETT. Madam President, I share in some of the concerns that my good friend from Wyoming voiced when he began his presentation. I am uncomfortable opposing the Senator from Wyoming on a business or political matter, and I have great respect for his judgment and his predictive powers. I think his analysis of what is going to happen is right on most of the time.

At the same time, I must rise to disagree with him on this occasion. He says he hopes he is wrong about his predictive powers. Obviously, so do I. But I would like to respond to some of the issues that he has raised and make it clear why I am supporting this particular legislation.

First, I must agree completely with the Senator from Wyoming in his discussion about the wisdom of the past with respect to national parks. I agree that our decision—ours, that is, the Congress—was a wise one in setting up the system that we have at the moment. I agree that the Federal Government would undoubtedly not have put the amount of investment into the national park concessions that has been put there. And I applaud the past Congresses for the action that they have taken. The one thing with which I disagree with the Senator from Wyoming is his statement that the situation has not changed. As I look at it, I think there has been significant change that requires some kind of change in the underlying statute. The change has been in the number of visitors going to the national parks and the demand that has been made on the concessions and, as a consequence, in the attractiveness of a concession to an investor.

I can understand that where there are a limited number of visitors to a national park and where there is a limited season in the national park, unusual inducements are going to have to be offered to a businessman or business woman to get him or her to go in and take the risk involved in that circumstance. But let 10 years pass and the number of visitors double, triple, or quadruple, and all of a sudden you have a situation where the concession is an extremely valuable economic asset.

And we are saying, "Well, if you happened to have been lucky enough 15 years ago to be the one to get the concession, you now have a lifetime right, an eternal right, to hang onto that and reap the benefits from it regardless of what may have changed in the marketplace." Then we would protect that eternal right to the point of freezing out any competitor that might be able to service the park visitor better than the person who was there 15 years ago.

I agree with the Senator from Wyoming in his statement that the primary purpose of these concessions is to service the park visitor. There is no question in my mind but that the driving consideration in all of the decisions was what is best for the park visitor and not what is best for the concessionaire and not what is best for the Park Service—indeed, not what is best for the Park Service and its view of how the park should be administered—but what is best for the park visitor. Ultimately, that is why we have national parks. If we did not have national parks for the purpose of helping the visitor, we might as well turn them off to the visitors, keep them out except for the backpackers.

However, we have decided, wisely, to open them, ask people to come, and make them available to the widest possible group of visitors, and while the visitor is there we will provide services —food and other amenities—that make the visit a worthwhile experience.

I submit that the present system is not the best for the park visitor however well it may have served us in the past.

I offer as an example of how many people would be interested in providing the very best possible services in a competitive situation. There was a statistic given by a present concessionaire who was arguing in favor of the present system and unwittingly, I think, undercut that argument himself. He said, "Senator, it is not true that the present system discourages bidding. The last time our contract came up for renewal, there were 15 bidders against us. Naturally, we kept them all out as our right of refusal." I asked how long ago it was, and he said, "About 90 days." This is not ancient history. This is current history.

I submit, given the size of this particular proposal, the 15 bidders were very much aware of potential changes on this floor in this legislation and were prepared to accept the risks contained in the current version of S. 208 because they were very, very much in the marketplace of ideas at the time the bids were made. They were all frozen out under the present circumstance, and if we continue in the present circumstance, we guarantee that there will be no competition on the part of new operators who might have better concepts as to how to service the park visitor.

I must address the issue raised by my friend from Wyoming with respect to bankers willing to loan on these kinds of investments. I have had some experience going to bankers trying to get money from them. I discovered, as one banker told me very early in my career, the bank does not care about your collateral. The bank wants to know how you are going to pay the loan back.

I said, "I have a house. It is a wonderful house. Come see it." He said "No. I don't want to come see it." I said, "It is worth more than the amount I am asking here in loan. Let me pledge my house so that I can have this loan so that I can go into this wonderful business that I will be glad to tell you all about."

The banker gave me some of the best advice I have ever had. He said, "The bank does not want your house. The bank does not want to be in the real estate business. If we wanted to be in the real estate business, we would have organized a subsidiary to be in the real estate business. We want to know how you are going to pay it back, not what we are going to get when you don't pay it back. We are interested in the cash flow from your business."

Well, then I had to start dancing pretty nicely by the banker's desk because my business plan was based on a lot of hope and no real indication as to how I was going to be able to pay the bank back. Fortunately for both the bank and myself, the bank turned down my application for a loan, and I never got into that business and never had the opportunity to lose all of the money that I would have lost because it was not the right business for me to have been in. The banker was smart enough to see that. I was not.

As someone goes to the bank to say, "I want to finance the purchase of facilities at a national park in order to get into the park concession business," the banker, like my old friend, will say, "How are you going to pay this back?" Not, "How much is it going to be worth on the back end?" The banker will look at cash flow, not collateral, in order to make the loan unless it is a different kind of banker than any of those that I have dealt with.

Well, we are told, without anything on the back end, the cash flow will not sustain any kind of investment. You have to have a promise that you can cash out at the end of the contract or you will not take the risk. At least no reasonable businessman will.

I hesitated whether or not to share this example with the Members of the Senate. But I decided that like any

concrete example from the concessionaires—I will talk about that in a moment—I might as well, because this is the best example I can find, and it strikes a little bit at the heart of the argument of the Senator from Wyoming because it has to do with a piece of property in Wyoming.

Since I came to the Senate, I was informed by the Ethics Committee that I could no longer be involved in any of the businesses in which I have my investments except as an investor. And under the advice of the Ethics Committee, I have created a managed asset trust. I have turned all of my assets over to that trust, and the trustees are making all the business decisions.

One of the investments that was offered to our trust has to do with a piece of property in Wyoming. I looked at it and said to my trustees, "You are going to make the decisions under the terms of the trust. But under the terms of this lease, once the lease is over, all of the leasehold improvements that we have put into this property will revert to the landowner, and, to use the language of this debate, possessory interests will be zero. And I do not think we can make enough money in order for this to work. I do not think it is going to work."

The trustees said, "Well, thank you very much, Senator. Now we are running the trust, and we will run the numbers and tell you whether or not the cash flow over the life of the contract is sufficient to service the contract." They came back to me and said, "Guess what?" I said "What?" They said, "We ran the numbers. We have done the analysis. We are going to go ahead with the purchase of the lease even though there is no interest at all at the end of the lease. We think we can make enough money on the cash flow that will not only justify the investment but make you some reasonable return along the way."

They have gone to a bank in Wyoming and presented the lease, and the bank said, "We would be delighted to fund that lease because we can see from the cash flow how you are going to be able to pay us back."

So I accept the judgment of the trustees of my managed asset trust. They may be wrong. I may end up seeing that asset lose money, seeing that go down the drain, but at least the very hard-nosed trustees who are looking after my assets, as well as the Wyoming bank that has examined the lease, have said it is worth making the investment even though the possessory interest at the back end will be under the terms of the contract.

Again, Madam President, this is an illustration of the fact that the bank is not interested in collateral. They are interested in cash flow, and as an investor so am I.

I said I hesitated to use that example. I would have much preferred to have some real numbers out of the concession world to deal with in making this analysis.

Indeed, as we were formulating the legislation in the committee, I said to the representatives and concessionaires who came to see me from time to time: Can you give me some numbers? You are giving me philosophy, you are giving me for instances, you are giving me hypotheticals. Can you give me some firm numbers, actual numbers out of the concessionaire's world in which you live? As a businessman, I am always interested in real numbers. They said: Yes, we can give you some real numbers. But somehow the real numbers never materialized.

Finally, after the bill passed the committee, one of the concessionaires came in and said, "Here are the numbers." They had some very interesting numbers about the size of their operation, in terms of total volume, about the number of taxes they were paying in my State of Utah, property taxes, sales taxes, and franchise taxes. That was all very interesting. But there was one number that was missing. They never told me about return on investment. They never told me how much money they were making under the present circumstance, which, if I were to be a bidder against them, I would want to know. If I were to be a bidder against them, I obviously would not want any confidential information out of their files. I would construct these numbers myself if I were to be a bidder against them. They would be closely guarded.

I promised these people I would not disclose their return on investment here or anyplace else. I just wanted to know how badly they were going to be hurt in terms of cash flow. And they would not tell me.

Again, as a businessman, I have to have that kind of data before I can say with certainty that the dire consequences they are predicting are going to come forth. Their failure to provide that kind of data, Madam President, leads me to believe that they are not confident that that data would convince me that the dire consequences predicted would come to pass. So, as I say, I have gone to the example out of my own circumstance to show that it is entirely possible to have an investment where the possessor goes back to zero and still does quite well.

Let us talk about the issue raised by the Senator from Wyoming with respect to the best franchisee versus the cheapest franchisee. We have heard that argument a great deal. Once again, in the context that I have approached this, it is a persuasive argument. All of our consideration must be based on the question: What is best for the park visitor? Obviously, the best franchisee would be best for the park visitor.

Who is the best franchisee? The best franchisee, by definition, is the one who knows the most about the business—the one who brings the greatest expertise and background to the table at the time of the bidding. Who will that be when these contracts come up for renewal? Obviously, the prejudice is that it will be the existing concessionaire, as the existing concessionaire will bring to the table years and years of experience, years and years of understanding, not only in the top management, but all the way down through the middle management and the people who meet the public directly. That kind of experience, in any kind of competitive bidding, will be enormously valuable to the existing concessionaire.

As I have said to many of them who had said, "We are afraid we are going to lose our contract to somebody else": "You must not have very much confidence in the expertise that you have built up over the years while you have been running this operation, if you think somebody else can come in and knock you out of the box with a complete start-up operation."

I have had the experience—as every businessman has—of having existing suppliers come to bid on a renewal of their contract. In almost every case, I go with the existing supplier because of that expertise. But I want the right to pick a new one just in case the existing one is falling down. That is what competition is all about. And it is the existence of that right, created by this bill, S. 208, that will sharpen the performance of the existing concessionaires and thereby improve the experience of the park visitor.

Back to the reference I made earlier, an existing concessionaire with 15 bidders against him, under the present circumstance, can turn those 15 aside with the wave of his hand and ignore the competitive pressure of those bids. Under our bill, the existing concessionaire, faced with 15 bidders, probably will still get the contract, but he will sharpen his performance to make sure he gets the contract against those others.

There are a few other items that I think need to be referred to in the RECORD. The Senator from Wyoming talked about most of these being "mom and pop" operations that have been in the family for generations, and that is true. He indicated that it would be unfair, in many of these circumstances, to take away that which has been the sole livelihood of these families over several generations; and I agree, which is why I prevailed upon the Senator from Arkansas, Mr. BUMPERS, to raise the cutoff point from $250,000 a year to $500,000 a year, and to exempt river runners and trail guides from the provisions of S. 208, so that those people who are not in the kinds of circumstances that we have been talking about with respect to huge investments, have the kind of protection that the present legislation gives them.

I agree with the Senator from Wyoming entirely about the success of the present legislation in those areas, and I do not want to upset it. We are talking only about activities in excess of $500,000 a year. We are talking about a relatively small percentage of the concessionaires that will be affected by this circumstance of S. 208 regarding possessory interest. We are talking about those that will attract the highest number of bidders and competitors and produce the increased or the best result for the park visitor by virtue of the power of competition.

So, Madam President, in spite of reluctance to disagree with my good friend from Wyoming, I stand here in support of S. 208, as it has been reported by the committee. I believe that it is the best business-oriented approach to this particular challenge. I conclude, as I began, by saying to the Senate and to my friend from Wyoming that I agree with his analysis of the past. My only disagreement comes with his statement that the situation has not changed. I believe it has. I believe the legislation must be updated to reflect that change. I agree with him that we will both have to wait now and see whether his predictive powers are better than mine, and if it turns out he was right and I was wrong, I stand prepared to make whatever changes we might have to make and whatever apologies we might have to make. But there comes a time in every argument within a corporation as to the next business step to take, when somebody must say: All right, I have heard all of the arguments on both sides, and both seem to have merit, but a decision must be made, and we must proceed in one direction or the other. I am one, having heard all of those arguments, who has decided to proceed in the direction outlined in S. 208.

Parenthetically, or as an aftercomment, Madam President, I indicate that I have great interest in the amendments that the Senator from Wyoming has outlined here and would like to go over them carefully. At first blush, I see no reason why I could not accept and support them. I would like to confer with the chairman of the committee and get his reaction to them before making any final commitment.

I yield the floor.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER (Mrs. FEINSTEIN). The Senator from Arkansas is recognized.

Mr. BUMPERS. Madam President, I think I would be remiss if I did not spend a minute to laud my distinguished colleague from Utah, Senator BENNETT. He came here last year and, I think in perhaps the shortest period of time I have ever seen, has established his credibility with virtually every Member of this body. I know this is an accolade that he would not care to hear and would just as soon I omit in my opening statement, but the truth of the matter is, after 16 long years that I have labored on this legislation, we would not be where we are today without Senator BENNETT.

I would not presume to say anything in addition to what he has already said, but he has obviously been successful in business. He is a man of unquestioned integrity, and that goes to intellectual integrity as well as all other kinds that you can conjure up.

But when we were debating this bill in the Energy Committee, without repeating it, he made one of the most eloquent statements I ever heard in the 19 years I have been in the Senate. We come from opposite sides of the aisle, but I can tell you, when people like Senator BENNETT and I can sit down and reason together, as we did on a number of occasions, trying to hammer out a bill that he thought was reasonable and that I thought was reasonable, when we do that, the people's interests are best served.

I think that while Whitewater rages across this city—not so much across the country, but across this city—there are a lot of hardworking Senators who continue to sit down and reason together and do the people's business.

This was not, in my opinion, all that easy for Senator BENNETT. But even though I put in 16 years of hard work on this bill, he deserves, after being here a year, equally as much credit for crafting this bill and its passage out of committee, on a vote of 16 to 4, as I do.

Madam President, I will talk more about this bill in just a moment. But I say that another reason Senator BENNETT's membership in this body has alleviated the frustration level somewhat for me is because it seems as though every single thing I get involved in either is never going to pass, or it takes forever to pass. I probably speak for every other Senator, perhaps every Senator, that has this absolutely unbelievable skyrocketing level of frustration. It is not a very happy place; let us face it. You go to the Cloakrooms; you talk to Senators in private; it is not a happy place because of the frustration level and the "inability to get anything done."

I know that my friend from Wyoming and other western Senators sometimes think I am a Johny-one-note: If it does not hurt the West, I am not interested in it. I see the Senator nodding his head in agreement. But I remember when I went to work trying to make the Federal Government lease oil and gas lands belonging to the Federal Government on a competitive basis, and I was considered a pariah for having done that. That only took 8 years, Madam President; 8 years to change a fraudulent lottery system for awarding oil and gas leases on Federal lands that were worth millions. We were letting them go for $1 an acre because that was the way we did it in 1920.

I am going to save my mining reform speech until later, because everybody has heard that so many times, and that is a place where Senator BENNETT and I will differ. But I can tell you that we honestly differ.

In any event, when it takes 16 years to do something as patently correct as S. 208, you can see why the frustration level is maddening.

I do not want to denigrate any Senator, because I have indulged in it myself, but we sometimes make the most arcane arguments in this body because we have—not a hidden agenda, but we have perhaps a constituent back home that has 100 employees and he has written saying he is going to have to shut the plant down; he is going to have to lay people off. And we come over here and we do not say an employer in my State with 100 employees is going to have to lay half of them off. We use all these little arcane nuances, trying to give people who either want to vote no or yes against their better judgment, something to hang their hats on.

I have just recently introduced a bill which allows the States to levy use taxes or sales taxes on merchandise coming into their State from mail-order houses. It is a business which is mushrooming in the country. We could never do anything about it because of the Supreme Court decision until 1992. Now the ball is in Congress' court. But you cannot get a vote from any Senator who has a fairly sizable mail-order house in his State. I will have a very, very tough time with this legislation.

But I just make this point, and I am not here to debate that bill. People should ask themselves a simple question: What if everyone in the country bought merchandise from the mail-order houses? Incidentally, they are heading in that direction. What would the State do? Or imagine other State services. The sales tax is their No. 1 tax. They pay for it. L.L. Bean pays the sales tax in Maine because that is where they are located, and they have no problem in doing it. But they and others similarly situated will say: If you make us pay taxes to the State of Arkansas, we will have to lay off 500 people, or shut down; or we will do something else.

In this particular case—and I am not applying this to the Senator from Wyoming, because I think the Senator from Wyoming genuinely resisted the passage of this bill because of a strong belief that the present system was working fine. But here is the way I look at it: When I go home and talk to the Chamber of Commerce, and more especially when I went to the people of my State when I ran for Governor and later Senator, do you know what I said? "I will run the State of Arkansas like you run your business. We will husband the money; we will not squander your tax money."

When I came to the Senate, I felt that I had performed sufficiently well

on that commitment as Governor of my State. I said, "I promise you these things," and then I did them. "When I go to the Senate, if you will send me there, I will do my very best to see to it that the U.S. Government is operated in a more businesslike way. We will stop unnecessary spending, if I have anything to do with it, and we will stop giveaway deals to protect this group or that group, and try to treat everybody fairly."

So shortly—to be precise, in March of 1979, 4 years after I came to the Senate—I became chairman of the Subcommittee on Public Lands, National Parks and Forests. And the first thing I did was to hold a hearing on why park concessioners in this country, people who run all the concessions were paying such an infinitesimally small amount for the privilege of operating a concession on lands belonging to the taxpayers of the United States.

The first hearing was held in March 1979. And we are here almost 16 years to the day after that, 15 years, getting ready to pass a bill.

Madam President, in 1992 658 park concessioners—those who operate everything from canoes on national rivers to the operation of hotels and restaurants in Yosemite National Park and Yellowstone National Park and Grand Canyon—took in $650 million. That was in gross revenue. From that $650 million, the taxpayers of America got the princely sum of $18 million, or 2.7 percent.

And the opponents would say, "Yes, but you don't understand. They built this hotel. They built this lodge. They built this new restaurant."

And that is true. That is inarguable. They had built facilities inside the parks at the insistence of the National Park Service and they are entitled to compensation for that.

But one of the problems with that was, those possessory interests—that is what we call them—once they build a hotel at Yosemite or some other national park, when their contract expired, they could do either of two things: they could bid to renew their contract, in which case they had what is called a preferential right; and, second, if they chose not to bid to renew the contract, they were entitled to what was called sound value for that improvement they had built in that park—like a hotel.

For example, if the concessioner at Yosemite spent $10 million on a new hotel and 15 years later, when his contract expired, he chose not to bid again—I cannot think of an instance where that ever occurred, because they love these contracts; they always bid for them and they had a bird nest on the ground because nobody could take it away from them—but he was entitled to what was called sound value. So for that $10 million hotel that he had built 15 years before, he was entitled, not to its depreciated value, but essentially to its fair market value, and the fair market value of that possessory interest could very well be $15 million, or $5 million more than he paid for it, even though, for tax purposes, he had depreciated about half the cost.

So when they argue possessory interest, almost without exception, that possessory interest is worth more when his contract expired than it was when he built it.

Madam President, in 1990, the Interior Department's Inspector General did an audit on 29 concession contracts. Of the 29, 28 were awarded without any competition. Why? Because the law provided that if you had a contract, the only way it could be taken away from you was to refuse to match a competing bid.

Witness this: Let us assume that you are bidding on a contract and you bid $100,000 a year. You have the contract now and it is expiring and it is coming up for renewal.

Let us assume you want to pay $100,000 a year and the Park Service says, "That doesn't sound quite reasonable to us." So they go out and find other bidders. And somebody comes in, after doing a lot of work, trying to decide for themselves what this contract is really worth. Let us assume an outsider comes in and says, "I'll give you twice that, $200,000." Under existing law, do you think the Park Service gives that to him because he offered twice as much as the existing concessioner? Why, no. They go back to the original contractor and say, "Look. We have a bid for $200,000. Do you want to match it?" He says, "Yeah, I'll match it." Do you know where that leaves the guy that made the first offer of $200,000? Out in the cold.

TW Services, one of the biggest operators in the United States—I believe it may be a subsidiary or parent company of TWA—testified before our committee on two separate occasions and said:

> Why would I spend a half million developing a bid on a contract, knowing that all the guy who has the contract now has to do to keep it is to match my bid? So why would I go out and spend money bidding on a contract, knowing that all the guy that has it has to do is match my bid and I am out in the cold?

Madam President, you cannot go home and tell the Chamber of Commerce how eager you are to spend their money as though it were their own, or that you are going to spend their money as if it were your own, or that you are going to conduct business at the Federal level like a business, you cannot make those speeches and champion that kind of a situation.

I told you about the inspector general auditing 29 concession contracts; 28 of the 29 were awarded without competition. And the Park Service says that competitors do not even bother to bid. And why would they? Out of 1,900 contracts awarded, only in 100 cases out of 1,900 were competing bids offered.

Madam President, I am chairman of the Small Business Committee and a former small businessman. That does not say a lot. I was a lawyer. I was a small businessman. I had a farm. I had three kids. I would do anything. I even owned a cemetery at one time to keep bread on the table and make some arrangements for my children's education.

But the small business community came to see me and said, "Senator, we just take in $100,000 a year or $300,000 a year. We have 75 canoes on the Buffalo River in Arkansas. And, you know, nobody is going to make any money out of this thing."

In order to accommodate what I considered to be fairly legitimate concerns of small business, we have exempted five-sixths of all the concessioners in this country. Of all 658 of them, we have exempted five-sixths of them from the elimination of preferential right and we left them with a preferential right.

But, we also give the Secretary some discretion in determining whether they are entitled to a renewed contract or not. They have to perform and perform satisfactorily and the Park Service has to believe that they have been performing very well before they are entitled to the so-called preferential right of renewal.

Madam President, my notes here take me through some of the fundamentals of the provisions of S. 208.

For example, S. 208 establishes a competitive selection process for the awarding of contracts, directs the Secretary of Interior to prepare a prospectus identifying the minimum contract requirements and to select the best proposal.

In determining what the best proposal is, he still does not have carte blanche. He has to decide that the proposal is responsive to the minimum requirements, that the proposal protects and preserves park resources and provides necessary and appropriate facilities and services at reasonable rates. That is the first thing he has to do. Then he has to determine that this person is experienced, has a background for it. And, finally, he must consider the franchise fee offer—although the bill makes crystal clear that the consideration of how much money you are going to get out of the contract is subordinate to the objectives of preserving the park and the park's esthetics and the park values.

Really, about the only place the Senator from Utah and I had to sit down and really work this thing out was on how long should a contract be. My bill provided you could get a 10-year contract, and at the discretion of the Secretary it could be extended for 5 years. Senator BENNETT said—and I really had no objection to this—the Secretary

should have the right to extend it to 20 years. The Secretary, depending on all the considerations that he would use, may extend it for 5 years or he may extend it for 10 years. But to give him that authority, where somebody has a major investment and is doing very well and the Government is doing well too, I had no real quarrel with that.

In addition to all this, the Secretary is required to grant a preferential right of renewal to any concessioner with a contract, where the Secretary estimates that the annual gross revenue will be less than $500,000. The Secretary would have to find the concessioner was operating satisfactorily during the previous contract and that the proposal for the new contract satisfied the minimum requirements established by the Secretary.

I think that pretty well sums up what we have done. I take a great deal of pride in the fact we are finally standing here, after 16 years, doing something important. You will not read about it in the Times or the Post. You will not read about it in very many publications. Unhappily, that is one of the problems in this country, people have a difficult time determining what is chaff and what is wheat. But I can tell you, this is a very important bill. It is not single-handedly going to restore people's confidence in Congress, but for the people who watched this bill all these years, they are going to applaud. They are going to say those guys are finally getting their act together. I again want to applaud my distinguished friend from Utah.

I say to my good friend from Wyoming, he offered some amendments in the committee. He has a couple here I think are acceptable. He has been very helpful in trying to work out getting to the time when we could get on the floor with this bill, and I want to thank him very sincerely for his cooperation also.

When I became chairman of the Public Lands Subcommittee in 1979, the very first oversight hearing I held was on concessions reform.

Since that time, numerous congressional oversight hearings have been conducted, including hearings last Congress and this Congress. In addition, this issue has been the subject of numerous studies, reports and analyses prepared by the Congress, the General Accounting Office, the Department of the Interior inspector general, the National Park Service, and a variety of private research organizations. All of these studies have identified problems with the current Concessions Policy Act which need to be addressed.

Even more troubling than the low franchise fees are provisions in the existing law which effectively eliminate any competition for concessions contracts in National Parks. For example, one provision of the existing law grants existing concessions a preferential right to renew their contracts. Because an incumbent concessioner can simply match any higher bid, there is little incentive for a potential competitor to spend time and the money required to submit a serious bid.

According to the National Park Service, since the passage of the Concessions Policy Act in 1965, only seven of the approximately 1,900 contrasts entered into have been awarded to a competitor where the incumbent concessioner bid to retain the contract, and none of the seven cases involved a contract in excess of $1 million annual gross revenues.

A 1990 audit report prepared by the Department of the Interior's inspector general audited 29 concessions contracts; of those, 28 were awarded without competing offers. The Park Service indicates that competitors have submitted offers in only about 100 of the 1,900 contracts awarded.

This year, following the subcommittee hearing, my colleague from Utah, Senator BENNETT, and I worked out what I believe is a very good compromise agreement. That agreement, which is reflected in this bill, eliminates provisions in the existing law which have proven to be so anticompetitive, while ensuring that the Park Service will select the best concessioner, and recognizing the different needs of outfitters and other smaller operators. The bill allows five-sixths of the concessioners to keep a preferential right of renewal, yet ensures that the large contracts, which account for 93 percent of all concessions revenues, are opened to competition.

Over the years, the issue of concessions reform has been extremely controversial. Yet last month, the Energy Committee reported S. 208 by a vote of 16 to 4. Much of the credit for this margin goes to Senator BENNETT, the coauthor of the substitute amendment.

I am also pleased that the administration strongly supports enactment of this bill. Last year, the Department of the Interior adopted new regulations and standard contract language that contain many of the elements included in S. 208.

I believe that members of the Senate will agree that this legislation is a balanced, bipartisan measure that will ensure that both the American public and our National Parks benefit from this increased competition.

Madam President, I would like to briefly summarize the major provisions of S. 208, as reported by the Energy Committee.

REPEAL OF CONCESSIONS POLICY ACT OF 1965

As reported, S. 208 repeals the 1965 Concessions Policy Act while providing that the validity of contracts entered into under the 1965 act will not be affected.

COMPETITIVE SELECTION PROCESS

S. 208 establishes a competitive selection process for the awarding of concessions contracts and directs the Secretary of the Interior to prepare a prospectus identifying the minimum contract requirements, and to select the best proposal. In determining the best proposal, the principal factors to be considered include the responsiveness of the proposal to protecting and preserving park resources and providing necessary and appropriate facilities and services at reasonable rates.

In addition, the Secretary would be required to grant a preferential right of renewal to any concessioner with a contract that the Secretary estimates will have annual gross revenues of no more than $500,000, regardless of whether the concessioner had a possessory interest or not. In both cases, the Secretary would be required to find that the concessioner had operated satisfactorily during the previous contract term and that the concessioner's proposal for the new contract satisfied the minimum requirements established by the Secretary, before granting a preferential right of renewal.

In addition, the bill includes language directing the Secretary, in selecting the best proposal, to take into consideration the experience, expertise, and related background of the applicant in providing the same or similar services as required by the prospectus.

PREFERENTIAL RIGHT TO PROVIDE ADDITIONAL SERVICES

S. 208 prohibits the granting of a preferential right to a concessioner to provide new or additional services at a park.

POSSESSORY INTEREST

S. 208 states that any concessioner who currently has a possessory interest will retain that interest, as defined under the 1965 act—either as provided in the concessions contract or sound value—for the duration of the current contract.

A concessioner who is covered by the 1965 act, and who does not renew the contract, would be entitled to receive the value of the possessory interest, in most cases sound value as defined in the 1965 act.

A concessioner who is covered by the 1965 act and renews the contract under this act, would be required, as a condition of entering into the new contract, to begin reducing the value of the possessory interest—as of the termination of the previous contract—using straight line depreciation over the useful life of the asset. Such depreciation period may not exceed the depreciation period used for Federal income tax purposes for such asset—which is currently 39 years.

A concessioner who enters into a contract under this act and builds a structure would have an interest in such structure equal to the actual original cost of construction, with the value to be depreciated over the useful life of the structure, not to exceed the depre-

ciation period used for Federal income tax purposes for such asset.

A concessioner who is not awarded the subsequent contract would be entitled to receive from the United States or a successor concessioner the depreciated, or book value, of the structure.

FRANCHISE FEES FOR SIMILAR SERVICES

If multiple contracts are to be awarded to provide the same or similar outfitting, guide, river running, or other similar service at the same approximate resource or location within a park, the bill requires the Secretary to establish an identical franchise fee for all such contracts, based on fair market value, as determined by the Secretary.

USE OF FRANCHISE FEES

S. 208 provides that franchise fees are to be used for resource management and protection, maintenance activities, interpretation, and research. Fifty percent of the fees are to be allocated among the parks on the basis of need, as determined by the Secretary, and 50 percent are to be made available to parks in the same proportion as the percentage of total franchise fees collected by the park.

PARK IMPROVEMENT FUND

The Secretary would be directed, where practicable, to require a concessioner to establish a park improvement fund in lieu of receiving all or a portion of the franchise fees. The fund would be used to finance activities and projects within the park consistent with the park's general management plan, and other applicable plans.

CONGRESSIONAL FINDINGS

As introduced, S. 208 contained congressional findings which stated that facilities should be provided within a park only when the private sector or other public agencies could not adequately provide such facilities within the vicinity of the park. The committee reported bill deletes this provision, restates provisions from the 1965 act, and adds language making clear that concessions facilities should be provided by the private sector, if possible.

DUTIES OF THE SECRETARY

S. 208 requires the Secretary to set forth in any prospectus the facilities or services to be provided by the Secretary for the concessioner. In addition, the Secretary is directed to promulgate regulations to establish a method or procedure for the resolution of disputes between the Secretary and a concessioner in those instances where the Secretary has been unable to meet the conditions or requirements, or is unable to provide the services contained in the prospectus.

CONGRESSIONAL NOTIFICATION

S. 208 provides for congressional review of any concessions contract with anticipated gross receipts of excess of $5 million or a duration of 10 years or more, indexed to 1993 constant dollars.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Madam President, certainly I will send the two amendments to the desk of which I spoke and about which the Senator from Arkansas spoke. I think it is important for the purposes of concluding the debate to respond to a couple of things I have heard.

The Senator from Utah says, quite correctly: The situation has changed, the national parks are enormously popular—and indeed they are. One of the reasons they are enormously popular is because of the visitor facilities that have been provided under the Concessions Act.

The type of concession, of which the Senator spoke, is generally speaking the largest hotels, the largest kinds of operations, which have the ability to absorb some of the increased visitorship. The average concession is not such a thing. They work, indeed, under the control of and direction of the park superintendent and the National Park Service. So they cannot, if visitorship quadruples, they cannot put an extra 40 boats on the river if they are now running 10. They are limited in the responses they can have.

I have to say I am going to go to Utah and do my banking where I can find bankers who do not insist on collateral. Every time I go to the bank for a loan, notwithstanding the business plan, they tie up my ranch, they tie up my house, they tie up my family cars, they tie up anything they can get their hands on. And I have been in the habit of being successful in the businesses—not always, but generally—in the businesses I have undertaken.

Again, we have the ability in Congress to think of everything in the abstract, as though all of these little concessionaires are lined up and up here is a National Park Service and the National Park Service somehow or another is getting ripped off by all these people. We have to do something. All these people are little pigs at the bosom of the great Federal sow, in line sucking away at money that is made by the Federal Government for them.

That simply is not the case. It is not like doing business outside the National Park Service. You have to do what they tell you to do. Indeed, one of the things the Senator from Arkansas was talking about is these concessionaires have to perform and perform satisfactorily in current law. A concessionaire can be driven out of his concession by malfeasance or lack of performance. It happens, and it happens rather regularly. But what is missing here is the idea somehow what it is like to do business in a park.

My concessionaires in Yellowstone—not just TW Services, but the others—all had to shut down for the entire summer of 1988. It does not matter if there are four times as many visitors going to the rest of the national parks, that park was shut down by the fires. Business plans go awry, and that is OK if you have an interest that can continue on. But that is not so OK if you have a 10-year contract and 1 year is taken out of it. All the plans of which the Senator from Utah spoke about—cash flow and other things about how you are going to pay for it—get ripped. They get ripped right away. And that is part of it. Because in fact in the National Park Service you are not allowed to defend your properties the way you can if you are in Canyon Ranch, Big Horn, WY, or Salt Lake City. You can do things fighting fires that you are not allowed to do in the parks. It is a different way of doing business. It is not all these little piglets at the breast of the great Federal sow.

I have another example: Callville Bay, Lake Mead. An enormous storm blew it away with 3 years to go on their current contract, and the only reason they were able to raise money from the bankers was because they had a possessory interest; they had a preferential right of renewal; and a long-term contract. They got money and they rebuilt the marina. But it would not be there today had those things not been existence. They could not have gotten the money to refinance that from any bank, I do not care whether they wanted collateral or not.

The only complaint about this is coming from Congress. It is not coming from the users of the system. The users of America's parks like the concessions that exist there. I will say to my friend from Utah, people without expertise will still more often than not be the lowest bidder. No matter how many skills the local concessionaire brings to the table, that according to the terms of this bill is not something that the Secretary is going to take into account. Indeed, if he does he will be criticized by—guess who? The people sitting in this room, at an oversight hearing. I understand that so-and-so bid X for this contract and yet you awarded it to Y. "Oh, my goodness, Mr. Secretary, Mr. Director of the National Park Service, why would you possibly have done that to the taxpayer?"

Well, just think about a few of the things. Supposing you are in Indiana Dunes. That is one of the parks I have not been in, so I speak of it in the total abstract. Supposing you have a spa up there of some kind where people go to enjoy, can exercise, have massages, go out to the dunes and look at the lake, come back and do all those other kinds of things. Supposing your contract is coming up for renewal, and supposing there is a corporation in America called "Spas R Us." Does anybody doubt that Spas R Us can, for the life of a given 10-year contract, outbid a single small businessman and operate that at a loss merely to get in the door, and then, thereafter, be able to keep at bay, merely because of size, all other

competitors, not because of preferential rights of renewal or possessory interest?

I do not know. I can see where this bill is going. I think the vote in the committee was there. It does not necessarily mean that it was the right vote, and it does not necessarily mean that it was the wise thing to do, but it does mean that we have generally conceded to the desire to do something.

We, as a Congress, do not like people making money off Federal facilities. It is as simple as that. The Senator from Arkansas spoke about how long it has taken to get rid of the bidding process that used to exist for the right to drill for oil and gas. We were giving that stuff away for a buck an acre, says he. And it is true. What was not spoken is that several thousand people were bidding for the chance to get it at a buck an acre in the lottery. So we got more per acre then than we do now.

The State of Wyoming had lack of wisdom to follow the Federal Government on that, and we are making considerable less on our oil and gas leases than we did when we had the lottery. But we get more per acre and the statistic looks better, and somebody did not get rich as quickly as they might have had they been able to get this little concession for a buck an acre.

I believe, Madam President, with all my heart that is what we are doing here. I know it sounds better. I know it sounds especially good to say that we are going to have competition where none now exists. I know it sounds very good that this will bring us expert concessionaires. I do not for a minute believe that we are going to get as much money as we do now. I do not for a minute believe that we are going to have the best concessionaires merely because we have the cheapest. But that is going to be the direction in which the Congress seeks to go.

Mr. MURKOWSKI. Mr. President, no program of true Federal-private partnership has been more successful than the National Park Service Concession Program. Needed visitor facilities and services have been placed in national parks at a minimum of cost to the taxpayer. The private sector has willingly borne the burden of development.

Over the years, the Concession Program has addressed the needs of park operations, complete building improvement programs, and has consistently contributed to infrastructure improvements that were required to ensure that the needs of the park visitor were met.

S. 208 will change all this.

Let me present two examples of the potential impact of changing the Concessions Program.

The concession operator of a small marina at Lake Mead had only 2 years left on his contract when a storm destroyed the marina. Because his concession contract had possessory interest, right of renewal, and a long term, he was able to obtain financing to rebuild the marina. According to his banker, the bank would never have lent the money for a complete replacement if there had not been a more than reasonable expectation that the concessioner would be able to obtain the next 25-year contract and retain his possessory interest. Under S. 208, the marina would be no more than a patchwork of boards and pontoons.

A second example is the experience of the operation of the two grand hotels in Yosemite National Park, the Ahwahnee Hotel and the Wawona Hotel. The concessioner operating the Ahwahnee has possessory interest and the hotel is in great shape. The Grand Old Historic Wawona Hotel, on the other hand, has been in decay and disrepair for years. The difference is because the Wawona contract does not have the same possessory interest provision in the contract. The Government cannot even pay for repairs and the minimum upkeep. The Federal Government simply cannot run a service business as well as the private sector.

I could list many more successful concession operations. In fact, the effort to reform the Concession Program is overlooking one very important element. Overall, the concessions in our national parks are doing a good job of serving the visiting public. I do not hear complaints from park visitors. Visitors are offered a variety of concession services at a fair price. So why is there a move to reform the Concessions Program?

We do not need to pass wholesale changes to the program. Concessioners are accused of making vast sums of money from monopolies within the national parks. This administration wants more returned to the Treasury. Let me assure my colleagues that this is not necessarily the case. Successfully operating a concession in a park can be a very difficult business. In Alaska, the tourist season is only 3 months long. There is no time for mistakes. The Park Service very carefully regulates all prices. It usually takes several years for a new concessioner to make any profit at all.

Having said this, I believe there is room for a reasonable increase in concession fees. However, fees should not be so high as to drive the concessioner out of business. And I would remind my colleagues that the Secretary has the ability to negotiate higher concession fees under current law.

I have serious concerns about S. 208. I am convinced that if S. 208 passes as reported out of committee, the overall value each and every contract will be decreased. Many operators will simply opt to be bought out by the Federal Government. Where will the money come from? Financing will be impossible to obtain. Why would a bank lend money with shorter contract length, devalued possessory interest, and no preferential right of renewal?

Where does it leave the visitor?

Fewer services, offered at lower standards, and at a higher cost. This may well be the goal of some who would like to see our national parks placed off limits; effectively closed to the majority of those who would like to visit a national park. Fewer people will be able to enjoy our parks. The elite will truly have the parks as their private playground. In Alaska, this will be a disaster. Our parks are remote and underdeveloped. This bill will make it even harder to provide much needed visitor services.

Concessions are important to the experience the visitors have in the national parks in my State. S. 208 threatens to destroy an effective and efficient program that has faithfully served millions of park visitors. I will not support a bill that replaces private sector investment and efficiency with Government bureaucracy.

I urge my colleagues to oppose S. 208.

Mrs. KASSEBAUM. Mr. President, I rise in support of the pending legislation to inject competition into the awarding of concessions contracts in our national parks.

This reform is good both for taxpayers and for the parks. It would replace a protective Government subsidy with the guiding forces of the marketplace.

Let me make clear that, in my view, this legislation is not an attack on those concessioners now operating in our parks. Rather, it is an effort to eliminate a wasteful Government subsidy. Businesses in our parks play by the Federal Government's rules. Our job today is to ensure that those rules are fair to everyone involved—including the taxpayers.

Business profits should be controlled by market forces, not by market-skewing Government regulations. Under current law, concessioners in our parks are shielded from certain market forces and enjoy certain preferential rights. The result is that they pay the Federal Government—their landlord—less in fees than the market dictates for franchises in our parks. In essence, they are subsidized by the taxpayers. The numbers tell the story.

In 1992, concessioners grossed $650 million and paid about 2.6 percent of that—$17.2 million—in fees. The automatic granting of a preferential right to incumbent concessioners to renew their contracts has virtually eliminated competition among eligible businesses for concessions contracts. Companies that would like to bid for a franchise in the parks frequently decline to do so because the deck is stacked against them.

As a result of the market-driven competition that this legislation will create, it is estimated that conces-

sioners will return to the Government about 10 percent of their revenues in fees, or about $65 million. Let me emphasize that point—if this measure becomes law, the resulting competition is expected to increase annual payments to the Treasury from $17.2 million to $65 million, which is the level the free market would dictate. These added funds will be used to maintain our parks, reducing the need for tax dollars from general revenues.

This is precisely the sort of good-government reform we should encourage by eliminating an unnecessary and wasteful subsidy. I applaud those Senators of both parties who worked hard to fashion the reasonable compromise that today is before the Senate. I was particularly pleased with the provisions designed to assist small vendors, and I urge my colleagues to support this reform.

AMENDMENT NO. 1552

Mr. WALLOP. Madam President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. WALLOP] proposes an amendment numbered 1552.

Mr. WALLOP. 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 amendment is as follows:

On page 32, on lines 14 through 21, strike paragraph 3 in its entirety and insert in lieu thereof the following:

"(3)(A) Except as provided in subparagraph (B), with respect to a concessions contract entered into on or after the date of enactment of this Act, the provisions of subsection (b) shall apply to any existing structure, fixture, or improvement as defined in paragraph (a)(1), except that the value of the possessory interest as of the termination date of the first contract expiring after the date of enactment of this Act shall be used as the basis for depreciation, in lieu of the actual original cost of such structure, fixture, or improvement.

"(B) If the Secretary determines during the competitive selection process that all proposals submitted either fail to meet the minimum requirements or are rejected (as provided in section 6), the Secretary may, solely with respect to a structure, fixture, or improvement covered under this paragraph, suspend the depreciation provisions of subsection (b)(1) for the duration of the contract: *Provided*, That the Secretary may suspend such depreciation provisions only if the Secretary determines that the establishment of other new minimum contract requirements is not likely to result in the submission of satisfactory proposals, and that the suspension of the depreciation provisions is likely to result in the submission of satisfactory proposals.

Mr. WALLOP. Madam President, the intent of this amendment is to allow the Secretary some discretion to allow a concessionaire the right to retain his possessory interest and only to the extent that the continuation of that interest advances the policy objectives of this act. By adopting it, we can possibly avoid the cost of which I have been here warning.

It is not meant in any way to be devious, but to give us one small look backward should it be that this does not work.

I have shown it to the distinguished chairman and the Senator from Utah and the Senator from Arkansas. It is my belief that it is acceptable.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. JOHNSTON. Madam President, the amendment is acceptable. It has been worked out with the Senator from Utah and the Senator from Arkansas. We do not think the amendment will be necessary, because we believe that there will be bidders out there for these contracts, and the situation where a possessory interest goes without a bid will not occur.

Nevertheless, Madam President, this is a sound amendment in that it gives insurance that, if the proponents are not right, then this amendment will offer protection to avoid such a situation.

So we are glad to accept the amendment, and I congratulate the Senator from Wyoming for having worked this out.

The PRESIDING OFFICER. Is there further debate on the amendment? There being none, the question is on agreeing to the amendment.

The amendment (No. 1552) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1553

Mr. WALLOP. Madam President, I send another amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. WALLOP] proposes an amendment numbered 1553.

Mr. WALLOP. 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 amendment is as follows:

At the appropriate place insert the following new section:

SEC. . Beginning on June 1, 1997 and biannually thereafter the Inspector General of the Department of the Interior shall submit a report to the Committee on Energy and Natural Resources of the United States Senate and the appropriate Committees of the House of Representatives on the implementation of this Act and the effect of such implementation on facilities operated pursuant to concession contracts and on visitor services. Each report shall

(a) identify any concession contracts which have been renewed, renegotiated, terminated, or transferred during the year prior to the submission of the report and identify any significant changes in the terms of the new contract;

(b) state the amount of franchise fees the rates which would be charged for services, and the level other of services required to be provided by the concessioner in comparison to that required in the previous contract;

(c) assess the degree to which concession facilities are being maintained using the condition of such facilities on the date of enactment of this Act as a baseline;

(d) determine whether competition has been increased or decreased with respect to the awarding of each contract;

(e) set forth the amount of revenues received and financial obligations incurred or reduced by the Federal Government as a result of the comparison of the Act for the reporting period and in comparison with previous reporting periods and the baseline year of 1993, including the costs, if any, associated with the acquisition of possessory interests.

Mr. WALLOP. Madam President, this amendment will require the inspector general of the Department of the Interior to report to the appropriate committees on the implementation of this act and the effect of such implementation on facilities operated pursuant to concession contracts and on visitor services.

This is a biannual report, and it will allow us some oversight capability to chart the progress of the concession program to ensure that the objectives of this legislation are being met.

I think it is important. It is clear, I hope, to people that I passionately do not believe that this bill will accomplish what its proponents suggest it will. They believe, as passionately, that it will, and that is what we gather on the floor of the Senate for. It is theoretically an arena and not a stage. But this will give us the ability to look back and see.

Too often what the Senate does, what the Congress does is toss off a proposal that seems to have public popularity, and then we never look back until way down the road and it is too late.

We have seen what happens when concessions fail, and we have seen that it is not possible to get that kind of money out of this Congress, and it is going to be worse in the future than it has ever been in the past.

This will do nothing more than give us a report that could give us a possible headline that there are rough roads ahead. We may be able to see that road and may be able to react. I will not be here, but I hope that those who see these reports will read them carefully. If I am wrong, they will have the privilege of asking that they do not need to be made anymore. If I am right, maybe, Madam President, they will be willing to take some action and say that the Park System is more im-

portant than the reputation of the people who passed the legislation.

I also will say that it is my understanding that this amendment has been accepted by the proponents of the legislation.

Mr. JOHNSTON. Madam President, I agree completely with the description of the amendment by the Senator from Wyoming and commend him on not only the amendment but the spirit with which it is offered.

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

The amendment (No. 1553) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. WALLOP. Madam President, I have spoken my piece. I have the belief, as I have stated, that the legislation is ill-founded and unwise. It has passed the committee. It will most certainly probably pass the Senate. But my opinion on it is now recorded.

Mr. JOHNSTON. Madam President, I have nothing further except to, again, commend the Senator from Arkansas for his long and finally successful quest to reform something that I think not only needed reforming but has been, in this bill, reformed in a very constructive way.

I want to echo the words of the Senator from Arkansas and congratulate the Senator from Utah, who, in a 1-year period of time, has come with a businessman's touch and has helped us reform something that has defied reformation for, I think, something like 17 years. I hope he is equally successful in helping us resolve some of the other difficult issues before our committee. We welcome his constructive hand in mining law reform, grazing, and some of our other difficult issues.

So I wish to thank him and commend him and congratulate him for excellent work. Both he and the Senator from Arkansas have really done very well.

I must say, Madam President, that the Senator from Wyoming, although he will not be voting for the bill, has been a guiding force in molding the bill. To be sure, not all of his amendments were accepted, not all of his suggestions were accepted, but the shape of the bill now reflects the direction in which he helped move this bill and move the committee. So I congratulate him for helping make this bill a better one.

The PRESIDING OFFICER. Is there further discussion on the committee substitute?

Mr. BENNETT addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. I thank the chairman and the Senator from Arkansas for their kind words. I am very appreciative of the spirit behind them. I hope it does not hurt me too much in Utah to have some of these people saying nice things about me on the floor of the Senate, given the kinds of clashes that we have had in the past. But I am grateful for the spirit of cooperation that is behind these expressions and want Senators to know how grateful I am.

I say to the chairman, I would be happy to work on mining reform and, indeed, will be involved in that as well as grazing. I think it is safe to predict that I will be more closely allied with the Senator from Wyoming on both of those issues than I have been on this one. But to the degree any expertise I might bring will be listened to, I certainly will be involved.

I thank the Chair.

The PRESIDING OFFICER. Is there further debate on the committee substitute, as amended?

There being no further debate, all those——

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Madam President, it is my understanding the Senator from Arizona, [Mr. MCCAIN], has some amendments, of which I have no knowledge. I suggest the absence of a quorum.

Mr. JOHNSTON. Madam President, if the Senator will withhold, as I understand it, aside from those amendments, is there a unanimous consent agreement covering this bill?

The PRESIDING OFFICER. There is a unanimous-consent agreement covering the bill.

Mr. JOHNSTON. Reserving of the Cohen amendment?

The PRESIDING OFFICER. There is a requirement that all amendments be relevant to either the subject matter of the bill or the committee substitute.

Mr. JOHNSTON. And when those amendments are offered, when will the bill be ripe for passage?

The PRESIDING OFFICER. No votes occur in relation to the bill prior to Tuesday.

When no Senator wishes to offer further amendments or debate, the bill will be put to a vote.

Mr. JOHNSTON. And so we could pass the bill today without a rollcall vote once all the amendments are considered?

The PRESIDING OFFICER. That is correct.

Mr. JOHNSTON. Madam President, I will suggest the absence of a quorum in a moment, but we invite Senators who have amendments to please contact us, and we will consider those at some time this afternoon. I hope we would be able to pass the bill without a rollcall vote later today. So we invite those Senators to please contact us, and we will consider their amendments.

Mr. WALLOP. Madam President, I will insist on a rollcall on the bill, I say to my friend. But more to the case, I think those Senators who have amendments owe it to the managers of the bill to show up shortly if they wish to have the opportunity to amend. I am perfectly willing to go to third reading on it. There is no reason for us to sit here and wait for people who have not the courtesy to come down when the floor is open and nothing else to do.

So I say to my friend that I will cooperate with him in moving the bill to third reading and putting the vote to tomorrow as it was suggested by the majority leader.

Mr. JOHNSTON. 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 assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1554

(Purpose: To improve concessions policy affecting the National Park Service)

Mr. WALLOP. Mr. President, on behalf of the Senator from Arizona [Mr. MCCAIN], I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. WALLOP] for Mr. MCCAIN proposes an amendment numbered 1554.

Mr. WALLOP. 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:

On page 34, lines 24 and 25, between "Federal State and Local regulatory agencies", and "If the Secretary's performance", insert the following, ", and shall seek and consider the applicable views of park visitors and concession customers."

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. WALLOP. Mr. President, this has been cleared with both managers. It is a relatively simple requirement that the Secretary use the visitor reports in assessing the quality of the concession.

Mr. BUMPERS. We have no objection to 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. 1554) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1555

(Purpose: To improve the concessions policy of the National Park Service)

Mr. WALLOP. Mr. President, I send another amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. WALLOP] for Mr. MCCAIN proposes an amendment numbered 1555.

Mr. WALLOP. 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:

On page 21, line 25, after "to the public at a park", insert the following, "except that the Secretary shall take all reasonable and appropriate steps to consider competing alternatives for such contract.".

Mr. WALLOP. Mr. President, this has also been cleared with managers on both sides, and it is a helpful and relatively simple amendment.

Mr. BUMPERS. We have no objection.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 1555) was agreed to.

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

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

The motion to lay on the table was agreed to.

UNANIMOUS-CONSENT AGREEMENT

Mr. WALLOP. Mr. President, but for an amendment that we understand is coming from the Senator from Maine [Mr. COHEN], and the possibility of a budget point of order, that wraps up the known amendments to this bill.

I would, therefore, ask unanimous consent that they be the only amendments in order, those by the Senator from Maine and the budget point of order.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. WALLOP. I would also ask that the staffs of those Senators to ask those Senators to come down here as a matter of courtesy and as a matter of convenience of the Senate. There is no reason for them to be carrying on.

And at some moment in time—I have talked with the committee chairman and the subcommittee chairman—we will move to third reading, notwithstanding that those amendments have not been offered. There is a limit to the patience that can be expected of the managers.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ORDER TO VITIATE UNANIMOUS-CONSENT AGREEMENT

Mr. WALLOP. Mr. President, I ask unanimous consent that the unanimous-consent agreement entered into with regard to the amendment of the Senator from Maine and the budget point of order be vitiated.

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

UNANIMOUS-CONSENT AGREEMENT

Mr. WALLOP. Mr. President, let me try to restate the agreement, with the Senator from Arkansas paying heed. It is that should the budget point of order to be offered by the Senator from Colorado [Mr. BROWN] be sustained, necessarily a perfecting amendment to get rid of the budget point of order would be required, and, therefore, it should be included as part of the unanimous-consent agreement.

So, therefore, I ask unanimous consent that among the items to be in order is a budget point of order to be raised by the Senator from Colorado and a subsequent amendment to correct the deficiency should that point of order be sustained.

Mr. BUMPERS. And if I may add to the Senator's request, that a motion to waive the point of order would also be in order.

Mr. WALLOP. Would also be in order.

The PRESIDING OFFICER. The Chair will request of the Senator from Wyoming whether he is including in his unanimous-consent request second-degree amendments which are relevant.

Mr. WALLOP. In the instance of the budget point of order and perfecting amendment, second-degree amendments germane and directly related would be, and that the amendment from the Senator from Maine [Mr. COHEN] be the only other amendment in order and that that would be required to abide by the requirements of the consent order under which we are operating now, in other words, that it be relevant and germane.

There are two amendments, and that they be able to sustain second-degree amendments that are relevant and germane but that each of those be subject to the requirement established by this majority leader under the unanimous-consent agreement that those amendments be relevant and germane to the issue at hand.

The PRESIDING OFFICER. Is there objection to the Senator's unanimous-consent request?

Without objection, it is so ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FORD. 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. FORD. Mr. President, I ask unanimous consent to proceed as in morning business for 2 minutes.

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

Mr. FORD. I thank the Chair.

(The remarks of Mr. FORD pertaining to the introduction of S. 1953 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. WALLOP. 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. WALLOP. 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. 1556

(Purpose: To provide for review of concessions operations by the Comptroller General of the United States)

Mr. WALLOP. Mr. President, on behalf of the Senator from Maine [Mr. COHEN], I send an amendment to the desk regarding recordkeeping requirements and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Wyoming [Mr. WALLOP], for Mr. COHEN, proposes an amendment numbered 1556.

Mr. WALLOP. 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:

On page 35, line 21, through page 36, line 5, strike section 14 in its entirety and insert in lieu thereof the following:

SEC. 14. RECORDKEEPING REQUIREMENTS.

(a) IN GENERAL.—Each concessioner shall keep such records as the Secretary may prescribe to enable the Secretary to determine that all terms of the concessioner's contract have been, and are being faithfully performed, and the Secretary or any of the Secretary's duly authorized representatives shall, for the purpose of audit and examination, have access to such records and to other books, documents and papers of the concessioner pertinent to the contract and all the terms and conditions thereof as the Secretary deems necessary.

(b) GENERAL ACCOUNTING OFFICE REVIEW.—The Comptroller General of the United States or any of his or her duly authorized representatives shall, until the expiration of five calendar years after the close of the business year for each concessioner, have access to and the right to examine any pertinent books, documents, papers, and records of the concessioner related to the contracts or contracts involved.

Mr. COHEN. Mr. President, at a time when the public's confidence in the Government's ability to manage its financial affairs on behalf of the taxpayer is dismally low, Congress continues to fuel the public's cynicism by failing to make even the most simple common sense reforms that would enable the Government to act in a more business-like manner. Moreover, taxpayers have said they are willing to make sacrifices as long as the Government lives up to its end of the bargain and sends the message that Washington is serious about changing the way it does business.

Taxpayers have a reasonable expectation that, before we ask them to send another nickel to Washington, the Government demonstrate its ability to maximize revenue from Federal assets like public lands. Today, the public correctly observes that the Government too often fails to operate in a business-like manner.

As proof that the Federal Government is failing to operate efficiently, one only needs to examine how the Federal Government manages concessionaires operating on Federal land. From the parking deck at Arlington National Cemetery, to the elaborate Ahwahnee Hotel at Yosemite National Park, to the picturesque Scottsdale Tournament Players Club Golf Course in Arizona, the Government collects absurdly low rents and franchise fees from the operators of these facilities—who in turn have the exclusive right to promote goods and services on Federal property.

In some cases, the Government collects nothing. For example, at the Scottsdale golf course, the Federal Government leased property to the city of Scottsdale for 75 years. The city in turn subleased the land to a developer who built the golf course and an equestrian center. These facilities generated some $24 million in revenue over a 3-year period out of which the city of Scottsdale received 6.25 percent of the gross receipts or about $1.5 million. But for the next three quarters of a century, Uncle Sam will not see a dime.

There are literally hundreds of examples where concessionaires, thanks to the Government's poor management practices, are not paying fair market value for the use of Federal land and facilities, resulting in the Government's failure to collect $200 million in annual revenue. Although the legislation we are considering today, S. 208, the National Parks Concession Policy Reform Act, does not address the management of all Federal concessions, it is a good first step on the road to reforming Federal concession policy.

There is a clear need to reform the concession policy at our national parks. Current law almost always results in deals which are exceedingly good for the concessionaire operators, but are exceedingly bad for the taxpayer. These concessionaires should be made to compete for the exclusive right to offer goods and services to park visitors.

Specifically, competition should be based on: which goods and services the concessionaire is willing to provide; the prices charged for the goods and services offered; the concessionaire's ability and track record; and what the concessionaire is willing to pay the Government for what is, in effect, a monopoly over a ready-made customer base. By competing on this basis, I believe that the visitors to our national parks will benefit, service will improve, and the taxpayers will realize a better return on their investment in our National Parks.

While visitors to National Parks are paying high prices to concessionaires for their hotdogs, sodas, and parking, the Federal Government often gets little or nothing. For example, visitors to Alaska's Denali National Park spent on average about $17 per person on concessions—$16.72. At the same time the Government collected less than 14 cents from that $17 sale for the concessionaire's use of Federal buildings and the exclusive right to peddle its goods and services to the 504,000 people who visit Denali every year.

At the Grand Canyon, the concessionaire who runs the luxury hotel, charging between $102 and $252 a night, took in more than $63 million but paid the Government a mere $1,250 a month in rent and a $1.7 million franchise fee. The same concessionaire took in almost $5.3 million in sales from its operations at California's Death Valley National Monument and Arizona's Petrified Forest National Park. However, the Government's share was less than $125,000 or 2.3 percent. While, I do not find fault with the concessionaire for seizing a business opportunity, the Federal Government should not be in the business of enriching companies on the backs of the taxpayers.

There are many other examples. At California's Sequoia National Park, a concessionaire collected more than $11 million and paid the Government only about $82,000. At Montana's Glacier National Park one concessionaire took in more than $9 million, but paid the Government only about $133,000. The Lake Mead Resort in Nevada annually took in $4.3 million but paid the Government less than $135,000. Willow Beach Resort also at Lake Mead brought in more than $1.8 million but paid the Government just over $18,000. At Crater Lake National Park in Oregon, the Crater Lake Lodge collected about $3.6 million from park visitors and paid the Government a total of $695 in annual rent for the building and another $65,793 in franchise fees. Unfortunately, examples of these types of arrangements within the National Park Service are the rule rather than the exception.

In many cases, the States make out better than the Federal Government. State tax revenues often exceed revenues generated to the Federal Government in the form of rent and franchise fees. For example the concession operation at the Mount Vernon Inn generates more than $20,000 more for the State of Virginia in sales tax than it makes for the Federal Government.

Compared to the management of concessionaires at state parks, the Federal Government is literally giving the store away. According to a 1988 GAO report States receive an average concession fee of 12 percent of gross sales. This is in sharp contrast to the 2.6 percent the Federal Government received from its concessions 1992. Even if the Federal Government were simply to collect from concessionaires what States collect on average, we could collect an additional $60 million—or about 3½ times what the Park Service is currently receiving from its concession operations.

Yet the argument continues to be made that the taxpayer must subsidize Federal concession operations to ensure that reasonably priced concessions are available to visitors at our national parks. This argument holds little water. Low franchise fees do not necessarily translate into low prices for visitors to our national parks. More often, they simply mean higher profits for concessionaires. In fact, the concessionaire at Mount Vernon charges about 20 percent more than an ice cream store in nearby Alexandria for a 16-ounce coke. This 20 percent difference is significantly more than the 4 percent franchise fee the concessionaire pays to Government for the exclusive right to sell cokes to the 5.7 million annual visitors to Mount Vernon.

For the last several months, my staff on the subcommittee on oversight of Government Management has been investigating the Government's mismanagement of the concessions which operate on Federal land. Although we will be releasing the results of our investigation shortly, consideration of S. 208, the National Parks Concessions Policy Reform Act, provides an opportunity to share some of the subcommittee's findings and is a good first step in the effort to reform the Government's management of concessions.

Mr. President, I would like to commend Senator BUMPERS, Senator BENNETT and Senator JOHNSTON for their hard work in crafting a balanced proposal for reforming concessions policy at the National Park Service. This legislation is a good first step toward changing the management culture which for too long has resulted in the Government's failure to charge fair market rents to these concessionaires.

However, I am concerned that, to some degree, this legislation reinvents the wheel by requiring the Secretary of

the Interior to develop separate competitive procedures for soliciting proposals from concessionaires. For this reason, I considered offering an amendment to S. 208 which—consistent with the intent and substance of the bill—would have ensured that the competitive process for selecting concessionaires parallel existing law governing competition in all executive branch agencies. My amendment would have ensured that the Park Service competes its concessions contracts in the same manner as other Federal agencies competitively procure goods and services.

Mr. President, my amendment would have required the Secretary of the Interior to promulgate regulations for competing concessions contracts consistent with the principles of full and open competition as outlined in existing law. The adoption of the existing process would in no way preclude the Secretary from determining the source selection criteria used by the Department.

The existing process is in fact flexible. The existing competitive process as outlined in title III, section 303A.(a)(1)(C) of the Federal Property and Administrative Services Act of 1949, specifically states that the agency shall "develop specifications in such a manner as is necessary to obtain full and open competition with due regard to the nature of the property or services to be acquired." It also requires at section 303A(b)(1), that, "each solicitation for sealed bids or competitive proposals * * * shall at a minimum include * * * a statement of (A) all significant factors * * * which the executive agency reasonably expects to consider in evaluating sealed bids of competitive proposals; and (B) the relative importance assigned to each of those factors." The current process as outlined in section 303B(d)(4) 41 U.S.C. 253b, goes on to say that when selecting the best proposal that the award shall be made to the responsible source whose proposal is most advantageous to the United States considering only price and other factors included in the solicitation. Clearly, the existing process provides sufficient flexibility to ensure that the intent of the bill is retained. Specifically, the Secretary, when writing the implementing regulations will have sufficient flexibility to ensure, citing language from S. 208, that "the consideration of revenue generated is subordinate to the objectives of protecting and preserving park resources and of providing necessary and appropriate facilities or services to the public at reasonable rates."

As the Senate author of the Competition in Contracting Act which became law in 1984, I have a keen interest in furthering a competitive environment for government contracting. This interest extends not only to the Government's acquisition of goods and services, but to the Government's contracts with concessionaires who bid for the right to provide goods and services to the millions of people who visit our national parks every year. The Competition in Contracting Act established statutory guidance for the process and procedures that agencies should adopt to ensure full and open competition. That is what this bill before us is about—competition.

However, I have decided not to offer my amendment because of concerns that its provisions will result in multiple referrals which would effectively kill S. 208. The effort to reform the Government's management of its concessions is far too important to have the effort thwarted although I do believe this amendment should be adopted. Nevertheless, in the interest in achieving meaningful reform, I have agreed to withhold my amendment.

Mr. President, I am pleased that my second amendment, which was adopted by the Senate, will increase the accountability of the Park Improvement Funds created by this legislation. Specifically, the amendment grants the General Accounting Office an explicit right to access all books and records associated with the management of these funds. Under current law, GAO has access to all books and records of any fund generated or created from money generated by concession operations. S. 208, would remove GAO's explicit right to access these books and records. My amendment explicitly grants GAO access to all pertinent books and records by including the language of the existing law to S. 208.

Mr. President, I am pleased that the Senate passed my amendment to maintain the accountability of concessionaire funds. And although I am not offering my amendment to direct the Secretary of the Interior to comply with the provisions of the Competition in Contracting Act, I urge my colleagues to support S. 208 so we may begin to reform concessions at the National Park Service and rethink in general, how the Government manages and oversees its concessionaires.

Mr. WALLOP. Mr. President, the Senator from Arkansas and I have looked at this amendment of the Senator from Maine with regard to reinstating the policy of the 1965 act and find it very useful. The minority is at least prepared to accept it.

Mr. BUMPERS. We have no objection to this amendment.

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

The amendment (No. 1556) was agreed to.

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

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

The motion to lay on the table was agreed to.

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

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

Mrs. FEINSTEIN. Mr. President, members of Ansel Adams family operate the Best Studio/Ansel Adams Gallery at Yosemite National Park. It is my understanding this is the oldest family-owned business in the National Park System, operating since 1902. The family understands the preferential right of renewal is being eliminated, and is concerned about how the new selection criteria will affect them.

All of us are familiar with Ansel Adams' magnificent photographs of Yosemite. His name is nearly synonymous with the park. Given the family's long association and history with the park, it seems to me that all things being equal the National Park Service would want to keep the Ansel Adams Gallery even if the preferential right of renewal is eliminated.

Is it not the case that under this bill the Secretary of the Interior will consider the experience and related background of the person submitting a concession proposal, including past performance, and that the franchise fee will be subordinate to the objectives of protecting park resources and providing appropriate services?

Mr. JOHNSTON. The Senator from California is correct. Additionally, the bill allows the Secretary to consider secondary factors as he deems appropriate.

Mr. BUMPERS. Mr. President, I think we are ready to go to one final unanimous-consent agreement and third reading.

Does the Senator from Wyoming agree with that?

Mr. WALLOP. The Senator does.

Mr. BUMPERS. With that, Mr. President, I ask unanimous consent that the Senate vote on final passage of S. 208, the national park concessions reform bill, occur without any intervening action or debate at 2:30 p.m., on Tuesday, March 22, and that paragraph 4 of rule XII be waived.

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

Mr. BUMPERS. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BUMPERS. Third reading, Mr. President.

The PRESIDING OFFICER. Without objection, the committee substitute is agreed to.

So the committee substitute was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

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

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, I am glad we got to the point of third reading. I reiterate my unhappiness with the bill and my understanding of where it is going. I have spoken my piece on it.

I would just say that the Senator from Arkansas and I, and the Senator from Utah, have been here for 1 hour and 45 minutes, while our colleague was downstairs having lunch and who decided, at the end of having lunch, not to offer an amendment that kept us waiting here for 1 hour and 45 minutes.

The Senator from Arkansas, in his opening remarks on the bill, talked about what an unhappy place the Senate has become. There are many reasons for that. But the lack of consideration becomes one that raises the level of unhappiness unnecessarily.

I am sorry that my colleagues had to sit and wait. I am sorry that it turned out that way. I am glad that we are to the point where we are on the bill.

But, for future reference, I think all of our colleagues would do well to try to remember the sensibilities of the rest of those serving with them during the course of the days. It is contentious enough around here, with partisanship and other kinds of things. A little consideration would go a long way toward making the Senate a less unhappy place than it currently is. I regret having said that, but I did feel compelled to take note of it.

The PRESIDING OFFICER. The Senator from Arkansas.

RECORD OPEN UNTIL 3 P.M.

Mr. BUMPERS. Mr. President, on behalf of the majority leader, I ask unanimous consent the RECORD remain open today until 3 p.m. for the introduction of legislation and statements.

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

MORNING BUSINESS

Mr. BUMPERS. Mr. President, I ask unanimous consent there now be a period for morning business with Senators permitted to speak for up to 3 minutes each.

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

AMENDMENT NO. 1298 TO S. 1281, STATE DEPARTMENT AUTHORIZATION BILL, 1994

Mr. McCAIN. Mr. President, during Senate consideration of the 1994 State Department authorization bill, I offered, and the Senate approved, an amendment concerning the People's Mujahidin of Iran [PMOI]. It has recently come to my attention that, due to an oversight, a statement that I intended to accompany the amendment was not printed in the CONGRESSIONAL RECORD. I offer the rationale for my amendment below as I would have offered it when the amendment was considered.

The findings of this amendment are facts and are attested to by the State Department. The operative clauses simply requires the State Department to examine the current activities of the PMOI for inclusion in its annual report on terrorism. If it decides not to include the PMOI, it must report its justification for not doing so and supply an unclassified report on the organization's current activities.

My principle concern is that the PMOI is permitted to freely lobby Congress without a clear understanding of the organization's history and current activities. All of us are concerned about human rights in Iran, and in many other areas of the world, but Members should have information at their disposal to consider the source. The Senate should not be in a position where it unknowingly, in the cause of human rights, supports an organization with a record of human rights abuses.

I offered this amendment only after extensive efforts to have a 1987 FBI report on the organization updated. Recognizing my own limits to pass judgment on the current activities of the PMOI, the intention of my amendment is to require such an update by the Department of State.

The American people deserve an official public accounting of any lobbyist with either a present or past connection to international terrorism. My efforts to gain an accounting of the PMOI have been vigorous and they will be equally vigorous should any other lobbyist with a history of terrorism come to my attention.

TRIBUTE TO ADELE GUTTENBERG

Mr. LAUTENBERG. Mr. President, I rise today to pay tribute to the accomplishments of an outstanding constituent of mine, Mrs. Adele Guttenberg.

Mrs. Guttenberg has been more than just an ordinary advocate for the disabled in New Jersey. She worked tirelessly to gain support long before the onset of State efforts.

The mother of two severely handicapped children, Mrs. Guttenberg lobbied the Bergen County Board of Freeholders to ensure that all students, regardless of their age, receive the educational opportunities that they deserve. She has helped implement this in a number of ways, most notably by providing, with her husband, a 4-year scholarship to the New Jersey Institute of Technology for a disabled resident, and by her donations dedicated to removing architectural boundaries at the college.

As the cofounder of the Spectrum for Living, she expanded the opportunities for housing, day care, work shops, and quality of life. Recently, despite her officially nonprofessional status, Mrs. Guttenberg was chosen Woman of the Year by the Bergen County Business and Professional Women.

Mrs. Guttenberg is an exceptional example of an individual who has committed herself to improving the lives of those members of our society who face special challenges. I applaud her dedication, her generosity, and her spirit. She is an inspiration to us all.

ELECTION IN UKRAINE

Mr. LEVIN. Mr. President, the future of Ukraine is vital to the national security interests of the United States. The relationship between Ukraine and Russia, and the relationship between Ukraine and the United States will have a profound impact on the events of the 21st century.

That is why the upcoming election in Ukraine this Sunday, March 27, 1994, is so important not only to the people of Ukraine but to freedom-loving people everywhere. The stability of Ukraine and its ultimate, long-term independence may be profoundly influenced by not only the outcome of this Sunday's votes, but by the process, openness, and honesty of this election.

Ukraine has encountered many difficulties since the collapse of the Soviet Union. Inflation has surged, unemployment is at crisis levels, an energy crisis has curtailed industrial output, and internal and ethnic conflicts threaten. Ukraine is at a cross-roads as it goes to the polls this Sunday to elect a new parliament.

The elections are to replace the current, preindependence parliament that has been stymied in its attempts to deal with the vast and mounting problems facing the country as it tries to convert from a command to a free-market economy, and from a closed government to an open political democracy.

The popular support for reform and the Ukrainian people's trust in government will be tested this Sunday by the openness and honesty of the political process.

Mr. President, Ukraine faces many daunting challenges. Two fundamental measures of whether Ukraine will belong in the family of free and respectable nations and whether it adheres to its obligations under the Nuclear Nonproliferation Treaty and whether this Sunday's elections are truly free and fair. This world is watching, and the outcome will afffect more than the people of Ukraine.

IRRESPONSIBLE CONGRESS? HERE'S TODAY'S BOXSCORE

Mr. HELMS. Mr. President, as of the close of business on Friday, March 18, the Federal debt stood at $4,554,110,591,484.90, meaning that on a per capita basis, every man, woman, and child in America owes $17,468.04 as his or her share of that debt.

COMMUNITY DEVELOPMENT BANKING AND FINANCIAL INSTITUTIONS ACT

The text of the 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, as passed by the Senate on March 17, 1994, is as follows:

H.R. 3474

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 "Community Development, Credit Enhancement, and Regulatory Improvement Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—COMMUNITY DEVELOPMENT AND CONSUMER PROTECTION

Subtitle A—Community Development Banking and Financial Institutions Act

Sec. 101. Short title.
Sec. 102. Findings and purposes.
Sec. 103. Definitions.
Sec. 104. Establishment of national fund for community development banking.
Sec. 105. Applications for assistance.
Sec. 106. Community partnerships.
Sec. 107. Selection of institutions.
Sec. 108. Assistance provided by the Fund.
Sec. 109. Community development training.
Sec. 110. Encouragement of private entities.
Sec. 111. Clearinghouse function.
Sec. 112. Recordkeeping, reports, and audits.
Sec. 113. Investment of receipts and proceeds.
Sec. 114. Inspector General.
Sec. 115. Capitalization assistance to enhance liquidity.
Sec. 116. Community development revolving loan fund for credit unions.
Sec. 117. Regulations.
Sec. 118. Authorization of appropriations.

Subtitle B—Home Ownership and Equity Protection

Sec. 151. Consumer protections for high cost mortgages.
Sec. 152. Civil liability.
Sec. 153. Reverse mortgage disclosure.
Sec. 154. Regulations; effective date.

TITLE II—SMALL BUSINESS CAPITAL FORMATION

Subtitle A—Small Business Loan Securitization

Sec. 201. Short title.
Sec. 202. Small business related security.
Sec. 203. Applicability of margin requirements.
Sec. 204. Borrowing in the course of business.
Sec. 205. Small business related securities as collateral.
Sec. 206. Investment by depository institutions.
Sec. 207. Preemption of State law.
Sec. 208. Insured depository institution capital requirements for transfers of small business obligations.
Sec. 209. Transactions in small business related securities by employee benefit plans.
Sec. 210. Sense of the Senate on taxation of small business loan investment conduits.

Subtitle B—Small Business Capital Enhancement

Sec. 251. Findings and purposes.
Sec. 252. Definitions.
Sec. 253. Approving States for participation.
Sec. 254. Participation agreements.
Sec. 255. Terms of participation agreements.
Sec. 256. Reports.
Sec. 257. Reimbursement by the Secretary.
Sec. 258. Reimbursement to the Secretary.
Sec. 259. Regulations.
Sec. 260. Authorization of appropriations.

TITLE III—PAPERWORK REDUCTION AND REGULATORY IMPROVEMENT

Sec. 301. Incorporated definitions.
Sec. 302. Administrative consideration of burden with new regulations.
Sec. 303. Streamlining of regulatory requirements.
Sec. 304. Elimination of duplicative filings.
Sec. 305. Coordinated and unified examinations.
Sec. 306. Eighteen-month examination rule for certain small institutions.
Sec. 307. Call report simplification.
Sec. 308. Repeal of publication requirements.
Sec. 309. Regulatory appeals process.
Sec. 310. Electronic filing of currency transaction reports.
Sec. 311. Bank Secrecy Act publication requirements.
Sec. 312. Exemption of business loans from Real Estate Settlement Procedures Act requirements.
Sec. 313. Flexibility in choosing boards of directors.
Sec. 314. Holding company audit requirements.
Sec. 315. State regulation of real estate appraisals.
Sec. 316. Acceleration of effective date for interaffiliate transactions.
Sec. 317. Collateralization of public deposits.
Sec. 318. Elimination of stock valuation provision.
Sec. 319. Expedited procedures for forming a bank holding company.
Sec. 320. Exemption of certain holding company formations from registration under the Securities Act of 1933.
Sec. 321. Reduction of post-approval waiting period for bank holding company acquisitions.
Sec. 322. Reduction of post-approval waiting period for bank mergers.
Sec. 323. Bankers' banks.
Sec. 324. Bank Service Corporation Act amendment.
Sec. 325. Merger transaction reports.
Sec. 326. Credit card accounts receivable sales.
Sec. 327. Limiting potential liability on foreign accounts.
Sec. 328. Amendments to outdated dividend provisions.
Sec. 329. Elimination of duplicative disclosures for home equity loans.
Sec. 330. Report on capital standards and their impact on the economy.
Sec. 331. Studies on the impact of the payment of interest on reserves.
Sec. 332. Study and report on streamlined lending process for consumer benefit.
Sec. 333. Repeal of outdated charter requirement for national banks.
Sec. 334. Inclusion of Comptroller of the Currency; clarification of revised statutes.
Sec. 335. Commemoration of 1995 Special Olympic World Games.
Sec. 336. Exemption for business accounts.
Sec. 337. Board discretion regarding check-related fraud.
Sec. 338. Civil liability under truth in savings.
Sec. 339. Insider lending.
Sec. 340. Revisions of standards.
Sec. 341. Alternative rules for radio advertising of consumer leases.
Sec. 342. Deposit broker registration.
Sec. 343. Extension of management interlocks grandfather clause.
Sec. 344. Clarification of provision relating to administrative autonomy.
Sec. 345. Consumer surveys and report.
Sec. 346. Simplified disclosure for existing depositors.
Sec. 347. Commercial mortgage related securities.
Sec. 348. Offset of costs of certain programs.

TITLE IV—MONEY LAUNDERING

Sec. 401. Short title.
Sec. 402. Reform of CTR exemption requirements to reduce number and size of reports consistent with effective law enforcement.
Sec. 403. Single designee for reporting of suspicious transactions.
Sec. 404. Improvement of identification of money laundering schemes.
Sec. 405. Negotiable instruments drawn on foreign banks subject to recordkeeping and reporting requirements.
Sec. 406. Imposition of civil money penalties by appropriate Federal banking agencies.
Sec. 407. Uniform State licensing and regulation of check cashing, currency exchange, and money transmitting businesses.
Sec. 408. Registration of money transmitting businesses to promote effective law enforcement.
Sec. 409. Criminal and civil penalty for structuring domestic and international transactions.
Sec. 410. GAO study of cashiers' checks.

TITLE V—FAIR TRADE IN FINANCIAL SERVICES

Sec. 501. Short title.
Sec. 502. Effectuating the principle of national treatment for banking organizations.
Sec. 503. Effectuating the principle of national treatment for securities organizations.
Sec. 504. Effectuating the principle of national treatment for insurers and reinsurers.
Sec. 505. Financial interdependence study.
Sec. 506. Federal Reserve report on the Foreign Bank Supervision Enhancement Act of 1991.
Sec. 507. Conforming amendments.

TITLE VI—NATIONAL FLOOD INSURANCE REFORM

Sec. 601. Short title.
Sec. 602. Congressional findings.
Sec. 603. Definition.

SUBTITLE A—DEFINITIONS

Sec. 611. Flood Disaster Protection Act of 1973.
Sec. 612. National Flood Insurance Act of 1968.

SUBTITLE B—COMPLIANCE AND INCREASED PARTICIPATION

Sec. 621. Expanded flood insurance purchase requirements.
Sec. 622. Escrow of flood insurance payments.
Sec. 623. Notice requirements.
Sec. 624. Placement of flood insurance by regulated lending institution, Federal agency lender, or servicer.

Sec. 625. Standard flood hazard determination forms.
Sec. 626. Examination regarding compliance by regulated lending institutions.
Sec. 627. Penalties and corrective actions for failure to require flood insurance, escrow, or notify.
Sec. 628. Financial institutions examination council.
Sec. 629. Conforming amendment.
SUBTITLE C—RATINGS AND INCENTIVES FOR COMMUNITY FLOODPLAIN MANAGEMENT PROGRAMS
Sec. 631. Community rating system and incentives for community floodplain management.
Sec. 632. Funding.
Sec. 633. Reasonable fees.
SUBTITLE D—MITIGATION OF FLOOD AND EROSION RISKS
Sec. 641. Mitigation assistance in Federal insurance administration.
Sec. 642. Authorization of national flood and erosion mitigation funds under section 1362.
Sec. 643. State and community mitigation assistance program.
Sec. 644. Repeal of program for purchase of certain insured properties.
Sec. 645. Termination of erosion threatened structures program.
Sec. 646. Congressional findings and declaration of purchase under the National Flood Insurance Act of 1968.
SUBTITLE E—FLOOD INSURANCE TASK FORCE
Sec. 651. Flood insurance interagency task force.
SUBTITLE F—MISCELLANEOUS PROVISIONS
Sec. 661. Maximum flood insurance coverage amounts.
Sec. 662. Additional coverage for compliance with land use and control measures.
Sec. 663. Flood insurance program arrangements with private insurance entities.
Sec. 664. Updating of flood insurance rate maps.
Sec. 665. Evaluation of erosion hazards.
Sec. 666. Coordination of flood insurance rate map revisions and updates with coastal zone management programs.
Sec. 667. Technical Mapping Advisory Council.
Sec. 668. Funding for increased administrative and operational responsibilities.
Sec. 669. Separate account for National Flood Insurance Fund.
Sec. 670. Nonwaiver of flood purchase requirement for recipients of Federal disaster assistance.
Sec. 671. Insurance waiting period.
Sec. 672. Agricultural structures.
Sec. 673. Implementation review by the director.
Sec. 674. Regulations.
Sec. 675. Prohibited flood disaster assistance.
TITLE VII—GENERAL PROVISIONS
Sec. 701. Study of effect of the Northern spotted owl on small business concerns.
Sec. 702. Negative information about consumer.
Sec. 703. United Nations resolutions concerning Jerusalem.
Sec. 704. Amendment to the Federal Reserve Act.
Sec. 705. Oversight hearings.
Sec. 706. Insurance transfer agreement.

TITLE I—COMMUNITY DEVELOPMENT AND CONSUMER PROTECTION

Subtitle A—Community Development Banking and Financial Institutions Act

SEC. 101. SHORT TITLE.

This subtitle may be cited as the "Community Development Banking and Financial Institutions Act of 1994".

SEC. 102. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) many of the Nation's urban, rural, and Native American communities face critical social and economic problems arising in part from the lack of economic growth, people living in poverty, and the lack of employment and other opportunities;

(2) the restoration and maintenance of the economies of these communities will require coordinated development strategies, intensive supportive services, and increased access to equity investments and loans for development activities, including investment in businesses, housing, commercial real estate, human development, and other activities that promote the long-term economic and social viability of the community; and

(3) community development financial institutions have proven their ability to identify and respond to community needs for equity investments, loans, and development services.

(b) PURPOSE.—The purpose of this subtitle is to create a Community Development Financial Institutions Fund that will promote economic revitalization and community development through a program of investment in and assistance to community development financial institutions, including enhancing the liquidity of community development financial institutions.

SEC. 103. DEFINITIONS.

For purposes of this subtitle, the following definitions shall apply:

(1) APPROPRIATE FEDERAL BANKING AGENCY.—The term "appropriate Federal banking agency" has the same meaning as in section 3 of the Federal Deposit Insurance Act, and also includes the National Credit Union Administration Board with respect to insured credit unions.

(2) AFFILIATE.—The term "affiliate" has the same meaning as in section 2(k) of the Bank Holding Company Act of 1956.

(3) COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION.—

(A) IN GENERAL.—The term "community development financial institution" means a person (other than an individual) that—

(i) has a primary mission of promoting community development;

(ii) serves an investment area or targeted population;

(iii) directly, through an affiliate, or through a community partnership, provides development services and equity investments or loans;

(iv) maintains, through representation on its governing board or otherwise, accountability to residents of its investment area or targeted population; and

(v) is not an agency or instrumentality of the United States, or of any State or political subdivision of a State.

(B) QUALIFICATION OF AFFILIATES.—A subsidiary may only qualify as a community development financial institution if its parent company and the subsidiaries thereof (on a consolidated basis) also qualify as community development financial institutions.

(4) COMMUNITY PARTNER.—The term "community partner" means a person (other than an individual) that provides loans, equity investments, or development services, including a depository institution holding company, an insured depository institution, an insured credit union, a nonprofit organization, a State or local government agency, a quasi-governmental entity, and an investment company authorized to operate pursuant to the Small Business Investment Act of 1958.

(5) COMMUNITY PARTNERSHIP.—The term "community partnership" means an agreement between a community development financial institution and a community partner to provide development services and loans or equity investments to an investment area or targeted population.

(6) DEPOSITORY INSTITUTION HOLDING COMPANY.—The term "depository institution holding company" has the same meaning as in section 3 of the Federal Deposit Insurance Act.

(7) DEVELOPMENT SERVICES.—The term "development services" means activities that promote community development and are integral to lending or investment activities, including—

(A) business planning;

(B) financial and credit counseling; and

(C) marketing and management assistance.

(8) INSURED COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION.—The term "insured community development financial institution" means any community development financial institution that is an insured depository institution or an insured credit union.

(9) INSURED CREDIT UNION.—The term "insured credit union" has the same meaning as in section 101(7) of the Federal Credit Union Act.

(10) INSURED DEPOSITORY INSTITUTION.—The term "insured depository institution" has the same meaning as in section 3 of the Federal Deposit Insurance Act.

(11) INVESTMENT AREA.—The term "investment area" means a geographic area that—

(A)(i) meets objective criteria of economic distress developed by the Community Development Financial Institutions Fund, which may include the percentage of low-income families or the extent of poverty, the rate of unemployment or underemployment, lag in population growth, and extent of blight and disinvestment; and

(ii) has significant unmet needs for loans or equity investments;

(B) is located in an empowerment zone or enterprise community designated under section 1391 of the Internal Revenue Code of 1986;

(C) is located on an Indian reservation, as defined in section 3(d) of the Indian Financing Act of 1974 or section 4(10) of the Indian Child Welfare Act of 1978; or

(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.

(12) LOW-INCOME.—The term "low-income" means having an income, adjusted for family size, of not more than—

(A) for metropolitan areas, 80 percent of the area median income; and

(B) for nonmetropolitan areas, the greater of—

(i) 80 percent of the area median income; or

(ii) 80 percent of the statewide nonmetropolitan area median income.

(13) PARENT COMPANY.—The term "parent company" means any company that directly or indirectly controls another company.

(14) SUBSIDIARY.—The term "subsidiary" has the same meaning as in section 3 of the Federal Deposit Insurance Act, except that a community development financial institution that is a corporation shall not be considered to be a subsidiary of any insured depository institution or depository institution holding company that controls less than 25 percent of any class of the voting shares of such corporation, and does not otherwise control in any manner the election of a majority of the directors of the corporation.

(15) TARGETED POPULATION.—The term "targeted population" means low-income persons or persons who otherwise lack adequate access to loans or equity investments.

SEC. 104. ESTABLISHMENT OF NATIONAL FUND FOR COMMUNITY DEVELOPMENT BANKING.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established a corporation to be known as the Community Development Financial Institutions Fund (hereafter

in this subtitle referred to as the "Fund") that shall have the duties and responsibilities specified by this subtitle. The Fund shall have succession until dissolved. The offices of the Fund shall be in Washington, D.C. The Fund shall not be affiliated with or be within any other agency or department of the Federal Government.

(2) WHOLLY OWNED GOVERNMENT CORPORATION.—The Fund shall be a wholly owned Government corporation in the executive branch and shall be treated in all respects as an agency of the United States, except as otherwise provided in this subtitle.

(b) MANAGEMENT OF FUND.—

(1) APPOINTMENT OF ADMINISTRATOR AND DEPUTY ADMINISTRATOR.—The management of the Fund shall be vested in an Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate. The Administrator shall not engage in any other business or employment during service as the Administrator. The President may appoint a Deputy Administrator by and with the advice and consent of the Senate. The Deputy Administrator shall serve as the acting Administrator of the Fund during the absence or disability of the Administrator or in the event of a vacancy in the office of the Administrator.

(2) CHIEF FINANCIAL OFFICER.—The Administrator shall appoint a chief financial officer who shall oversee the financial management activities of the Fund.

(3) OTHER OFFICERS.—The Administrator may appoint such other officers and employees of the Fund as the Administrator determines to be necessary or appropriate.

(c) GENERAL POWERS.—In carrying out the functions of the Fund, the Administrator—

(1) shall have all necessary and proper authority to carry out this subtitle;

(2) shall have the power to adopt, alter, and use a corporate seal for the Fund, which shall be judicially noticed;

(3) may adopt, amend, and repeal bylaws, rules, and regulations governing the manner in which business of the Fund may be conducted and such rules and regulations as may be necessary or appropriate to implement this subtitle;

(4) may enter into, perform, and enforce such agreements, contracts, and transactions as may be deemed necessary or appropriate to the conduct of activities authorized under this subtitle;

(5) may determine the character of and necessity for expenditures of the Fund and the manner in which they shall be incurred, allowed, and paid;

(6) may utilize or employ the services of personnel of any agency or instrumentality of the United States with the consent of the agency or instrumentality concerned on a reimbursable or nonreimbursable basis; and

(7) may execute all instruments necessary or appropriate in the exercise of any of the functions of the Fund under this subtitle and may delegate to the officers of the Fund such of the powers and responsibilities of the Administrator as the Administrator deems necessary or appropriate for the administration of the Fund.

(d) ADVISORY BOARD.—

(1) ESTABLISHMENT.—The Administrator shall establish an advisory board to be known as the Community Development Advisory Board (hereafter in this subtitle referred to as the "Board") in accordance with the provisions of the Federal Advisory Committee Act.

(2) MEMBERSHIP.—

(A) IN GENERAL.—The Board shall consist of 5 private citizens who, collectively—

(i) represent community groups whose constituencies include targeted populations or residents of investment areas;

(ii) represent local or regional government interests;

(iii) have expertise in the operations and activities of insured depository institutions; and

(iv) have expertise in community development and lending.

(B) REPRESENTATION.—Each of the categories described in clauses (i) through (iv) of subparagraph (A) shall be represented by not less than 1 member of the Board.

(3) BOARD FUNCTION.—It shall be the function of the Board to advise the Administrator on the policies of the Fund. The Board shall not advise the Administrator on the granting or denial of any particular application.

(4) TERMS OF MEMBERS.—

(A) IN GENERAL.—Each member of the Board shall serve for a term of 4 years.

(B) VACANCIES.—Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the previous member was appointed shall be appointed for the remainder of such term. Members may continue to serve following the expiration of their terms until a successor is appointed and qualified.

(5) CHAIRPERSON.—The Administrator shall appoint a chairperson from among the members of the Board.

(6) MEETINGS.—The Board shall meet at least annually and at such other times as requested by the Administrator or the chairperson. A majority of the members of the Board shall constitute a quorum.

(7) REIMBURSEMENT FOR EXPENSES.—The members of the Board may receive reimbursement for travel, per diem, and other necessary expenses incurred in the performance of their duties, in accordance with the Federal Advisory Committee Act.

(8) COSTS AND EXPENSES.—The Fund shall provide to the Board all necessary staff and facilities.

(e) CONFORMING AMENDMENTS.—Section 9101(3) of title 31, United States Code, is amended—

(1) by redesignating subparagraphs (B) through (M) as subparagraphs (C) through (N), respectively; and

(2) by inserting after subparagraph (A) the following new subparagraph:

"(B) the Community Development Financial Institutions Fund;".

(f) GOVERNMENT CORPORATION CONTROL ACT EXEMPTION.—Section 9107(b) of title 31, United States Code, shall not apply to deposits of the Fund made pursuant to section 108.

(g) LIMITATION OF FUND AND FEDERAL LIABILITY.—The liability of the Fund and the United States Government arising out of any investment in a community development financial institution in accordance with this subtitle shall be limited to the amount of the investment. The Fund shall be exempt from any assessments and other liabilities that may be imposed on controlling or principal shareholders by any Federal law or the law of any State, Territory, or the District of Columbia.

(h) PROHIBITION ON ISSUANCE OF SECURITIES.—The Fund may not issue stock, bonds, debentures, notes, or other securities.

(i) COMPENSATION.—Title 5, United States Code, is amended—

(1) in section 5314, by adding at the end the following:

"Administrator of the Community Development Financial Institutions Fund."; and

(2) in section 5315, by adding at the end the following:

"Deputy Administrator of the Community Development Financial Institutions Fund.".

(j) ASSISTED INSTITUTIONS NOT UNITED STATES INSTRUMENTALITIES.—A community development financial institution or other organization that receives assistance pursuant to this subtitle shall not be deemed to be an agency, department, or instrumentality of the United States.

SEC. 105. APPLICATIONS FOR ASSISTANCE.

(a) FORM AND PROCEDURES.—An application for assistance under this subtitle shall be submitted in such form and in accordance with such procedures as the Fund shall establish.

(b) MINIMUM REQUIREMENTS.—Except as provided in sections 106 and 115, the Fund shall require an application—

(1) to establish that the applicant is, or will be, a community development financial institution;

(2) to include a comprehensive strategic plan for the organization that contains—

(A) a business plan of not less than 5 years in duration that demonstrates that the applicant will be properly managed and will have the capacity to operate a community development financial institution that will not be dependent upon assistance from the Fund for continued viability;

(B) an analysis of the needs of the investment area or targeted population and a strategy for how the applicant will attempt to meet those needs;

(C) a plan to coordinate use of assistance from the Fund with existing Federal, State, local, and tribal government assistance programs, and private sector financial services;

(D) an explanation of how the proposed activities of the applicant are consistent with existing economic, community, and housing development plans adopted by or applicable to an investment area; and

(E) a description of how the applicant will coordinate with community organizations and financial institutions which will provide equity investments, loans, secondary markets, or other services to investment areas or targeted populations;

(3) to include a detailed description of the applicant's plans and likely sources of funds to match the amount of assistance requested from the Fund;

(4) in the case of an applicant that has previously received assistance under this subtitle, to demonstrate that the applicant—

(A) has substantially met its performance goals and otherwise carried out its responsibilities under this subtitle and the assistance agreement; and

(B) will expand its operations into a new investment area or to serve a new targeted population, offer more services, or increase the volume of its business;

(5) in the case of an applicant with a prior history of serving investment areas or targeted populations, to demonstrate that the applicant—

(A) has a record of success in serving investment areas or targeted populations;

(B) will expand its operations into a new investment area or to serve a new targeted population, offer more services, or increase the volume of its current business; and

(6) to include such other information as the Fund deems appropriate.

(c) EXCEPTION.—

(1) IN GENERAL.—Notwithstanding subsection (b)(1), in the case of a State in which there is no existing community development financial institution in operation on the date of enactment of this Act, an applicant may be an agency or instrumentality of a State government if—

(A) such an entity has a primary mission of promoting community development;

(B) any assistance received is used to establish a community development financial institution;

(C) there is no nongovernment entity within the State that possesses the capacity to become a community development financial institution;

(D) no other agency or instrumentality of the same State has received assistance; and

(E) assistance received will not reduce the amount of State funds that otherwise would be appropriated to such an entity.

(2) MAJORITY OWNERSHIP.—An agency or instrumentality eligible to apply pursuant to paragraph (1) may own a majority of the voting stock of a community development financial institution if it demonstrates that there is a lack of nonpublic sources of capital available to establish a community development financial institution.

(3) AMOUNT OF ASSISTANCE.—No State agency or instrumentality and a community development financial institution, a majority of the shares of which are owned by such an agency or instrumentality pursuant to this subsection, may cumulatively receive assistance exceeding the amount set forth under section 108(d)(1).

(d) PREAPPLICATION OUTREACH PROGRAM.—The Fund may operate an outreach program to identify and provide information to potential applicants.

SEC. 106. COMMUNITY PARTNERSHIPS.

(a) APPLICATION.—An application for assistance may be filed jointly by a community development financial institution and a community partner to carry out a community partnership.

(b) APPLICATION REQUIREMENTS.—The Fund shall require a community partnership application—

(1) to meet the minimum requirements established for community development financial institutions under section 105(b), except that the criteria specified in paragraphs (1) and (2)(A) of section 105(b) shall not apply to the community partner;

(2) to describe how each coapplicant will participate in carrying out the community partnership and how the partnership will enhance activities serving the investment area or targeted population; and

(3) to demonstrate that the community partnership activities are consistent with the strategic plan submitted by the community development financial institution coapplicant.

(c) SELECTION CRITERIA.—The Fund shall consider a community partnership application based on the selection criteria set out in section 107.

(d) LIMITATION ON DISTRIBUTION OF ASSISTANCE.—Assistance provided upon approval of an application under this section shall be distributed only to the community development financial institution coapplicant, and shall not be used to fund any activities carried out directly by the community partner or an affiliate thereof.

(e) OTHER REQUIREMENTS AND LIMITATIONS.—All other requirements and limitations imposed by this subtitle on a community development financial institution assisted under this subtitle shall apply (in the manner that the Fund determines to be appropriate) to assistance provided to carry out community partnerships. The Fund may establish additional guidelines and restrictions on the use of Federal funds to carry out community partnerships.

SEC. 107. SELECTION OF INSTITUTIONS.

(a) SELECTION CRITERIA.—Except as provided in section 115, the Fund shall, in its sole discretion, select applicants for assistance based on—

(1) the likelihood of success of the applicant in meeting the goals of its comprehensive strategic plan;

(2) the experience and background of the proposed management team;

(3) the extent of need for equity investments, loans, and development services within the investment areas or targeted populations;

(4) the extent of economic distress within the investment areas or the extent of need within the targeted populations, as those factors are measured by objective criteria;

(5) the extent to which the applicant will concentrate its activities on serving its investment areas or targeted populations;

(6) the amount of firm commitments to meet or exceed the matching requirements and the likely success of the plan for raising the balance of the match;

(7) the extent to which the proposed activities will expand economic opportunities within the investment areas or the targeted populations;

(8) whether the applicant is, or will become, an insured depository institution or an insured credit union;

(9) whether the applicant is, or will be, located—

(A) in an empowerment zone or enterprise community designated under section 1391 of the Internal Revenue Code of 1986;

(B) on an Indian reservation, as defined in section 3(d) of the Indian Financing Act of 1974 or section 4(10) of the Indian Child Welfare Act of 1978; or

(C) in a community that has experienced a sudden and significant loss in total employment since the 1990 census or a major dislocation in its primary employment base.

(10) the extent to which the applicant will increase its resources through coordination with other institutions or participation in a secondary market;

(11) in the case of an applicant with a prior history of serving investment areas or targeted populations, the extent of success in serving them; and

(12) other factors (such as the extent to which the applicant has strong ties to the community that it will serve) deemed to be appropriate by the Fund.

(b) GEOGRAPHIC DIVERSITY.—The Fund shall assist a geographically diverse group of applicants, including an appropriate mix of applicants from urban, rural, and Native American communities.

SEC. 108. ASSISTANCE PROVIDED BY THE FUND.

(a) FORMS OF ASSISTANCE.—

(1) IN GENERAL.—The Fund may provide—

(A) financial assistance through equity investments, deposits, credit union shares, loans, and grants; and

(B) technical assistance—

(i) directly;

(ii) through grants; or

(iii) by contracting with organizations that possess expertise in community development, without regard to whether the organizations receive or are eligible to receive assistance under this subtitle.

(2) EQUITY INVESTMENTS.—The Fund shall not own more than 50 percent of the equity of a community development financial institution and may not control the operations of such institution. The Fund may hold only transferable, nonvoting equity investments. Such equity investments may provide for convertibility to voting stock upon transfer by the Fund.

(3) DEPOSITS.—Deposits made pursuant to this section in an insured community development financial institution shall not be subject to any requirement for collateral or security.

(4) LIMITATIONS ON OBLIGATIONS.—Direct loan obligations may be incurred by the Fund only to the extent that appropriations of budget authority to cover their costs, as defined in section 502 of the Congressional Budget Act of 1974, are made in advance.

(b) USES OF FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—Financial assistance made available under this subtitle may be used by assisted institutions to serve investment areas or targeted populations by developing or supporting—

(A) commercial facilities that promote revitalization, community stability, or job creation or retention;

(B) businesses that—

(i) provide jobs for low-income people or are owned by low-income people; or

(ii) enhance the availability of products and services to low-income people;

(C) community facilities;

(D) the provision of basic financial services;

(E) housing that is principally affordable to low-income people, except that assistance used to facilitate homeownership opportunities shall only be used for activities and lending products that serve low-income people and are not provided by other lenders in the area; and

(F) other businesses and activities deemed appropriate by the Fund.

(2) LIMITATIONS.—No assistance made available under this subtitle may be expended by a community development financial institution (or an organization receiving assistance under section 115) to pay any person to influence or attempt to influence any agency, elected official, officer, or employee of a State or local government in connection with the making, award, extension, continuation, renewal, amendment, or modification of any State or local government contract, grant, loan, or cooperative agreement (as such terms are defined in section 1352 of title 31, United States Code).

(c) USES OF TECHNICAL ASSISTANCE.—Technical assistance may be used for activities that enhance the capacity of a community development financial institution, such as training of management and other personnel and development of programs and investment or loan products.

(d) AMOUNT OF ASSISTANCE.—

(1) IN GENERAL.—The Fund may provide not more than $5,000,000 of assistance, in the aggregate, during any 3-year period to any 1 community development financial institution and its affiliates.

(2) EXCEPTION.—Notwithstanding the limitations in paragraph (1), in the case of an existing community development financial institution that proposes to serve an investment area or targeted population outside of any State and outside of any metropolitan area presently served by the institution, the Fund may provide not more than $7,500,000 of assistance to a community development financial institution and its affiliates, in the aggregate, during any 3-year period, of which not less than $2,500,000 shall be used to establish affiliates to serve the new investment area or targeted population.

(3) TIMING OF ASSISTANCE.—Assistance may be provided as described in paragraphs (1) and (2) in a lump sum or over a period of time, as determined by the Fund.

(e) MATCHING REQUIREMENTS.—

(1) IN GENERAL.—Assistance other than technical assistance shall be matched with funds from sources other than the Federal Government on the basis of not less than one dollar for each dollar provided by the Fund. Such matching funds shall be at least comparable in form and value to assistance provided by the Fund. The Fund shall provide no assistance (other than technical assistance) until a community development financial institution has secured firm commitments for the matching funds required.

(2) EXCEPTION.—In the case of an applicant with severe constraints on available sources of matching funds, the Fund may permit an applicant to comply with the matching requirements of paragraph (1) by—

(A) reducing such matching requirement by 50 percent;

(B) permitting such applicant to satisfy not more than 60 percent of the matching requirement through use of assistance made available pursuant to—

(i) section 106 of the Housing and Community Development Act of 1974;

(ii) section 623(c)(1) of the Community Economic Development Act of 1981; or

(iii) section 310B(c) of the Consolidated Farm and Rural Development Act; or

(C) permitting an applicant to provide matching funds in a form to be determined at the discretion of the Fund if such applicant—

(i) has total assets of less than $100,000;

(ii) serves nonmetropolitan areas; and

(iii) is not requesting more than $25,000 in assistance.

(3) LIMITATION.—Not more than 25 percent of the total funds disbursed in any fiscal year by the Fund may be matched as authorized under paragraph (2).

(4) CONSTRUCTION OF "FEDERAL FUNDS".—For purposes of this subsection, notwithstanding section 105(a)(9) of the Housing and Community Development Act of 1974, funds provided pursuant to such Act shall be considered to be Federal funds, except as provided in paragraph (2)(B).

(f) TERMS AND CONDITIONS.—

(1) SOUNDNESS OF UNREGULATED INSTITUTIONS.—The Fund shall—

(A) ensure, to the maximum extent practicable, that each community development financial institution (other than an insured community development financial institution or depository institution holding company) assisted under this subtitle is financially and managerially sound and maintains appropriate internal controls; and

(B) require such institution to submit, not less than once during each 18-month period, a statement of financial condition audited by an independent certified public accountant as part of the report required by section 112(a)(4).

(2) CONSULTATION WITH THE APPROPRIATE BANKING REGULATOR.—Prior to providing assistance to an insured community development financial institution, the Fund shall consult with the appropriate Federal banking agency.

(3) ASSISTANCE AGREEMENT.—

(A) IN GENERAL.—Before providing any assistance under this subtitle, the Fund and each community development financial institution to be assisted shall enter into an agreement that requires the institution to comply with performance goals and abide by other terms and conditions pertinent to assistance received under this subtitle.

(B) PERFORMANCE GOALS.—Performance goals shall be negotiated between the Fund and each community development financial institution receiving assistance based upon the strategic plan submitted pursuant to section 105(b)(2). Such goals may be modified with the consent of the parties, or as provided in subparagraph (C). Performance goals for insured community development financial institutions shall be determined in consultation with the appropriate Federal banking agency.

(C) SANCTIONS.—The agreement shall provide that, in the event of fraud, mismanagement, noncompliance with this subtitle, or noncompliance with the terms of the agreement, the Fund, in its discretion, may—

(i) revoke approval of the application;

(ii) terminate or reduce future assistance;

(iii) require repayment of assistance;

(iv) require changes to the performance goals imposed pursuant to subparagraph (B);

(v) bar an applicant from reapplying for assistance from the Fund;

(vi) require changes to the strategic plan submitted pursuant to section 105(b)(2); and

(vii) take such other actions as the Fund deems appropriate.

(D) INSURED COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS.—In the case of an insured community development financial institution, the Fund shall notify the appropriate Federal banking agency not less than 15 days before imposing sanctions pursuant to this paragraph and shall not impose such sanctions if the agency disapproves, with an explanation in writing, during that 15-day period.

(E) NATIVE AMERICAN INSTITUTIONS.—In the case of a community development financial institution which serves an investment area described in paragraph (11)(C) of section 103, or an Indian tribe, as defined in section 4 of the Indian Self-Determination and Education Assistance Act, the Fund shall consult with the applicable tribal government in evaluating the institution's compliance with the performance goals established pursuant to subparagraph (B).

(g) AUTHORITY TO SELL EQUITY INVESTMENTS AND LOANS.—The Fund may, at any time, sell its equity investments and loans, but the Fund shall retain the power to enforce limitations on assistance entered into in accordance with the requirements of this subtitle until the performance goals related to the investment or loan have been met.

(h) NO AUTHORITY TO LIMIT SUPERVISION AND REGULATION.—Nothing in this subtitle shall affect any authority of the appropriate Federal banking agency to supervise and regulate any institution or company.

SEC. 109. COMMUNITY DEVELOPMENT TRAINING.

(a) IN GENERAL.—The Fund may operate a training program to increase the capacity and expertise of community development financial institutions and other members of the financial services industry to undertake community development activities (hereafter in this subtitle referred to as the "training program").

(b) PROGRAM ACTIVITIES.—The training program shall provide educational programs to assist community development financial institutions and other members of the financial services industry in developing lending and investment products, underwriting and servicing loans, managing equity investments, and implementing development services targeted to areas of economic distress, low-income persons, and persons who lack adequate access to loans and equity investments.

(c) PARTICIPATION.—The training program shall be made available to community development financial institutions and other members of the financial services industry that serve or seek to serve areas of economic distress, low-income persons, and persons who lack adequate access to loans and equity investments.

(d) CONTRACTING.—The Fund may offer the training described in this section directly or through a contract with other organizations. The Fund may contract to provide the training with organizations that possess special expertise in community development, without regard to whether the organizations receive or are eligible to receive assistance under this subtitle.

(e) FEES.—The Fund, as it deems appropriate, may charge fees for participation in training services to offset the cost of providing the services.

SEC. 110. ENCOURAGEMENT OF PRIVATE ENTITIES.

The Fund may facilitate the organization of corporations in which the Federal Government has no ownership interest that will complement the activities of the Fund in carrying out the purpose of this subtitle. The purpose of any such entity shall be to assist community development financial institutions in a manner that is complementary to the activities of the Fund under this subtitle. Any such entity shall be managed exclusively by persons not employed by the Federal Government or any agency or instrumentality thereof.

SEC. 111. CLEARINGHOUSE FUNCTION.

(a) ESTABLISHMENT.—The Fund may establish and maintain an information clearinghouse in coordination with other Federal departments or agencies and community development financial institutions to—

(1) collect, compile, and analyze information pertinent to community development financial institutions that will assist in creating, developing, expanding, and preserving these institutions; and

(2) provide information on financial, technical, and management assistance, data on the activities of community development financial institutions, regulations, and other information that may promote the purposes of this subtitle.

(b) COSTS.—The cost of maintaining the clearinghouse shall be shared equally by the Fund and each department or agency involved in maintaining the clearinghouse.

SEC. 112. RECORDKEEPING, REPORTS, AND AUDITS.

(a) RECORDKEEPING.—

(1) IN GENERAL.—A community development financial institution receiving assistance from the Fund shall keep such records, for such periods as may be prescribed, as may be necessary to disclose the manner in which any assistance under this subtitle is used and to demonstrate compliance with the requirements of this subtitle.

(2) USER PROFILE INFORMATION.—The Fund shall require each community development financial institution receiving assistance under this subtitle to compile and maintain data on the gender, race, ethnicity, national origin, and other pertinent information concerning individuals that utilize the services of the assisted institution to ensure that targeted populations and low-income residents of investment areas are adequately served.

(3) ACCESS TO RECORDS.—The Fund shall have access on demand, for the purpose of determining compliance with this subtitle, to any records of a community development financial institution that receives assistance from the Fund.

(4) REVIEW.—Not less than annually, the Fund shall review the progress of each assisted community development financial institution in carrying out its strategic plan, meeting its performance goals, and satisfying the terms and conditions of its assistance agreement.

(5) REPORTING.—

(A) ANNUAL REPORTS.—The Fund shall require each community development financial institution receiving assistance under this subtitle to submit an annual report to the Fund on its activities, its financial condition, and its success in meeting performance goals, in satisfying the terms and conditions of its assistance agreement, and in complying with other requirements of this subtitle in such form and manner as the Fund shall specify.

(B) AVAILABILITY OF REPORTS.—The Fund, after deleting or redacting any material, as appropriate to protect privacy or proprietary interests, shall make such reports available for public inspection.

(b) ANNUAL REPORT BY THE FUND.—The Fund shall conduct an annual evaluation of the activities carried out by the Fund and the community development financial institutions assisted pursuant to this subtitle, and shall submit a report of its findings to the President and the Congress not later than 120 days after the end of each fiscal year of the Fund. The report shall include financial statements audited in accordance with subsection (d).

(c) STUDIES.—

(1) OPTIONAL STUDIES.—The Fund may conduct such studies as the Fund determines necessary to further the purpose of this subtitle and to facilitate investment in distressed communities. The findings of any studies conducted pursuant to this paragraph shall be included in the report required by subsection (b).

(2) NATIVE AMERICAN LENDING STUDY.—

(A) STUDY.—The Fund shall conduct a study on lending and investment practices on Indian reservations and other land held in trust by the United States Government. Such study shall—

(i) identify barriers to private financing on such lands; and

(ii) identify the impact of such barriers on access to capital and credit for Native American populations.

(B) CONSULTATION WITH PRIVATE SECTOR.—In conducting the study under subparagraph (A),

the Fund shall consult with tribal governments, private citizens, and organizations that possess expertise in lending and community development issues confronted by Native American populations.

(C) REPORT.—Not later than 18 months after the date of enactment of this Act, the Fund shall submit a report to the President and the Congress that—

(i) contains the findings of the study conducted under subparagraph (A);

(ii) recommends any necessary statutory and regulatory changes to existing Federal programs; and

(iii) makes policy recommendations for community development financial institutions, insured depository institutions, secondary market institutions, and other private sector capital institutions to better serve such populations.

(3) INVESTMENT, GOVERNANCE, AND ROLE OF FUND.—Thirty months after the appointment and qualification of the Administrator, the Comptroller General shall submit to the President and the Congress a study evaluating the structure, governance, and performance of the Fund.

(d) EXAMINATION AND AUDIT.—The financial statements of the Fund shall be audited in accordance with section 9105 of title 31, United States Code, except that audits required by section 9105(a) of such title shall be performed annually.

SEC. 113. INVESTMENT OF RECEIPTS AND PROCEEDS.

(a) ESTABLISHMENT OF ACCOUNT.—Any dividends on equity investments and proceeds from the disposition of investments, deposits, or credit union shares that are received by the Fund as a result of assistance provided pursuant to section 108, and any fees received pursuant to section 109(e) shall be deposited and accredited to an account of the Fund in the United States Treasury (hereafter in this section referred to as "the account") established to carry out the purpose of this subtitle.

(b) INVESTMENTS.—Upon request of the Administrator, the Secretary of the Treasury shall invest amounts deposited in the account in public debt securities with maturities suitable to the needs of the Fund, as determined by the Administrator, and bearing interest at rates determined by the Secretary of the Treasury, comparable to current market yields on outstanding marketable obligations of the United States of similar maturities.

(c) AVAILABILITY.—Amounts deposited into the account and interest earned on such amounts pursuant to this section shall be available to the Fund until expended.

SEC. 114. INSPECTOR GENERAL.

(a) ESTABLISHMENT.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App. 11) is amended—

(1) in paragraph (1), by inserting "; the Administrator of the Community Development Financial Institutions Fund;" before "and the chief"; and

(2) in paragraph (2), by inserting "the Community Development Financial Institutions Fund," after "the Agency for International Development,".

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for the operation of the Office of Inspector General established by the amendments made by subsection (a).

SEC. 115. CAPITALIZATION ASSISTANCE TO ENHANCE LIQUIDITY.

(a) ASSISTANCE.—

(1) IN GENERAL.—The Fund may provide assistance for the purpose of providing capital to organizations that will purchase loans or otherwise enhance the liquidity of community development financial institutions if—

(A) the primary purpose of such organizations is to promote community development; and

(B) any assistance received is matched with funds—

(i) from sources other than the Federal Government;

(ii) on the basis of not less than $1 for each dollar provided by the Fund; and

(iii) that are comparable in form and value to the assistance provided by the Fund.

(2) LIMITATION ON OTHER ASSISTANCE.—An organization that receives assistance under this section may not receive other financial or technical assistance under this subtitle.

(b) SELECTION.—The selection of organizations to receive assistance under this section shall be at the discretion of the Fund and in accordance with criteria established by the Fund. In establishing such criteria, the Fund shall take into account the criteria contained in sections 105(b) and 107, as appropriate.

(c) AMOUNT OF ASSISTANCE.—The Fund may provide a total of not more than $5,000,000 of assistance to an organization under this section during any 3-year period. Assistance may be provided in a lump sum or over a period of time, as determined by the Fund.

(d) AUDIT AND REPORT REQUIREMENTS.—

(1) IN GENERAL.—Organizations that receive assistance from the Fund in accordance with this section shall—

(A) submit to the Fund not less than once in every 18-month period, financial statements audited by an independent certified public accountant;

(B) submit an annual report on its activities; and

(C) keep such records as may be necessary to disclose the manner in which any assistance under this section is used.

(2) ACCESS.—The Fund shall have access on demand, for the purposes of determining compliance with this section, to any records of such organizations.

(e) LIMITATIONS ON LIABILITY.—

(1) LIABILITY OF FUND.—The liability of the Fund and the United States Government arising out of the provision of assistance to any organization in accordance with this section shall be limited to the amount of such assistance. The Fund shall be exempt from any assessments and any other liabilities that may be imposed on controlling or principal shareholders by any Federal law or the law of any State, territory, or the District of Columbia.

(2) LIABILITY OF GOVERNMENT.—This section does not oblige the Federal Government, either directly or indirectly, to provide any funds to any organization assisted pursuant to this section, or to honor, reimburse, or otherwise guarantee any obligation or liability of such an organization. This section shall not be construed to imply that any such organization or any obligations or securities of any such organization are backed by the full faith and credit of the United States.

(f) USE OF PROCEEDS.—Any proceeds from the sale of loans to an organization assisted under this section shall be used by the seller for community development purposes.

SEC. 116. COMMUNITY DEVELOPMENT REVOLVING LOAN FUND FOR CREDIT UNIONS.

(a) REPEAL.—Section 120 of the Federal Credit Union Act (12 U.S.C. 1766) is amended by striking subsection (k).

(b) REVOLVING LOAN FUND.—The Federal Credit Union Act (12 U.S.C. 1751 et seq.) is amended by inserting after section 129 the following new section:

"SEC. 130. COMMUNITY DEVELOPMENT REVOLVING LOAN FUND FOR CREDIT UNIONS.

"(a) IN GENERAL.—The Board may exercise the authority granted to it by the Community Development Credit Union Revolving Loan Fund Transfer Act, including any additional appropriation made or earnings accrued, subject only to this section and to regulations prescribed by the Board.

"(b) INVESTMENT.—The Board may invest any idle Fund moneys in United States Treasury securities. Any interest accrued on such securities shall become a part of the Fund.

"(c) LOANS.—The Board may require that any loans made from the Fund be matched by increased shares in the borrower credit union.

"(d) INTEREST.—Interest earned by the Fund may be allocated by the Board for technical assistance to community development credit unions, subject to an appropriations Act.

"(e) DEFINITION.—As used in this section, the term 'Fund' means the Community Development Credit Union Revolving Loan Fund.".

SEC. 117. REGULATIONS.

Not later than 180 days after the appointment and qualification of the Administrator, the Fund shall issue such regulations as may be necessary to carry out this subtitle.

SEC. 118. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—To carry out this subtitle, there are authorized to be appropriated to the Fund, to remain available until expended—

(1) $60,000,000 for fiscal year 1994;

(2) $104,000,000 for fiscal year 1995;

(3) $107,000,000 for fiscal year 1996; and

(4) $111,000,000 for fiscal year 1997.

(b) ADMINISTRATIVE EXPENSES.—Of amounts authorized to be appropriated to the Fund—

(1) not more than $5,500,000 may be used by the Fund in each fiscal year to pay the administrative costs and expenses of the Fund; and

(2) not more than $50,000 may be used by the Fund in each fiscal year to provide for administrative costs and expenses described in section 104(d)(8).

(c) COMMUNITY DEVELOPMENT CREDIT UNION REVOLVING LOAN FUND.—There are authorized to be appropriated for the purposes of the Community Development Credit Union Revolving Loan Fund—

(1) $2,000,000 for fiscal year 1994;

(2) $1,000,000 for fiscal year 1995;

(3) $1,000,000 for fiscal year 1996; and

(4) $1,000,000 for fiscal year 1997.

(d) CAPITALIZATION ASSISTANCE.—Not more than 5 percent of the amounts authorized to be appropriated under subsection (a) may be used as provided in section 115.

(e) BUDGETARY TREATMENT.—Amounts authorized to be appropriated under this section shall be subject to discretionary spending caps, as provided in section 601 of the Congressional Budget Act of 1974, and therefore shall reduce by an equal amount funds made available for other discretionary spending programs.

Subtitle B—Home Ownership and Equity Protection

SEC. 151. CONSUMER PROTECTIONS FOR HIGH COST MORTGAGES.

(a) DEFINITION.—Section 103 of the Truth in Lending Act (15 U.S.C. 1602) is amended by adding at the end the following new subsection:

"(aa)(1) A mortgage referred to in this subsection means a consumer credit transaction that is secured by the consumer's principal dwelling, other than a residential mortgage transaction, a reverse mortgage transaction, or a transaction under an open end credit plan, if—

"(A) the annual percentage rate at consummation of the transaction will exceed by more than 10 percentage points the rate of interest on Treasury securities having comparable periods of maturity on the fifteenth day of the month immediately preceding the month in which the loan is consummated; or

"(B) the total points and fees payable by the consumer at or before closing will exceed the greater of—

"(i) 8 percent of the total loan amount; or

"(ii) $400.

"(2) The amount specified in paragraph (1)(B)(ii) shall be adjusted annually on January 1 by the annual percentage change in the Consumer Price Index, as reported on June 1 of the year preceding such adjustment.

"(3) For purposes of paragraph (1)(B), points and fees shall include—

"(A) all items included in the finance charge except interest and the time-price differential;

"(B) all compensation paid to mortgage brokers;

"(C) each of the charges listed in section 106(e) (except an escrow for future payment of taxes), unless—

"(i) the charge is reasonable;

"(ii) the creditor receives no direct or indirect compensation; and

"(iii) the charge is paid to a third party unaffiliated with the creditor; and

"(D) such other charges as the Board determines to be appropriate.".

(b) MATERIAL DISCLOSURES.—Section 103(u) of the Truth in Lending Act (15 U.S.C. 1602(u)) is amended—

(1) by striking "and the due dates" and inserting "the due dates"; and

(2) by inserting before the period ", and the disclosures required by section 129(a)".

(c) DEFINITION OF CREDITOR CLARIFIED.—Section 103(f) of the Truth in Lending Act (15 U.S.C. 1602(f)) is amended by adding at the end the following: "Any person who originates 2 or more mortgages referred to in subsection (aa) in any 12-month period or any person who originates 1 or more such mortgages through a mortgage broker shall be considered to be a creditor for purposes of this title.".

(d) DISCLOSURES REQUIRED AND CERTAIN TERMS PROHIBITED.—The Truth in Lending Act (15 U.S.C. 1601 et seq.) is amended by inserting after section 128 the following new section:

"SEC. 129. REQUIREMENTS FOR CERTAIN MORTGAGES.

"(a) DISCLOSURES.—

"(1) SPECIFIC DISCLOSURES.—In addition to other disclosures required under this title, for each mortgage referred to in section 103(aa), the creditor shall provide the following disclosures in conspicuous type size:

"(A) 'You are not required to complete this agreement merely because you have received these disclosures or have signed a loan application.'

"(B) 'If you obtain this loan, the lender will have a mortgage on your home. You could lose your home, and any money you have put into it, if you do not meet your obligations under the loan.'.

"(2) ANNUAL PERCENTAGE RATE.—In addition to the disclosures required under paragraph (1), the creditor shall disclose—

"(A) the annual percentage rate of the loan and the amount of the regular monthly payment; or

"(B) in the case of a variable rate loan, the annual percentage rate of the loan, a statement that the interest rate and monthly payment may increase, and the amount of the maximum possible monthly payment.

"(b) TIME OF DISCLOSURES.—

"(1) IN GENERAL.—The disclosures required by this section shall be given not less than 3 business days prior to consummation of the transaction.

"(2) NEW DISCLOSURES REQUIRED.—After providing the disclosures required by this section, a creditor may not change the terms of the loan if such changes make the disclosures inaccurate, unless new disclosures are provided that meet the requirements of this section.

"(3) MODIFICATIONS.—The Board may, if it finds that such action is necessary to permit homeowners to meet bona fide personal financial emergencies, prescribe regulations authorizing the modification or waiver of rights created under this subsection, to the extent and under the circumstances set forth in those regulations.

"(c) NO PREPAYMENT PENALTY.—

"(1) IN GENERAL.—Except as provided in paragraph (4), a mortgage referred to in section 103(aa) may not contain terms under which a consumer must pay a prepayment penalty for paying all or part of the principal of the loan prior to the date on which such principal is due. If the date of maturity of a mortgage referred to in section 103(aa) is accelerated for any reason, and the consumer is entitled to a rebate of interest, computation of the rebate amount shall comply with paragraph (2). No such mortgage shall provide for a default interest rate that is higher than the interest rate provided by the note for the loan prior to default.

"(2) REBATE COMPUTATION.—For purposes of this subsection, any method of computing rebates of interest that is less favorable to the consumer than the actuarial method (as defined in section 933 of the Housing and Community Development Act of 1992) using simple interest is a prepayment penalty.

"(3) EXCEPTION.—A mortgage referred to in section 103(aa) may include terms under which a consumer is required to pay not more than 1 month's interest as a penalty if the consumer prepays the principal of the loan within 1 year of origination.

"(d) NO BALLOON PAYMENTS.—A mortgage referred to in section 103(aa) having a term of less than 5 years may not include terms under which the aggregate amount of the regular periodic payments would not fully amortize the outstanding principal balance.

"(e) NO NEGATIVE AMORTIZATION.—A mortgage referred to in section 103(aa) may not include terms under which the outstanding principal balance will increase at any time over the course of the loan because the regular periodic payments do not cover the full amount of interest due.

"(f) NO PREPAID PAYMENTS.—A mortgage referred to in section 103(aa) may not include terms under which more than 2 periodic payments required under the loan are consolidated and paid in advance from the loan proceeds provided to the consumer.

"(g) CONSEQUENCE OF FAILURE TO COMPLY.—Any mortgage that contains a provision prohibited by this section shall be deemed a failure to deliver the material disclosures required under this title, for the purpose of section 125.

"(h) DEFINITION.—For purposes of this section, the term 'affiliate' has the same meaning as in section 2(k) of the Bank Holding Company Act of 1956.

"(i) DISCRETIONARY REGULATORY AUTHORITY OF BOARD.—

"(1) EXEMPTIONS.—The Board may, by regulation or order, exempt specific mortgage products or categories of mortgages from any or all of the prohibitions specified in subsections (c) through (f), if the Board finds that the exemption—

"(A) is in the interest of the borrowing public; and

"(B) will apply only to products that maintain and strengthen home ownership and equity protection.

"(2) PROHIBITIONS.—The Board, by regulation or order, shall prohibit acts or practices in connection with—

"(A) mortgage loans that the Board finds to be unfair, deceptive, or designed to evade the provisions of this section; and

"(B) refinancing of mortgage loans that the Board finds to be associated with abusive lending practices, or that are otherwise not in the interest of the borrower.".

(e) CONFORMING AMENDMENTS.—

(1) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 2 of the Truth in Lending Act is amended by striking the item relating to section 129 and inserting the following:

"129. Requirements for certain mortgages.".

(2) TRUTH IN LENDING ACT.—Section 105(a) of the Truth in Lending Act (15 U.S.C. 1604(a)) is amended in the second sentence, by striking "These" and inserting "Except in the case of a mortgage referred to in section 103(aa), these".

SEC. 152. CIVIL LIABILITY.

(a) DAMAGES.—Section 130(a) of the Truth in Lending Act (15 U.S.C. 1640(a)) is amended—

(1) by striking "and" at the end of paragraph (2)(B);

(2) by striking the period at the end of paragraph (3) and inserting "; and"; and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) in the case of a failure to comply with any requirement under section 129, an amount equal to the sum of all finance charges and fees paid by the consumer, unless the creditor demonstrates that the failure to comply is not material.".

(b) STATE ATTORNEY GENERAL ENFORCEMENT.—Section 130(e) of the Truth in Lending Act (15 U.S.C. 1640(e)) is amended by adding at the end the following: "An action to enforce a violation of section 129 may also be brought by the appropriate State attorney general in any appropriate United States district court, or any other court of competent jurisdiction, not later than 3 years after the date on which the violation occurs. The State attorney general shall provide prior written notice of any such civil action to the Federal agency responsible for enforcement under section 108 and shall provide the agency with a copy of the complaint. If prior notice is not feasible, the State attorney general shall provide notice to such agency immediately upon instituting the action. The Federal agency may—

"(1) intervene in the action;

"(2) upon intervening—

"(A) remove the action to the appropriate United States district court, if it was not originally brought there; and

"(B) be heard on all matters arising in the action; and

"(3) file a petition for appeal.".

(c) ASSIGNEE LIABILITY.—Section 131 of the Truth in Lending Act (15 U.S.C. 1641) is amended by adding at the end the following new subsection:

"(d) RIGHTS UPON ASSIGNMENT OF CERTAIN MORTGAGES.—

"(1) IN GENERAL.—Any person who purchases or is otherwise assigned a mortgage referred to in section 103(aa) shall be subject to all claims and defenses with respect to that mortgage that the consumer could assert against the creditor of the mortgage, unless the purchaser or assignee demonstrates, by a preponderance of the evidence, that a reasonable person exercising ordinary due diligence, could not determine, based on the loan documentation required by this title, that the mortgage was in fact a mortgage referred to in section 103(aa). The preceding sentence does not affect a consumer's rights under sections 125, 130, or any other provision of this title.

"(2) LIMITATION ON DAMAGES.—Notwithstanding any other provision of law, relief provided as a result of any action made permissible by paragraph (1) may not exceed—

"(A) with respect to actions based upon a violation of this title, the amount specified in section 130; and

"(B) with respect to all other causes of action, the sum of—

"(i) the amount of all remaining indebtedness; and

"(ii) the total amount paid by the consumer in connection with the transaction.

"(3) OFFSET.—The amount of damages that may be awarded under paragraph (2)(B) shall be reduced by the amount of any damages awarded under paragraph (2)(A).

"(4) NOTICE.—Any person who sells or otherwise assigns a mortgage referred to in section 103(aa) shall include a prominent notice of the potential liability under this subsection as determined by the Board.".

SEC. 153. REVERSE MORTGAGE DISCLOSURE.

(a) DEFINITION OF REVERSE MORTGAGE.—Section 103 of the Truth in Lending Act (15 U.S.C. 1602) is amended by adding at the end the following new subsection:

"(bb) The term 'reverse mortgage transaction' means a nonrecourse transaction in which a mortgage, deed of trust, or equivalent consensual security interest is created against the consumer's principal dwelling—

"(1) securing one or more advances; and

"(2) with respect to which the payment of any principal, interest, and shared appreciation is due and payable (other than in the case of default) only after—

"(A) the transfer of the dwelling;

"(B) the consumer ceases to occupy the dwelling as a principal dwelling; or

"(C) the death of the consumer.".

(b) DISCLOSURE.—Chapter 2 of title I of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by adding at the end the following new section:

"SEC. 138. REVERSE MORTGAGES.

"(a) IN GENERAL.—In addition to the disclosures required under this title, for each reverse mortgage, the creditor shall, not less than 3 days prior to consummation of the transaction, disclose to the consumer in conspicuous type a good faith estimate of the projected total cost of the mortgage to the consumer expressed as a table of annual interest rates. Each annual interest rate shall be based on a projected total future loan balance under a projected appreciation rate for the dwelling and a term for the mortgage. The disclosure shall include—

"(1) statements of the annual interest rates for not less than 3 projected appreciation rates and not less than 3 loan periods, as determined by the Board, including—

"(A) a short-term reverse mortgage;

"(B) a term equaling the actuarial life expectancy of the consumer; and

"(C) such longer term as the Board deems appropriate; and

"(2) a statement that the consumer is not obligated to complete the reverse mortgage transaction merely because the consumer has received the disclosure required under this section or has signed a loan application.

"(b) PROJECTED TOTAL COST.—In determining the projected total cost of the mortgage to be disclosed to the consumer under subsection (a), the creditor shall take into account—

"(1) any shared appreciation that the lender will, by contract, be entitled to receive;

"(2) all costs and charges to the consumer, including the costs of any associated annuity that the consumer elects or is required to purchase as part of the reverse mortgage transaction;

"(3) all payments to and for the benefit of the consumer, including, in the case in which an associated annuity is purchased (whether or not required by the lender as a condition of making the reverse mortgage), the annuity payments received by the consumer and financed from the proceeds of the loan, instead of the proceeds used to finance the annuity; and

"(4) any limitation on the liability of the consumer under reverse mortgage transactions (such as nonrecourse limits and equity conservation agreements).".

(c) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 2 of the Truth in Lending Act is amended by inserting after the item relating to section 137 the following:

"138. Reverse mortgages.".

SEC. 154. REGULATIONS; EFFECTIVE DATE.

(a) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Board of Governors of the Federal Reserve System shall issue such regulations as may be necessary to carry out this subtitle.

(b) EFFECTIVE DATE.—This subtitle, and the amendments made by this subtitle, shall apply to every mortgage referred to in section 103(aa) of the Truth in Lending Act (as added by section 151(a) of this Act) consummated on or after the date which is 60 days after the promulgation of final regulations under subsection (a).

TITLE II—SMALL BUSINESS CAPITAL FORMATION

Subtitle A—Small Business Loan Securitization

SEC. 201. SHORT TITLE.

This subtitle may be cited as the "Small Business Loan Securitization and Secondary Market Enhancement Act of 1994".

SEC. 202. SMALL BUSINESS RELATED SECURITY.

Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended by adding at the end the following new paragraph:

"(53)(A) The term 'small business related security' means a security that is rated in 1 of the 4 highest rating categories by at least 1 nationally recognized statistical rating organization, and either—

"(i) represents an interest in 1 or more promissory notes or leases of personal property evidencing the obligation of a small business concern and originated by an insured depository institution, insured credit union, insurance company, or similar institution which is supervised and examined by a Federal or State authority, or a finance company or leasing company; or

"(ii) is secured by an interest in 1 or more promissory notes or leases of personal property (with or without recourse to the issuer or lessee) and provides for payments of principal in relation to payments, or reasonable projections of payments, on notes or leases described in clause (i).

"(B) For purposes of this paragraph—

"(i) an 'interest in a promissory note or a lease of personal property' includes ownership rights, certificates of interest or participation in such notes or leases, and rights designed to assure servicing of such notes or leases, or the receipt or timely receipt of amounts payable under such notes or leases;

"(ii) the term 'small business concern' has the same meaning as in section 3 of the Small Business Act;

"(iii) the term 'insured depository institution' has the same meaning as in section 3 of the Federal Deposit Insurance Act; and

"(iv) the term 'insured credit union' has the same meaning as in section 101 of the Federal Credit Union Act.".

SEC. 203. APPLICABILITY OF MARGIN REQUIREMENTS.

Section 7(g) of the Securities Exchange Act of 1934 (15 U.S.C. 78g(g)) is amended by inserting "or a small business related security" after "mortgage related security".

SEC. 204. BORROWING IN THE COURSE OF BUSINESS.

Section 8(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78h(a)) is amended in the last sentence by inserting "or a small business related security" after "mortgage related security".

SEC. 205. SMALL BUSINESS RELATED SECURITIES AS COLLATERAL.

Clause (ii) of section 11(d)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78k(d)(1)) is amended by inserting "or any small business related security" after "mortgage related security".

SEC. 206. INVESTMENT BY DEPOSITORY INSTITUTIONS.

(a) HOME OWNERS' LOAN ACT AMENDMENT.—Section 5(c)(1) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(1)) is amended by adding at the end the following new subparagraph:

"(S) SMALL BUSINESS RELATED SECURITIES.—Investments in small business related securities (as defined in section 3(a)(53) of the Securities Exchange Act of 1934), subject to such regulations as the Director may prescribe, including regulations concerning the minimum size of the issue (at the time of the initial distribution), the minimum aggregate sales price, or both.".

(b) CREDIT UNIONS.—Section 107(15) of the Federal Credit Union Act (12 U.S.C. 1757(15)) is amended—

(1) in subparagraph (A), by striking "or" at the end;

(2) in subparagraph (B), by inserting "or" at the end; and

(3) by adding at the end the following new subparagraph:

"(C) are small business related securities (as defined in section 3(a)(53) of the Securities Exchange Act of 1934), subject to such regulations as the Board may prescribe, including regulations prescribing the minimum size of the issue (at the time of the initial distribution), the minimum aggregate sales price, or both;".

(c) NATIONAL BANKING ASSOCIATIONS.—Section 5136 of the Revised Statutes (12 U.S.C. 24) is amended in the last sentence in the first full paragraph of paragraph Seven, by striking "or (B) are mortgage related securities" and inserting the following: "(B) are small business related securities (as defined in section 3(a)(53) of the Securities Exchange Act of 1934); or (C) are mortgage related securities".

SEC. 207. PREEMPTION OF STATE LAW.

(a) IN GENERAL.—Section 106(a)(1) of the Secondary Mortgage Market Enhancement Act of 1984 (15 U.S.C. 77r-1(a)(1)) is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by redesignating subparagraph (C) as subparagraph (D); and

(3) by inserting after subparagraph (B) the following new subparagraph:

"(C) small business related securities (as defined in section 3(a)(53) of the Securities Exchange Act of 1934), or".

(b) OBLIGATIONS OF THE UNITED STATES.—Section 106(a)(2) of the Secondary Mortgage Market Enhancement Act of 1984 (15 U.S.C. 77r-1(a)(2)) is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by redesignating subparagraph (C) as subparagraph (D); and

(3) by inserting after subparagraph (B) the following new subparagraph:

"(C) small business related securities (as defined in section 3(a)(53) of the Securities Exchange Act of 1934), or".

(c) PREEMPTION OF STATE LAWS.—Section 106(c) of the Secondary Mortgage Market Enhancement Act of 1984 (15 U.S.C. 77r-1(c)) is amended—

(1) in the first sentence, by striking "or that" and inserting ", that"; and

(2) by inserting ", or that are small business related securities (as defined in section 3(a)(53) of the Securities Exchange Act of 1934)" before "shall be exempt".

(d) IMPLEMENTATION.—Section 106 of the Secondary Mortgage Market Enhancement Act of 1984 (15 U.S.C. 77r-1) is amended by adding at the end the following new subsection:

"(d) IMPLEMENTATION.—

"(1) LIMITATION.—The provisions of subsections (a) and (b) concerning small business related securities shall not apply with respect to a particular person, trust, corporation, partner-

ship, association, business trust, or business entity or class thereof in any State that, prior to the expiration of 7 years after the date of enactment of this subsection, enacts a statute that specifically refers to this section and either prohibits or provides for a more limited authority to purchase, hold, or invest in such small business related securities by any person, trust, corporation, partnership, association, business trust, or business entity or class thereof than is provided in this section. The enactment by any State of any statute of the type described in the preceding sentence shall not affect the validity of any contractual commitment to purchase, hold, or invest that was made prior to such enactment, and shall not require the sale or other disposition of any small business related securities acquired prior to the date of such enactment.

"(2) STATE REGISTRATION OR QUALIFICATION REQUIREMENTS.—Any State may, not later than 7 years after the date of enactment of this subsection, enact a statute that specifically refers to this section and requires registration or qualification of any small business related securities on terms that differ from those applicable to any obligation issued by the United States.".

SEC. 208. INSURED DEPOSITORY INSTITUTION CAPITAL REQUIREMENTS FOR TRANSFERS OF SMALL BUSINESS OBLIGATIONS.

(a) ACCOUNTING PRINCIPLES.—The accounting principles applicable to the transfer of a small business loan or a lease of personal property with recourse contained in reports or statements required to be filed with Federal banking agencies by a qualified insured depository institution shall be consistent with generally accepted accounting principles.

(b) CAPITAL AND RESERVE REQUIREMENTS.—With respect to the transfer of a small business loan or lease of personal property with recourse that is a sale under generally accepted accounting principles, each qualified insured depository institution shall—

(1) establish and maintain a reserve equal to an amount sufficient to meet the reasonable estimated liability of the institution under the recourse arrangement; and

(2) include, for purposes of applicable capital standards and other capital measures, only the amount of the retained recourse in the risk-weighted assets of the institution.

(c) QUALIFIED INSTITUTIONS CRITERIA.—An insured depository institution is a qualified insured depository institution for purposes of this section if, without regard to the accounting principles or capital requirements referred to in subsections (a) and (b), the institution is—

(1) well capitalized; or

(2) with the approval, by regulation or order, of the appropriate Federal banking agency, adequately capitalized.

(d) AGGREGATE AMOUNT OF RECOURSE.—The total outstanding amount of recourse retained by a qualified insured depository institution with respect to transfers of small business loans and leases of personal property under subsections (a) and (b) shall not exceed—

(1) 15 percent of the risk-based capital of the institution; or

(2) such greater amount, as established by the appropriate Federal banking agency by regulation or order.

(e) INSTITUTIONS THAT CEASE TO BE QUALIFIED OR EXCEED AGGREGATE LIMITS.—If an insured depository institution ceases to be a qualified insured depository institution or exceeds the limits under subsection (d), this section shall remain applicable to any transfers of small business loans or leases of personal property that occurred during the time that the institution was qualified and did not exceed such limit.

(f) PROMPT CORRECTIVE ACTION NOT AFFECTED.—The capital of an insured depository institution shall be computed without regard to this section in determining whether the institution is adequately capitalized, undercapitalized, significantly undercapitalized, or critically undercapitalized under section 38 of the Federal Deposit Insurance Act.

(g) REGULATIONS REQUIRED.—Not later than 180 days after the date of the enactment of this Act each appropriate Federal banking agency shall promulgate final regulations implementing this section.

(h) ALTERNATIVE SYSTEM PERMITTED.—

(1) IN GENERAL.—At the discretion of the appropriate Federal banking agency, this section shall not apply if the regulations of the agency provide that the aggregate amount of capital and reserves required with respect to the transfer of small business loans and leases of personal property with recourse does not exceed the aggregate amount of capital and reserves that would be required under subsection (b).

(2) EXISTING TRANSACTIONS NOT AFFECTED.—Notwithstanding paragraph (1), this section shall remain in effect with respect to transfers of small business loans and leases of personal property with recourse by qualified insured depository institutions occurring before the effective date of regulations referred to in paragraph (1).

(i) DEFINITIONS.—For purposes of this section—

(1) the term "adequately capitalized" has the same meaning as in section 38(b) of the Federal Deposit Insurance Act;

(2) the term "appropriate Federal banking agency" has the same meaning as in section 3 of the Federal Deposit Insurance Act;

(3) the term "capital standards" has the same meaning as in section 38(c) of the Federal Deposit Insurance Act;

(4) the term "Federal banking agencies" has the same meaning as in section 3 of the Federal Deposit Insurance Act;

(5) the term "insured depository institution" has the same meaning as in section 3 of the Federal Deposit Insurance Act;

(6) the term "other capital measures" has the meaning as in section 38(c) of the Federal Deposit Insurance Act;

(7) the term "recourse" has the meaning given to such term under generally accepted accounting principles;

(8) the term "small business" means a business that meets the criteria for a small business concern established by the Small Business Administration under section 3(a) of the Small Business Act; and

(9) the term "well capitalized" has the same meaning as in section 38(b) of the Federal Deposit Insurance Act.

SEC. 209. TRANSACTIONS IN SMALL BUSINESS RELATED SECURITIES BY EMPLOYEE BENEFIT PLANS.

(a) PROHIBITED TRANSACTION EXEMPTION.—The Secretary of Labor, in consultation with the Secretary of the Treasury, 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.

SEC. 210. SENSE OF THE SENATE ON TAXATION OF SMALL BUSINESS LOAN INVESTMENT CONDUITS.

(a) SENSE OF THE SENATE.—It is the sense of the Senate that the taxation of a small business loan investment conduit and the holder of an interest therein should be similar to the taxation of a real estate mortgage investment conduit and the holder of an interest therein under the Internal Revenue Code of 1986, taking into account, as appropriate—

(1) the purpose of facilitating the securitization of small business loans and leases or personal property through the use of small business loan investment conduits and the development of a secondary market in small business loans and leases of personal property;

(2) differences in the nature of qualifying mortgages in a real estate mortgage investment conduit and small business loans and leases of personal property;

(3) differences in the practices of participants in the securitization of real estate mortgages in a real estate mortgage investment conduit and the securitization of other assets; and

(4) such other tax policies as may be warranted.

(b) SMALL BUSINESS LOAN INVESTMENT CONDUIT DEFINED.—For purposes of this section, the term "small business loan investment conduit" means an entity substantially all of the assets of which consist of an interest in one or more promissory notes as leases of personal property evidencing obligations—

(1) of a business that meets the criteria of a small business concern established under section 3(a) of the Small Business Act; and

(2) that were originated by an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act), credit union, insurance company, or similar institution which is supervised and examined by a Federal or State authority, or a finance company or leasing company.

Subtitle B—Small Business Capital Enhancement

SEC. 251. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) small business concerns are a vital part of the economy, accounting for the majority of new jobs, new products, and new services created in the United States;

(2) adequate access to debt capital is a critical component for small business development, productivity, expansion, and success in the United States;

(3) commercial banks are the most important suppliers of debt capital to small business concerns in the United States;

(4) commercial banks and other depository institutions have various incentives to minimize their risk in financing small business concerns;

(5) as a result of such incentives, many small business concerns with economically sound financing needs are unable to obtain access to needed debt capital;

(6) the small business capital access programs implemented by certain States are a flexible and efficient tool to assist financial institutions in providing access to needed debt capital for many small business concerns in a manner consistent with safety and soundness regulations;

(7) a small business capital access program would complement other programs which assist small business concerns in obtaining access to capital; and

(8) Federal policy can stimulate and accelerate efforts by States to implement small business capital access programs by providing an incentive to States, while leaving the administration of such programs to each participating State.

(b) PURPOSES.—By encouraging States to implement administratively efficient capital access programs that encourage commercial banks and other depository institutions to provide access to debt capital for a broad portfolio of small business concerns, and thereby promote a more efficient and effective debt market, the purposes of this subtitle are—

(1) to promote economic opportunity and growth;

(2) to create jobs;

(3) to promote economic efficiency;

(4) to enhance productivity; and

(5) to spur innovation.

SEC. 252. DEFINITIONS.

For purposes of this subtitle—

(1) the term "Secretary" means the Secretary of Housing and Urban Development;

(2) the term "appropriate Federal banking agency"—

(A) has the same meaning as in section 3 of the Federal Deposit Insurance Act; and

(B) includes the National Credit Union Administration Board in the case of any credit union the deposits of which are insured in accordance with the Federal Credit Union Act;

(3) the term "early loan" means a loan enrolled at a time when the aggregate covered amount of loans previously enrolled under the Program by a particular participating financial institution is less than $5,000,000;

(4) the term "enrolled loan" means a loan made by a participating financial institution that is enrolled by a participating State in accordance with this subtitle;

(5) the term "financial institution" means any federally chartered or State-chartered commercial bank, savings association, savings bank, or credit union;

(6) the term "participating financial institution" means any financial institution that has entered into a participation agreement with a participating State in accordance with section 254;

(7) the term "participating State" means any State that has been approved for participation in the Program in accordance with section 253;

(8) the term "passive real estate ownership" means ownership of real estate for the purpose of deriving income from speculation, trade, or rental, except that such term shall not include—

(A) the ownership of that portion of real estate being used or intended to be used for the operation of the business of the owner of the real estate (other than the business of passive ownership of real estate); or

(B) the ownership of real estate for the purpose of construction or renovation, until the completion of the construction or renovation phase;

(9) the term "Program" means the Small Business Capital Enhancement Program established under this subtitle;

(10) the term "reserve fund" means a fund, established by a participating State, earmarked for a particular participating financial institution, for the purposes of—

(A) depositing all required premium charges paid by the participating financial institution and by each borrower receiving a loan under the Program from a participating financial institution;

(B) depositing contributions made by the participating State; and

(C) covering losses on enrolled loans by disbursing accumulated funds; and

(11) the term "State" means—

(A) a State of the United States;

(B) the District of Columbia;

(C) any political subdivision of a State of the United States, which subdivision has a population in excess of the population of the least populated State of the United States; and

(D) any other political subdivision of a State of the United States that the Secretary determines has the capacity to participate in the program.

SEC. 253. APPROVING STATES FOR PARTICIPATION.

(a) APPLICATION.—Any State may apply to the Secretary for approval to be a participating State under the Program and to be eligible for reimbursement by the Secretary pursuant to section 257.

(b) APPROVAL CRITERIA.—The Secretary shall approve a State to be a participating State, if—

(1) a specific department or agency of the State has been designated to implement the Program;

(2) all legal actions necessary to enable such designated department or agency to implement the Program have been accomplished;

(3) funds in the amount of at least $1 for every 2 people residing in the State (as of the last decennial census for which data have been released) are available and have been legally committed to contributions by the State to reserve funds, with such funds being available without time limit and without requiring additional legal action, except that such requirements shall not be construed to limit the authority of the State to take action at a later time that results in the termination of its obligation to enroll loans and make contributions to reserve funds;

(4) the State has prescribed a form of participation agreement to be entered into between it and each participating financial institution that is consistent with the requirements and purposes of this subtitle; and

(5) the State and the Secretary have executed a reimbursement agreement that conforms to the requirements of this subtitle.

(c) EXISTING STATE PROGRAMS.—

(1) IN GENERAL.—A State that is not a participating State, but that has its own capital access program providing portfolio insurance for business loans (based on a separate loss reserve fund for each financial institution), may apply at any time to the Secretary to be approved to be a participating State. The Secretary shall approve such State to be a participating State, and to be eligible for reimbursements by the Secretary pursuant to section 257, if the State—

(A) satisfies the requirements of subsections (a) and (b); and

(B) certifies that each affected financial institution has satisfied the requirements of section 254.

(2) APPLICABLE TERMS OF PARTICIPATION.—

(A) STATUS OF INSTITUTIONS.—If a State is approved for participation under paragraph (1), each financial institution with a participation agreement in effect with the participating State shall immediately be considered a participating financial institution. Reimbursements may be made under section 237 in connection with all contributions made to the reserve fund by the State in connection with lending that occurs on or after the date on which the Secretary approves the State for participation.

(B) EFFECTIVE DATE OF PARTICIPATION.—If an amended participation agreement that conforms with section 255 is required in order to secure participation approval by the Secretary, contributions subject to reimbursement under section 257 shall include only those contributions made to a reserve fund with respect to loans enrolled on or after the date that an amended participation agreement between the participating State and the participating financial institution becomes effective.

(C) USE OF ACCUMULATED RESERVE FUNDS.—A State that is approved for participation in accordance with this subsection may continue to implement the program utilizing the reserve funds accumulated under the State program.

(d) PRIOR APPROPRIATIONS REQUIREMENT.—The Secretary shall not approve a State for participation in the Program until at least $50,000,000 has been appropriated to the Secretary (subject to an appropriations Act), without fiscal year limitation, for the purpose of making reimbursements pursuant to section 257.

(e) AMENDMENTS TO AGREEMENTS.—If a State that has been approved to be a participating State wishes to amend its form of participation agreement and continue to be a participating State, such State shall submit such amendment for review by the Secretary in accordance with subsection (b)(4). Any such amendment shall become effective only after it has been approved by the Secretary.

SEC. 254. PARTICIPATION AGREEMENTS.

(a) IN GENERAL.—A participating State may enter into a participation agreement with any financial institution determined by the participating State, after consultation with the appropriate Federal banking agency, to have sufficient commercial lending experience and financial and managerial capacity to participate in the Program. The determination by the State shall not be reviewable by the Secretary.

(b) PARTICIPATING FINANCIAL INSTITUTIONS.—Upon entering into the participation agreement with the participating State, the financial institution shall become a participating financial institution eligible to enroll loans under the Program.

SEC. 255. TERMS OF PARTICIPATION AGREEMENTS.

(a) IN GENERAL.—The participation agreement to be entered into by a participating State and a participating financial institution shall include all provisions required by this section, and shall not include any provisions inconsistent with the provisions of this section.

(b) ESTABLISHMENT OF SEPARATE RESERVE FUNDS.—A separate reserve fund shall be established by the participating State for each participating financial institution. All funds credited to a reserve fund shall be the exclusive property of the participating State. Each reserve fund shall be an administrative account for the purposes of—

(1) receiving all required premium charges to be paid by the borrower and participating financial institution and contributions by the participating State; and

(2) disbursing funds, either to cover losses sustained by the participating financial institution in connection with loans made under the Program, or as contemplated by subsections (d) and (r).

(c) INVESTMENT AUTHORITY.—Subject to applicable State law, the participating State may invest, or cause to be invested, funds held in a reserve fund by establishing a deposit account at the participating financial institution in the name of the participating State. In the event that funds in the reserve fund are not deposited in such an account, such funds shall be invested in a form that the participating State determines is safe and liquid.

(d) EARNED INCOME AND INTEREST.—Interest or income earned on the funds credited to a reserve fund shall be deemed to be part of the reserve fund, except that a participating State may, as further specified in the participation agreement, provide authority for the participating State to withdraw some or all of such interest or income earned.

(e) LOAN TERMS AND CONDITIONS.—

(1) IN GENERAL.—A loan to be filed for enrollment under the Program may be made with such interest rate, fees, and other terms and conditions as agreed upon by the participating financial institution and the borrower, consistent with applicable law.

(2) LINES OF CREDIT.—If a loan to be filed for enrollment is in the form of a line of credit, the amount of the loan shall be considered to be the maximum amount that can be drawn by the borrower against the line of credit.

(f) ENROLLMENT PROCESS.—

(1) FILING.—

(A) IN GENERAL.—A participating financial institution shall file each loan made under the Program for enrollment by completing and submitting to the participating State a form prescribed by the participating State.

(B) FORM.—The form referred to in subparagraph (A) shall include a representation by the

participating financial institution that it has complied with the participation agreement in enrolling the loan with the State.

(C) PREMIUM CHARGES.—Accompanying the completed form shall be the nonrefundable premium charges paid by the borrower and the participating financial institution, or evidence that such premium charges have been deposited into the deposit account containing the reserve fund, if applicable.

(D) SUBMISSION.—The participation agreement shall require that the items required by this subsection shall be submitted to the participating State by the participating financial institutions not later than 10 calendar days after a loan is made.

(2) ENROLLMENT BY STATE.—Upon receipt by the participating State of the filing submitted in accordance with paragraph (1), the participating State shall promptly enroll the loan and make a matching contribution to the reserve fund in accordance with subsection (j), unless the information submitted indicates that the participating financial institution has not complied with the participation agreement in enrolling the loan.

(g) COVERAGE AMOUNT.—In filing a loan for enrollment under the Program, the participating financial institution may specify an amount to be covered under the Program that is less than the full amount of the loan.

(h) PREMIUM CHARGES.—

(1) MINIMUM AND MAXIMUM AMOUNTS.—The premium charges payable to the reserve fund by the borrower and the participating financial institution shall be prescribed by the participating financial institution, within minimum and maximum limits set forth in the participation agreement. The participation agreement shall establish minimum and maximum limits whereby the sum of the premium charges paid in connection with a loan by the borrower and the participating financial institution is not less than 3 percent nor more than 7 percent of the amount of the loan covered under the Program.

(2) ALLOCATION OF PREMIUM CHARGES.—The participation agreement shall specify terms for allocating premium charges between the borrower and the participating financial institution. However, if the participating financial institution is required to pay any of the premium charges, the participation agreement shall authorize the participating financial institution to recover from the borrower the cost of the payment of the participating financial institution, in any manner on which the participating financial institution and the borrower agree.

(i) RESTRICTIONS.—

(1) ACTIONS PROHIBITED.—Except as provided in subsection (h) and paragraph (2) of this subsection, the participating State may not—

(A) impose any restrictions or requirements, relating to the interest rate, fees, collateral, or other business terms and conditions of the loan; or

(B) condition enrollment of a loan in the Program on the review by the State of the risk or creditworthiness of a loan.

(2) EFFECT ON OTHER LAW.—Nothing in this subtitle shall affect the applicability of any other law to the conduct by a participating financial institution of its business.

(j) STATE CONTRIBUTIONS.—In enrolling a loan under the Program, the participating State shall contribute to the reserve fund an amount, as provided for in the participation agreement, which shall not be less than the sum of the amount of premium charges paid by the borrower and the participating financial institution.

(k) ELEMENTS OF CLAIMS.—

(1) FILING.—If a participating financial institution charges off all or part of an enrolled loan, such participating financial institution may file a claim for reimbursement with the participating State by submitting a form that—

(A) includes the representation by the participating financial institution that it is filing the claim in accordance with the terms of the applicable participation agreement; and

(B) contains such other information as may be required by the participating State.

(2) TIMING.—Any claim filed under paragraph (1) shall be filed contemporaneously with the action of the participating financial institution to charge off all or part of an enrolled loan. The participating financial institution shall determine when and how much to charge off on an enrolled loan, in a manner consistent with its usual method for making such determinations on business loans that are not enrolled loans under this subtitle.

(l) ELEMENTS OF CLAIMS.—A claim filed by a participating financial institution may include the amount of principal charged off, not to exceed the covered amount of the loan. Such claim may also include accrued interest and out-of-pocket expenses, if and to the extent provided for under the participation agreement.

(m) PAYMENT OF CLAIMS.—

(1) IN GENERAL.—Except as provided in subsection (n) and paragraph (2) of this subsection, upon receipt of a claim filed in accordance with this section and the participation agreement, the participating State shall promptly pay to the participating financial institution, from funds in the reserve fund, the full amount of the claim as submitted.

(2) INSUFFICIENT RESERVE FUNDS.—If there are insufficient funds in the reserve fund to cover the entire amount of a claim of a participating financial institution, the participating State shall pay to the participating financial institution an amount equal to the current balance in the reserve fund. If the enrolled loan for which the claim has been filed—

(A) is not an early loan, such payment shall be deemed fully to satisfy the claim, and the participating financial institution shall have no other or further right to receive any amount from the reserve fund with respect to such claim; or

(B) is an early loan, such payment shall not be deemed fully to satisfy the claim of the participating financial institution, and at such time as the remaining balance of the claim does not exceed 75 percent of the balance in the reserve fund, the participating State shall, upon the request of the participating financial institution, pay any remaining amount of the claim.

(n) DENIAL OF CLAIMS.—A participating State may deny a claim if a representation or warranty made by the participating financial institution to the participating State at the time that the loan was filed for enrollment or at the time that the claim was submitted was known by the participating financial institution to be false.

(o) SUBSEQUENT RECOVERY OF CLAIM AMOUNT.—If, subsequent to payment of a claim by the participating State, a participating financial institution recovers from a borrower any amount for which payment of the claim was made, the participating financial institution shall promptly pay to the participating State for deposit into the reserve fund the amount recovered, less any expenses incurred by the institution in collection of such amount.

(p) PARTICIPATION AGREEMENT TERMS.—

(1) IN GENERAL.—In connection with the filing of a loan for enrollment in the Program, the participation agreement—

(A) shall require the participating financial institution to obtain an assurance from each borrower that—

(i) the proceeds of the loan will be used for a business purpose;

(ii) the loan will not be used to finance passive real estate ownership; and

(iii) the borrower is not—

(I) an executive officer, director, or principal shareholder of the participating financial institution;

(II) a member of the immediate family of an executive officer, director, or principal shareholder of the participating financial institution; or

(III) a related interest of any such executive officer, director, principal shareholder, or member of the immediate family;

(B) shall require the participating financial institution to provide assurances to the participating State that the loan has not been made in order to place under the protection of the Program prior debt that is not covered under the Program and that is or was owed by the borrower to the participating financial institution or to an affiliate of the participating financial institution;

(C) may provide that if—

(i) a participating financial institution makes a loan to a borrower that is a refinancing of a loan previously made to the borrower by the participating financial institution or an affiliate of the participating financial institution;

(ii) such prior loan was not enrolled in the Program; and

(iii) additional or new financing is extended by the participating financial institution as part of the refinancing,

the participating financial institution may file the loan for enrollment, with the amount to be covered under the Program not to exceed the amount of any additional or new financing; and

(D) may include additional restrictions on the eligibility of loans or borrowers that are not inconsistent with the provisions and purposes of this subtitle.

(2) DEFINITIONS.—For purposes of this subsection, the terms "executive officer", "director", "principal shareholder", "immediate family", and "related interest" refer to the same relationship to a participating financial institution as the relationship described in part 215 of title 12 of the Code of Federal Regulations, or any successor to such part.

(q) TERMINATION CLAUSE.—In each participation agreement, the participating State shall reserve for itself the ability to terminate its obligation to enroll loans under the Program. Any such termination shall be prospective only, and shall not apply to amounts of loans enrolled under the Program prior to such termination.

(r) ALLOWABLE WITHDRAWALS FROM FUND.—The participation agreement may provide that, if, for any consecutive period of not less than 24 months, the aggregate outstanding balance of all enrolled loans for a participating financial institution is continually less than the outstanding balance in the reserve fund for that participating financial institution, the participating State, in its discretion, may withdraw an amount from the reserve fund to bring the balance in the reserve fund down to the outstanding balance of all such enrolled loans.

(s) GRANDFATHERED PROVISION.—

(1) SPECIAL TREATMENT OF PREMIUM CHARGES.—Notwithstanding subsection (b) or (d), the participation agreement, if explicitly authorized by a statute enacted by the State before the date of enactment of this Act, may allow a participating financial institution to treat the premium charges paid by the participating financial institution and the borrower into the reserve fund, and interest or income earned on funds in the reserve fund that are deemed to be attributable to such premium charges, as assets of the participating financial institution for accounting purposes, subject to withdrawal by the participating financial institution only—

(A) for the payment of claims approved by the participating State in accordance with this section; and

(B) upon the participating financial institution's withdrawal from authority to make new loans under the Program.

(2) PAYMENT OF POST-WITHDRAWAL CLAIMS.—After any withdrawal of assets from the reserve fund pursuant to paragraph (1)(B), any future claims filed by the participating financial institution on loans remaining in its capital access program portfolio shall only be paid from funds remaining in the reserve fund to the extent that, in the aggregate, such claims exceed the sum of the amount of such withdrawn assets, and interest on that amount, imputed at the same rate as income would have accrued had the amount not been withdrawn.

(3) CONDITIONS FOR TERMINATING SPECIAL AUTHORITY.—If the Secretary determines that the inclusion in a participation agreement of the provisions authorized by this subsection is resulting in the enrollment of loans under the Program that are likely to have been made without assistance provided under this subtitle, the Secretary may notify the participating State that henceforth, the Secretary will only make reimbursements to the State under section 257 with respect to a loan if the participation agreement between the participating State and each participating financial institution has been amended to conform with this section, without exercise of the special authority granted by this subsection.

SEC. 256. REPORTS.

(a) RESERVE FUNDS REPORT.—On or before the last day of each calendar quarter, a participating State shall submit to the Secretary a report of contributions to reserve funds made by the participating State during the previous calendar quarter. If the participating State has made contributions to one or more reserve funds during the previous quarter, the report shall—

(1) indicate the total amount of such contributions;

(2) indicate the amount of contributions which is subject to reimbursement, which shall be equal to the total amount of contributions, unless one of the limitations contained in section 257 is applicable;

(3) if one of the limitations in section 257 is applicable, provide documentation of the applicability of such limitation for each loan for which the limitation applies; and

(4) include a certification by the participating State that—

(A) the information provided in accordance with paragraphs (1), (2), and (3) is accurate;

(B) funds in an amount meeting the minimum requirements of section 253(b)(3) continue to be available and legally committed to contributions by the State to reserve funds, less any amount that has been contributed by the State to reserve funds subsequent to the State being approved for participation in the Program;

(C) there has been no unapproved amendment to any participation agreement or the form of participation agreements; and

(D) the participating State is otherwise implementing the Program in accordance with this subtitle and regulations issued pursuant to section 259.

(b) ANNUAL DATA.—Not later than March 31 of each year, each participating State shall submit to the Secretary annual data indicating the number of borrowers financed under the Program, the total amount of covered loans, and breakdowns by industry type, loan size, annual sales, and number of employees of the borrowers financed.

(c) FORM.—The reports and data filed pursuant to subsections (a) and (b) shall be in such form as the Secretary may require.

SEC. 257. REIMBURSEMENT BY THE SECRETARY.

(a) REIMBURSEMENTS.—Not later than 30 calendar days after receiving a report filed in compliance with section 256, the Secretary shall reimburse the participating State in an amount equal to 50 percent of the amount of contributions by the participating State to the reserve funds that are subject to reimbursement by the Secretary pursuant to section 256 and this section. The Secretary shall reimburse participating States, as it receives reports pursuant to section 256(a), until available funds are expended.

(b) SIZE OF ASSISTED BORROWER.—The Secretary shall not provide any reimbursement to a participating State with respect to an enrolled loan made to a borrower that has 500 or more employees at the time that the loan is enrolled in the Program.

(c) THREE-YEAR MAXIMUM.—The amount of reimbursement to be provided by the Secretary to a participating State over any 3-year period in connection with loans made to any single borrower or any group of borrowers among which a common enterprise exists shall not exceed $75,000. For purposes of this subsection, "common enterprise" shall have the same meaning as in part 32 of title 12 of the Code of Federal Regulations, or any successor to that part.

(d) LOANS TOTALING LESS THAN $2,000,000.—In connection with a loan in which the covered amount of the loan plus the covered amount of all previous loans enrolled by a participating financial institution does not exceed $2,000,000, the amount of reimbursement by the Secretary to the participating State shall not exceed the lesser of—

(1) 75 percent of the sum of the premium charges paid to the reserve fund by the borrower and the participating financial institution; or

(2) 5.25 percent of the covered amount of the loan.

(e) LOANS TOTALING MORE THAN $2,000,000.—In connection with a loan in which the sum of the covered amounts of all previous loans enrolled by the participating financial institution in the Program equals or exceeds $2,000,000, the amount of reimbursement to be provided by the Secretary to the participating State shall not exceed the lesser of—

(1) 50 percent of the sum of the premium charges paid by the borrower and the participating financial institution; or

(2) 3.5 percent of the covered amount of the loan.

(f) OTHER AMOUNTS.—In connection with the enrollment of a loan that will cause the aggregate covered amount of all enrolled loans to exceed $2,000,000, the amount of reimbursement by the Secretary to the participating State shall be determined—

(1) by applying subsection (d) to the portion of the loan, which when added to the aggregate covered amount of all previously enrolled loans equals $2,000,000; and

(2) by applying subsection (e) to the balance of the loan.

SEC. 258. REIMBURSEMENT TO THE SECRETARY.

(a) IN GENERAL.—If a participating State withdraws funds from a reserve fund pursuant to terms of the participation agreement permitted by subsection (d) or (r) of section 255, such participating State shall, not later than 15 calendar days after such withdrawal, submit to the Secretary an amount computed by multiplying the amount withdrawn by the appropriate factor, as determined under subsection (b).

(b) FACTOR.—The appropriate factor shall be obtained by dividing the total amount of contributions that have been made by the participating State to all reserve funds which were subject to reimbursement—

(1) by 2; and

(2) by the total amount of contributions made by the participating State to all reserve funds, including if applicable, contributions that have been made by the State prior to becoming a participating State if the State continued its own capital access program in accordance with section 253(b).

(c) USE OF REIMBURSEMENTS.—The Secretary may use funds reimbursed pursuant to this section to make reimbursements under section 257.

SEC. 259. REGULATIONS.

The Secretary shall promulgate appropriate regulations to implement this subtitle.

SEC. 260. AUTHORIZATION OF APPROPRIATIONS.

(a) AMOUNT.—There are authorized to be appropriated to the Secretary $50,000,000 to carry out this subtitle.

(b) BUDGETARY TREATMENT.—The amount authorized to be appropriated under subsection (a) shall be subject to discretionary spending caps, as provided in section 601 of the Congressional Budget Act of 1974, and therefore shall reduce by an equal amount funds made available for other discretionary spending programs.

TITLE III—PAPERWORK REDUCTION AND REGULATORY IMPROVEMENT

SEC. 301. INCORPORATED DEFINITIONS.

Unless otherwise specifically provided in this title, for purposes of this title—

(1) the terms "appropriate Federal banking agency", "Federal banking agencies", and "insured depository institution" have the same meanings as in section 3 of the Federal Deposit Insurance Act; and

(2) the term "insured credit union" has the same meaning as in section 101 of the Federal Credit Union Act.

SEC. 302. ADMINISTRATIVE CONSIDERATION OF BURDEN WITH NEW REGULATIONS.

In determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on insured depository institutions, each Federal banking agency shall consider, consistent with the principles of safety and soundness and the public interest—

(1) any administrative burdens that such regulations would place on depository institutions, including small depository institutions, and customers of depository institutions; and

(2) the benefits of such regulations.

SEC. 303. STREAMLINING OF REGULATORY REQUIREMENTS.

(a) REVIEW OF REGULATIONS; REGULATORY UNIFORMITY.—During the 2-year period beginning on the date of enactment of this Act, each Federal banking agency shall, consistent with principles of safety and soundness and the public interest—

(1) conduct a review of the regulations and written policies of that agency—

(A) to streamline those regulations and policies in order to improve efficiency, reduce unnecessary costs, and eliminate unwarranted constraints on credit availability; and

(B) to remove inconsistencies and outmoded and duplicative requirements; and

(2) work jointly with the other Federal banking agencies to make uniform all regulations and guidelines implementing common statutory or supervisory policies.

(b) REPORT TO CONGRESS.—The Federal banking agencies shall submit a joint report to the Congress annually for 2 years following the date of enactment of this Act detailing the progress of the agencies in carrying out the requirements of subsection (a).

SEC. 304. ELIMINATION OF DUPLICATIVE FILINGS.

The Federal banking agencies shall work jointly—

(1) to eliminate, to the extent practicable, duplicative or otherwise unnecessary requests for information in connection with applications or notices to the agencies; and

(2) to harmonize, to the extent practicable, any inconsistent publication and public notice requirements.

SEC. 305. COORDINATED AND UNIFIED EXAMINATIONS.

Section 10(d) of the Federal Deposit Insurance Act (12 U.S.C. 1820(d)) is amended by adding at the end the following new paragraph:

"(6) COORDINATED EXAMINATIONS.—To minimize the disruptive effects of examinations on the operations of insured depository institutions—

"(A) each appropriate Federal banking agency shall, to the extent practicable and consistent with safety and soundness principles and the public interest—

"(i) coordinate examinations to be conducted by that agency at an insured depository institution and its affiliates;

"(ii) coordinate with the other appropriate Federal banking agencies in the conduct of such examinations; and

"(iii) work to coordinate the conduct of all examinations made pursuant to this subsection with the appropriate State bank supervisor; and

"(B) not later than 2 years after the date of enactment of the Community Development, Credit Enhancement, and Regulatory Improvement Act of 1993, the Federal banking agencies shall jointly establish and implement a system for determining which one of the Federal banking agencies shall conduct a unified examination of each insured depository institution and its affiliates, as required by this subsection, on behalf of all Federal banking agencies.".

SEC. 306. EIGHTEEN-MONTH EXAMINATION RULE FOR CERTAIN SMALL INSTITUTIONS.

Section 10(d)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1820(d)(4)) is amended—

(1) in subparagraph (A), by striking "$100,000,000" and inserting "$250,000,000";

(2) in subparagraph (C), by striking "and its composite condition was found to be outstanding;" and inserting "and its composite condition—

"(i) was found to be outstanding; or

"(ii) in the case of an insured depository institution that has total assets of less than $175,000,000, was found to be outstanding or good;".

(3) by redesignating subparagraph (D) as subparagraph (E); and

(4) by inserting after subparagraph (C) the following new subparagraph:

"(D) the insured institution is not currently subject to a formal enforcement proceeding or order by the Corporation or the appropriate Federal banking agency; and".

SEC. 307. CALL REPORT SIMPLIFICATION.

(a) MODERNIZATION OF CALL REPORT FILING AND DISCLOSURE SYSTEM.—In order to reduce the administrative requirements pertaining to bank reports of condition, savings association financial reports, and bank holding company consolidated and parent-only financial statements, and to improve the timeliness of such reports and statements, the Federal banking agencies shall—

(1) work jointly to develop a system under which—

(A) insured depository institutions and their affiliates may file such reports and statements electronically; and

(B) the Federal banking agencies may make such reports and statements available to the public electronically; and

(2) not later than 1 year after the date of enactment of this Act, report to the Congress and make recommendations for legislation that would enhance efficiency for filers and users of such reports and statements.

(b) UNIFORM REPORTS AND SIMPLIFICATION OF INSTRUCTIONS.—The Federal banking agencies shall, consistent with the principles of safety and soundness, work jointly—

(1) to adopt a single form for the filing of core information required to be submitted under Federal law to all such agencies in the reports and statements referred to in subsection (a); and

(2) to simplify instructions accompanying such reports and statements and to provide an index to the instructions that is adequate to meet the needs of both filers and users.

(c) REVIEW OF CALL REPORT SCHEDULE.—Each Federal banking agency shall—

(1) review the information required by schedules supplementing the core information referred to in subsection (b); and

(2) eliminate requirements that are not warranted for reasons of safety and soundness or other public purposes.

SEC. 308. REPEAL OF PUBLICATION REQUIREMENTS.

(a) REVISED STATUTES.—Section 5211 of the Revised Statutes (12 U.S.C. 161) is amended—

(1) in the fifth sentence of subsection (a), by striking "; and the statement of resources" and all that follows through "as may be required by the Comptroller"; and

(2) in subsection (c), by striking the fourth sentence.

(b) FDIA.—Section 7(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(1)) is amended by striking the fourth sentence.

(c) FEDERAL RESERVE ACT.—Section 9 of the Federal Reserve Act (12 U.S.C. 324) is amended in the last sentence of the sixth undesignated paragraph, by striking "and shall be published" and all that follows through the end of the sentence and inserting a period.

SEC. 309. REGULATORY APPEALS PROCESS.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, each appropriate Federal banking agency and the National Credit Union Administration Board shall establish an independent intra-agency appellate process. The process shall be available to review material supervisory determinations made at insured depository institutions or at insured credit unions that the agency supervises.

(b) REVIEW PROCESS.—In establishing the independent appellate process under subsection (a), each agency shall ensure—

(1) that any appeal of a material supervisory determination by an insured depository institution or credit union is heard and decided expeditiously; and

(2) that appropriate safeguards exist for protecting the appellant from retaliation by agency examiners.

(c) COMMENT PERIOD.—Not later than 90 days after the date of enactment of this Act, each appropriate Federal banking agency and the National Credit Union Administration shall provide public notice and opportunity for comment on proposed guidelines for the establishment of an appellate process under this section.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "material supervisory determinations" includes determinations relating to—

(A) examination ratings;

(B) the adequacy of loan loss reserve provisions; and

(C) loan classifications on loans that are significant to the institution; and

(2) the term "independent appellate process" means a review by an agency official who does not directly or indirectly report to the agency official who made the material supervisory determination under review.

(e) EFFECT ON OTHER AUTHORITY.—Nothing in this section shall affect the authority of an appropriate Federal banking agency or the National Credit Union Association Board to take enforcement or supervisory action against an institution.

SEC. 310. ELECTRONIC FILING OF CURRENCY TRANSACTION REPORTS.

Section 123 of the Bank Secrecy Act (12 U.S.C. 1953) is amended by adding at the end the following new subsection:

"(c) ACCEPTANCE OF AUTOMATED RECORDS.—The Secretary shall permit an uninsured bank or financial institution to retain or maintain records referred to in subsection (a) in electronic or automated form, subject to terms and conditions established by the Secretary.".

SEC. 311. BANK SECRECY ACT PUBLICATION REQUIREMENTS.

Chapter 53 of title 31, United States Code, is amended by adding at the end the following new section:

"SEC. 5329. STAFF COMMENTARIES.

"The Secretary shall—

"(1) publish all written rulings interpreting this chapter; and

"(2) annually issue a staff commentary on the regulations issued under this chapter.".

SEC. 312. EXEMPTION OF BUSINESS LOANS FROM REAL ESTATE SETTLEMENT PROCEDURES ACT REQUIREMENTS.

The Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.) is amended by inserting after section 6 the following new section:

"SEC. 7. EXEMPTED TRANSACTIONS.

"This Act does not apply to credit transactions involving extensions of credit—

"(1) primarily for business, commercial, or agricultural purposes; or

"(2) to government or governmental agencies or instrumentalities.".

SEC. 313. FLEXIBILITY IN CHOOSING BOARDS OF DIRECTORS.

Section 5146 of the Revised Statutes (12 U.S.C. 72) is amended in the first sentence, by striking "two thirds" and inserting "a majority".

SEC. 314. HOLDING COMPANY AUDIT REQUIREMENTS.

Section 36(i) of the Federal Deposit Insurance Act (12 U.S.C. 1831m(i)) is amended by striking paragraph (2) and inserting the following:

"(2) the institution—

"(A) has total assets, as of the beginning of such fiscal year, of less than $5,000,000,000;

"(B) has—

"(i) total assets, as of the beginning of such fiscal year, of more than $5,000,000,000 and less than $9,000,000,000; and

"(ii) a CAMEL composite rating of 1 or 2 under the Uniform Financial Institutions Rating System (or an equivalent rating by any such agency under a comparable rating system) as of the most recent examination of such institution by the Corporation or the appropriate Federal banking agency; or

"(C)(i) has total assets, as of the beginning of such fiscal year, of more than $9,000,000,000; and

"(ii) has a CAMEL composite rating of 1 or 2 under the Uniform Financial Institutions Rating System (or an equivalent rating by any such agency under a comparable rating system) as of the most recent examination of such institution by the Corporation or the appropriate Federal banking agency.

Notwithstanding paragraph (2)(C), in the case of an insured depository institution that the Corporation determines to be a large institution, the audit committee of the holding company of such an institution shall not include any large customers of the institution.

"(3) The appropriate Federal banking agency may require an institution with total assets in excess of $9,000,000,000 to comply with this section, notwithstanding the exception provided by this subsection, if it determines that such exemption will create a significant risk to the affected deposit insurance fund if applied to that institution.".

SEC. 315. STATE REGULATION OF REAL ESTATE APPRAISALS.

Section 1122 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3351) is amended—

(1) by redesignating subsections (b) through (e) as subsections (c) through (f), respectively;

(2) by inserting after subsection (a) the following new subsection:

"(b) RECIPROCITY.—The Appraisal Subcommittee shall encourage the States to develop reciprocity agreements that readily authorize appraisers who are licensed or certified in one State (and who are in good standing with their State appraiser certifying or licensing agency) to perform appraisals in other States."; and

(3) in subsection (a)—

(A) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C);

(B) by striking "A State" and inserting the following:

"(1) IN GENERAL.—A State"; and

(C) by adding at the end the following new paragraph:

"(2) FEES FOR TEMPORARY PRACTICE.—A State appraiser certifying or licensing agency shall not impose excessive fees or burdensome requirements, as determined by the Appraisal Subcommittee, for temporary practice under this subsection.".

SEC. 316. ACCELERATION OF EFFECTIVE DATE FOR INTERAFFILIATE TRANSACTIONS.

(a) HOME OWNERS' LOAN ACT AMENDMENT.—Section 11(a)(2) of the Home Owners' Loan Act (12 U.S.C. 1468(a)(2)) is amended by adding at the end the following new subparagraph:

"(C) TRANSITION RULE FOR WELL CAPITALIZED SAVINGS ASSOCIATIONS.—

"(i) IN GENERAL.—A savings association that is well capitalized (as defined in section 38 of the Federal Deposit Insurance Act), as determined without including goodwill in calculating core capital, shall be treated as a bank for purposes of section 23A(d)(1) and section 23B of the Federal Reserve Act.

"(ii) LIABILITY OF COMMONLY CONTROLLED DEPOSITORY INSTITUTIONS.—Any savings association that engages under clause (i) in a transaction that would not otherwise be permissible under this subsection, and any affiliated insured bank that is commonly controlled (as defined in section 5(e)(9) of the Federal Deposit Insurance Act), shall be subject to subsection (e) of section 5 of the Federal Deposit Insurance Act as if paragraph (6) of that subsection did not apply.".

(b) REPEAL PROVISION.—Effective on January 1, 1995, subparagraph (C) of section 11(a)(2) of the Home Owners' Loan Act (12 U.S.C. 1468(a)(2)) (as added by subsection (a) of this section) is repealed.

SEC. 317. COLLATERALIZATION OF PUBLIC DEPOSITS.

Section 13(e) of the Federal Deposit Insurance Act (12 U.S.C. 1823(e)) is amended—

(1) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively;

(2) by striking "No agreement" and inserting the following:

"(1) IN GENERAL.—No agreement"; and

(3) by adding at the end the following new paragraph:

"(2) PUBLIC DEPOSITS.—An agreement to provide for the lawful collateralization of deposits of a Federal, State, or local governmental entity or of any depositor referred to in section 11(a)(2) shall not be deemed to be invalid pursuant to paragraph (1)(B) solely because such agreement was not executed contemporaneously with the acquisition of the collateral or with any changes in the collateral made in accordance with such agreement.".

SEC. 318. ELIMINATION OF STOCK VALUATION PROVISION.

(a) IN GENERAL.—Section 39(b) of the Federal Deposit Insurance Act (12 U.S.C. 1831p–1(b)), as added by section 132(a) of the Federal Deposit Insurance Corporation Improvements Act of 1991) is amended to read as follows:

"(b) ASSET QUALITY, EARNINGS, AND STOCK VALUATION STANDARDS.—Each appropriate Federal banking agency shall, for all insured depository institutions and depository institution holding companies, prescribe standards relating to asset quality, earnings, and stock valuation that the agency determines to be appropriate.".

(b) ESTABLISHING STANDARDS IN GUIDELINES.—Section 39(d) of the Federal Deposit Insurance Act (12 U.S.C. 1831p–1(d)) is amended—

(1) in the subsection heading, by striking "BY REGULATION"; and

(2) in paragraph (1)—

(A) in the first sentence, by inserting "or guideline" before the period; and

(B) in the second sentence, by inserting "or guidelines" after "Such regulations".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall be construed to have the same effective date as section 39 of the Federal Deposit Insurance Act, as provided in section 132(c) of the Federal Deposit Insurance Corporation Improvements Act of 1991.

SEC. 319. EXPEDITED PROCEDURES FOR FORMING A BANK HOLDING COMPANY.

Section 3(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)) is amended—

(1) in the second sentence, by striking "or (B)" and inserting "(B)"; and

(2) in the second sentence, by inserting before the period the following: "; or (C) with 30 days prior notification to the Board, the acquisition by a company of control of a bank in a reorganization in which a person or group of persons exchanges its shares of the bank for shares of a newly formed bank holding company and receives, after the reorganization, substantially the same proportional share interest in the holding company as it held in the bank (except for changes in shareholders' interests resulting from the exercise of dissenting shareholders' rights under State or Federal law) if, immediately following the acquisition, (i) the bank holding company meets the capital and other financial standards prescribed by the Board by regulation for such a bank holding company; (ii) the bank is adequately capitalized (as defined in section 38 of the Federal Deposit Insurance Act); and (iii) the holding company does not engage in any activities other than those of banking or managing and controlling banks".

SEC. 320. EXEMPTION OF CERTAIN HOLDING COMPANY FORMATIONS FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933.

Section 4 of the Securities Act of 1933 (15 U.S.C. 77d) is amended by adding at the end the following new paragraph:

"(7) transactions involving offers or sales of equity securities, in connection with the acquisition of a bank by a company under section 3(a) of the Bank Holding Company Act of 1956, if—

"(A) the acquisition occurs solely as part of a reorganization in which a person or group of persons exchanges its shares of a bank for shares of a newly formed bank holding company with no significant assets other than securities of the bank and the existing subsidiaries of the bank;

"(B) the shareholders receive, after that reorganization, substantially the same proportional share interests in the bank holding company as they held in the bank, except for changes in shareholders' interests resulting from lawful elimination of fractional interests and the exercise of dissenting shareholders' rights under State or Federal law;

"(C) the rights and interests of security holders in the bank holding company are substantially the same as those in the bank prior to the transaction, other than as may be required by law; and

"(D) the bank holding company has substantially the same assets and liabilities as the bank had prior to the transaction.".

SEC. 321. REDUCTION OF POST-APPROVAL WAITING PERIOD FOR BANK HOLDING COMPANY ACQUISITIONS.

Section 11(b)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1849(b)(1)) is amended by inserting before the period at the end of the fourth sentence the following: "or, if the Board has not received any adverse comment from the Attorney General of the United States relating to competitive factors, such shorter period of time as may be prescribed by the Board with the concurrence of the Attorney General, but in no event less than 15 calendar days after the date of approval".

SEC. 322. REDUCTION OF POST-APPROVAL WAITING PERIOD FOR BANK MERGERS.

Section 18(c)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)(6)) is amended by inserting before the period at the end of the last sentence the following: "or, if the agency has not received any adverse comment from the Attorney General of the United States relating to competitive factors, such shorter period of time as may be prescribed by the agency with the concurrence of the Attorney General, but in no event less than 15 calendar days after the date of approval".

SEC. 323. BANKERS' BANKS.

(a) OWNERSHIP BY BANKERS' BANKS.—

(1) Paragraph Seven of section 5136 of the Revised Statutes (12 U.S.C. 24) is amended in the eleventh sentence—

(A) by inserting "or depository institution holding companies (as defined in section 3 of the Federal Deposit Insurance Act)" after "(except to the extent directors' qualifying shares are required by law) by depository institutions"; and

(B) by striking "services for other depository institutions and their officers, directors and employees" and inserting the following: "services to or for other depository institutions and the officers, directors, and employees of such institutions, and in providing correspondent banking services at the request of other depository institutions (also referred to as a 'banker's bank')".

(2) Section 5169(b)(1) of the Revised Statutes (12 U.S.C. 27(b)(1)) is amended—

(A) by inserting "or depository institution holding companies" after "(except to the extent directors' qualifying shares are required by law) by other depository institutions"; and

(B) by striking "services for other depository institutions and their officers, directors and employees" and inserting the following: "services to or for other depository institutions and the officers, directors, and employees of such institutions, and in providing correspondent banking services at the request of other depository institutions (also referred to as a 'banker's bank')".

(b) OWNERSHIP BY SAVINGS ASSOCIATIONS.—Section 5(c)(4) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(4)) is amended by adding at the end the following new subparagraph:

"(E) BANKERS' BANKS.—A Federal savings association may purchase for its own account shares of stock of a bankers' bank, described in Paragraph Seven of section 5136 of the Revised Statutes or in section 5169(b) of the Revised Statutes, on the same terms and conditions as a national bank may purchase such shares.".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) BANK HOLDING COMPANY ACT.—Section 3(e) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(e)) is amended by striking the second sentence.

(2) MANAGEMENT INTERLOCKS ACT.—Section 202(3)(D) of the Depository Institution Management Interlocks Act (12 U.S.C. 3201(3)(D)) is amended by striking "the voting securities" and all that follows through the end of the subpara-

graph and inserting "and is a bankers' bank, described in Paragraph Seven of section 5136 of the Revised Statutes; or".

(d) LENDING LIMIT FOR LOANS SECURED BY SECURITIES.—Section 11(m) of the Federal Reserve Act (12 U.S.C. 248(m)) is amended by striking "10 percentum" each place such term appears and inserting "15 percent".

SEC. 324. BANK SERVICE CORPORATION ACT AMENDMENT.

Section 5 of the Bank Service Corporation Act (12 U.S.C. 1865) is amended—

(1) in subsection (a), by striking "the prior approval of" and inserting "prior notice, as determined by"; and

(2) in subsection (c), by inserting "or whether to approve or disapprove any notice" after "approval".

SEC. 325. MERGER TRANSACTION REPORTS.

Section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)) is amended—

(1) in paragraph (4)—

(A) in the first sentence—

(i) by striking "General and the other two" and inserting "General, who shall promptly notify the other"; and

(ii) by inserting before the period "of any such proposed transaction that raises a significant competitiveness issue"; and

(B) in the second sentence, by striking "and the other two banking agencies"; and

(2) in paragraph (6), by striking "and the other two banking agencies".

SEC. 326. CREDIT CARD ACCOUNTS RECEIVABLE SALES.

Section 11(e) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)) is amended by adding at the end the following new paragraphs:

"(14) SELLING CREDIT CARD ACCOUNTS RECEIVABLE.—

"(A) NOTIFICATION REQUIRED.—An undercapitalized insured depository institution (as defined in section 38) shall notify the Corporation in writing before entering into an agreement to sell credit card accounts receivable.

"(B) WAIVER BY CORPORATION.—The Corporation may at any time, in its sole discretion and upon such terms as it may prescribe, waive its right to repudiate an agreement to sell credit card accounts receivable if the Corporation—

"(i) determines that the waiver is in the best interests of the deposit insurance fund; and

"(ii) provides a written waiver to the selling institution.

"(C) EFFECT OF WAIVER ON SUCCESSORS.—

"(i) IN GENERAL.—If, under subparagraph (B), the Corporation has waived its right to repudiate an agreement to sell credit card accounts receivable—

"(I) any provision of the agreement that restricts solicitation of a credit card customer of the selling institution, or the use of a credit card customer list of the institution, shall bind any receiver or conservator of the institution; and

"(II) the Corporation shall require any acquirer of the selling institution, or of substantially all of the selling institution's assets or liabilities, to agree to be bound by a provision described in subclause (I) as if the acquirer were the selling institution.

"(ii) EXCEPTION.—Clause (i)(II) does not—

"(I) restrict the acquirer's authority to offer any product or service to any person identified without using a list of the selling institution's customers in violation of the agreement;

"(II) require the acquirer to restrict any preexisting relationship between the acquirer and a customer; or

"(III) apply to any transaction in which the acquirer acquires only insured deposits.

"(D) WAIVER NOT ACTIONABLE.—The Corporation shall not, in any capacity, be liable to any person for damages resulting from the waiver of or failure to waive the Corporation's right under this section to repudiate any contract or lease, including an agreement to sell credit card accounts receivable. No court shall issue any order affecting any such waiver or failure to waive.

"(E) OTHER AUTHORITY NOT AFFECTED.—This paragraph does not limit any other authority of the Corporation to waive the Corporation's right to repudiate an agreement or lease under this section.

"(15) CERTAIN CREDIT CARD CUSTOMER LISTS PROTECTED.—

"(A) IN GENERAL.—If any insured depository institution sells credit card accounts receivable under an agreement negotiated at arm's length that provides for the sale of the institution's credit card customer list, the Corporation shall prohibit any party to a transaction with respect to the institution under this section or section 13 from using the list except as permitted under the agreement.

"(B) FRAUDULENT TRANSACTIONS EXCLUDED.—Subparagraph (A) does not limit the Corporation's authority to repudiate any agreement entered into with the intent to hinder, delay, or defraud the institution, the institution's creditors, or the Corporation.".

SEC. 327. LIMITING POTENTIAL LIABILITY ON FOREIGN ACCOUNTS.

(a) AMENDMENT TO THE FEDERAL RESERVE ACT.—The Federal Reserve Act (12 U.S.C. 221 et seq.) is amended by inserting after section 25B the following new section:

"SEC. 25C. POTENTIAL LIABILITY ON FOREIGN ACCOUNTS.

"A member bank shall not be required to repay any deposit made at a foreign branch of the bank if the branch cannot repay the deposit due to—

"(1) an act of war, insurrection or civil strife; or

"(2) an action by a foreign government or instrumentality (whether de jure or de facto) in the country in which the branch is located,

unless the member bank has expressly agreed in writing to repay the deposit under those circumstances. The Board and the Comptroller of the Currency may jointly prescribe such regulations as they deem necessary to implement this section.".

(b) CONFORMING AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT.—

(1) IN GENERAL.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following new subsection:

"(q) SOVEREIGN RISK.—Section 25C of the Federal Reserve Act shall apply to every nonmember insured bank in the same manner and to the same extent as if the nonmember insured bank were a member bank.".

(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 3(l)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1813(l)(5)) is amended to read as follows:

"(A) any obligation of a depository institution which is carried on the books and records of an office of such bank or savings association located outside of any State, unless—

"(i) such obligation would be a deposit if it were carried on the books and records of the depository institution, and would be payable at, an office located in any State; and

"(ii) the contract evidencing the obligation provides by express terms, and not by implication, for payment at an office of the depository institution located in any State; and".

(c) EXISTING CLAIMS NOT AFFECTED—Section 25C of the Federal Reserve Act (as added by subsection (a)) shall not be applied retroactively and shall not be construed to affect or apply to any claim or cause of action addressed by that section arising from events or circumstances that occurred before the date of enactment of this Act.

SEC. 328. AMENDMENTS TO OUTDATED DIVIDEND PROVISIONS.

(a) WITHDRAWAL OF CAPITAL.—Section 5204 of the Revised Statutes (12 U.S.C. 56) is amended—

(1) in the second sentence, by striking "net profits then on hand, deducting therefrom its losses and bad debts" and inserting "undivided profits, subject to other applicable provisions of law"; and

(2) by striking the third sentence.

(b) DECLARATION OF DIVIDENDS.—Section 5199 of the Revised Statutes (12 U.S.C. 60) is amended—

(1) in the first sentence, by striking "net profits of the association" and inserting "undivided profits of the association, subject to the limitations in subsection (b),";

(2) by striking "net profits" each subsequent place such term appears and inserting "net income"; and

(3) by striking subsection (c).

SEC. 329. ELIMINATION OF DUPLICATIVE DISCLOSURES FOR HOME EQUITY LOANS.

Section 4(a) of the Real Estate Settlement Procedures Act (12 U.S.C. 2603(a)) is amended by adding at the end the following: "In the case of a federally related mortgage loan secured by a subordinate lien on residential property, disclosures made under section 127A(a) of the Truth in Lending Act may be used in lieu of the disclosures required under this section if—

"(1) the disclosures made pursuant to such section 127A(a) contain all of the information that is required under this section; and

"(2) the information is disclosed in a manner that is no less conspicuous than is required under this section.".

SEC. 330. REPORT ON CAPITAL STANDARDS AND THEIR IMPACT ON THE ECONOMY.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Treasury, after consultation with the Federal banking agencies, shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives on the effect of the implementation of risk-based capital standards on—

(1) the safety and soundness of insured depository institutions; and

(2) the availability of credit, particularly to consumers and small business concerns.

(b) RECOMMENDATIONS.—The report required by subsection (a) shall contain any recommendations that the Secretary of the Treasury considers relevant.

SEC. 331. STUDIES ON THE IMPACT OF THE PAYMENT OF INTEREST ON RESERVES.

(a) FEDERAL RESERVE STUDY.—Not later than 180 days after the date of enactment of this Act, the Board of Governors of the Federal Reserve System, in consultation with the Federal Deposit Insurance Corporation, shall conduct a study and report to Congress on—

(1) the necessity, for monetary policy purposes, of continuing to require insured depository institutions to maintain sterile reserves;

(2) the appropriateness of paying a market rate of interest to insured depository institutions on sterile reserves or, in the alternative, providing for payment of such interest into the appropriate deposit insurance fund;

(3) the monetary impact that the failure to pay interest on sterile reserves has had on insured depository institutions, including an estimate of the total dollar amount of interest and the potential income lost by insured depository institutions; and

(4) the impact that the failure to pay interest on sterile reserves has had on the ability of the banking industry to compete with nonbanking providers of financial services and with foreign banks.

(b) BUDGETARY IMPACT STUDY.—Not later than 180 days after the date of enactment of this

Act, the Director of the Office of Management and Budget and the Director of the Congressional Budget Office, in consultation with the Committees on the Budget of the Senate and the House of Representatives, shall jointly conduct a study and report to the Congress on the budgetary impact of—

(1) paying a market rate of interest to insured depository institutions on sterile reserves; and

(2) paying such interest into the respective deposit insurance funds.

SEC. 332. STUDY AND REPORT ON STREAMLINED LENDING PROCESS FOR CONSUMER BENEFIT.

(a) STUDY.—During the 12-month period beginning on the date of enactment of this Act, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Secretary of Housing and Urban Development shall conduct a study of ways to improve the home mortgage, small business, and consumer lending processes, consistent with the principles of safety and soundness, so as to—

(1) reduce consumer burdens, inconvenience, cost, and delay; and

(2) minimize cost and burdens on insured depository institutions, credit unions, and other lenders.

(b) COMMENTS.—In conducting the study under subsection (a), comments shall be solicited from consumer groups, insured depository institutions, other lenders, and any other interested parties.

(c) REPORT.—Not later than 12 months after the date of enactment of this Act, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Secretary of Housing and Urban Development shall submit a joint report to the Congress indicating any legislative changes necessary to improve the home mortgage, small business, and consumer lending processes and including a summary of comments received pursuant to subsection (b).

SEC. 333. REPEAL OF OUTDATED CHARTER REQUIREMENT FOR NATIONAL BANKS.

Section 5170 of the Revised Statutes (12 U.S.C. 28) is repealed.

SEC. 334. INCLUSION OF COMPTROLLER OF THE CURRENCY; CLARIFICATION OF REVISED STATUTES.

(a) PUBLIC LAW 93–425.—Section 111 of Public Law 93–495 (12 U.S.C. 250) is amended by inserting "the Comptroller of the Currency," after "Federal Deposit Insurance Corporation,".

(b) REVISED STATUTES.—

(1) SECTION 5240.—The third paragraph of section 5240 of the Revised Statutes (12 U.S.C. 482) is amended by inserting "or section 301(f)(1) of title 31, United States Code," after "provisions of this section".

(2) SECTION 324.—Section 324 of the Revised Statutes (12 U.S.C. 1) is amended by adding at the end the following: "The Comptroller of the Currency shall have the same authority over matters within the jurisdiction of the Comptroller as the Director of the Office of Thrift Supervision has over matters within the Director's jurisdiction under section 3(b)(3) of the Home Owners' Loan Act.".

(3) SECTION 5239.—Section 5239 of the Revised Statutes (12 U.S.C. 93) is amended by inserting at the end the following new subsection:

"(d) AUTHORITY.—The Comptroller of the Currency may act in the Comptroller's own name and through the Comptroller's own attorneys in enforcing any provision of this title, regulations thereunder, or any other law or regulation, or in any action, suit, or proceeding to which the Comptroller of the Currency is a party.".

SEC. 335. COMMEMORATION OF 1995 SPECIAL OLYMPIC WORLD GAMES.

(a) COIN SPECIFICATIONS.—

(1) ONE DOLLAR SILVER COINS.—

(A) ISSUANCE.—The Secretary of the Treasury (hereafter in this section referred to as the "Secretary") shall issue not more than 800,000 $1 coins, which shall weigh 26.73 grams, have a diameter of 1.500 inches, and shall contain 90 percent silver and 10 percent copper.

(B) DESIGN.—The design of the coins issued under this section shall be emblematic of the 1995 Special Olympics World Games. On each such coin there shall be a designation of the value of the coin, an inscription of the year "1995", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(2) LEGAL TENDER.—The coins issued under this section shall be legal tender as provided in section 5103 of title 31, United States Code.

(3) NUMISMATIC ITEMS.—For purposes of section 5132(a)(1) of title 31, United States Code, all coins minted under this section shall be considered to be numismatic items.

(b) SOURCES OF BULLION.—The Secretary shall obtain silver for the coins minted under this section only from stockpiles established under the Strategic and Critical Materials Stock Piling Act.

(c) SELECTION OF DESIGN.—The design for the coins authorized by this section shall be selected by the Secretary after consultation with the 1995 Special Olympics World Games Organizing Committee, Inc. and the Commission of Fine Arts. As required by section 5135 of title 31, United States Code, the design shall also be reviewed by the Citizens Commemorative Coin Advisory Committee.

(d) ISSUANCE OF THE COINS.—

(1) QUALITY OF COINS.—The coins authorized under this section may be issued in uncirculated and proof qualities.

(2) MINT FACILITY.—Not more than 1 facility of the United States Mint may be used to strike any particular quality of the coins minted under this section.

(3) 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.

(e) SALE OF THE COINS.—

(1) SALE PRICE.—The coins issued under this section shall be sold by the Secretary at a price equal to the sum of the face value of the coins, the surcharge provided in paragraph (4) with respect to such coins, and the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(2) BULK SALES.—The Secretary shall make bulk sales at a reasonable discount.

(3) PREPAID ORDERS.—The Secretary shall accept prepaid orders for the coins authorized under this section prior to the issuance of such coins. Sales under this subsection shall be at a reasonable discount.

(4) SURCHARGE REQUIRED.—All sales shall include a surcharge of $10 per coin.

(f) GENERAL WAIVER OF PROCUREMENT REGULATIONS.—No provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this section. Nothing in this subsection shall relieve any person entering into a contract under the authority of this section from complying with any law relating to equal employment opportunity.

(g) DISTRIBUTION OF SURCHARGES.—The total surcharges collected by the Secretary from the sale of the coins issued under this section shall be promptly paid by the Secretary to the 1995 Special Olympics World Games Organizing Committee, Inc. Such amounts shall be used to—

(1) provide a world class sporting event for athletes with mental retardation;

(2) demonstrate to a global audience the extraordinary talents, dedication, and courage of persons with mental retardation; and

(3) underwrite the cost of staging and promoting the 1995 Special Olympics World Games.

(h) AUDITS.—The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of the 1995 Special Olympics World Games Organizing Committee, Inc. as may be related to the expenditure of amounts paid under subsection (g).

(i) FINANCIAL ASSURANCES.—

(1) NO NET COST TO THE GOVERNMENT.—The Secretary shall take all actions necessary to ensure that the issuance of the coins authorized by this section shall result in no net cost to the United States Government.

(2) ADEQUATE SECURITY FOR PAYMENT REQUIRED.—No coin shall be issued under this section unless the Secretary has received—

(A) full payment therefore;

(B) security satisfactory to the Secretary to indemnify the United States for full payment; or

(C) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.

SEC. 336. EXEMPTION FOR BUSINESS ACCOUNTS.

Section 274(1) of the Truth in Savings Act (12 U.S.C. 4313(1)) is amended to read as follows:

"(1) ACCOUNT.—The term 'account' means any account intended for use by and generally used by consumers primarily for personal, family, or household purposes that is offered by a depository institution into which a consumer deposits funds, including demand accounts, time accounts, negotiable order of withdrawal accounts, and share draft accounts.".

SEC. 337. BOARD DISCRETION REGARDING CHECK-RELATED FRAUD.

Section 604(e) of the Expedited Funds Availability Act (12 U.S.C. 4003(e)) is amended by adding at the end the following new paragraph:

"(4) PREVENTION OF CHECK-RELATED LOSSES.—

"(A) IN GENERAL.—The Board may, by regulation or order, extend the 1-business-day period specified in section 603(b)(1), regarding availability of funds deposited by local checks, to 2 business days if the Board determines that—

"(i) there is a pattern of significant increases in check-related losses at depository institutions attributable to the provisions of this title; and

"(ii) such action is necessary to diminish the volume of such check-related losses.

"(B) LIMITATION ON OTHER AUTHORITY.—The authority of the Board under paragraph (1) shall not apply to the applicability of section 603(b)(1) or the time period specified therein.".

SEC. 338. CIVIL LIABILITY UNDER TRUTH IN SAVINGS.

Section 271(a)(2)(A) of the Truth in Savings Act (12 U.S.C. 4310(a)(2)(A)) is amended by inserting "(other than an action based on a violation of section 263)" after "individual action".

SEC. 339. INSIDER LENDING.

(a) LOANS TO EXECUTIVE OFFICERS BY MEMBER BANKS.—Section 22(g)(2) of the Federal Reserve Act (12 U.S.C. 375a(g)(2)) is amended by striking "With the specific prior approval of its board of directors, a member" and inserting "A member".

(b) EXTENSIONS OF CREDIT TO EXECUTIVE OFFICERS, DIRECTORS, AND PRINCIPAL SHAREHOLDERS OF MEMBER BANKS.—Section 22(h)(8) of the Federal Reserve Act (12 U.S.C. 375b(h)(8)) is amended—

(1) by striking "MEMBER BANK.—FOR" and inserting the following: "MEMBER BANK.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), for"; and

(2) by adding at the end the following:

"(B) EXCEPTION.—The Board shall have the authority by regulation to suspend the applicability of any or all of this subsection, except for the provisions of paragraph (2), with respect to

any individual who is a director or an executive officer of a subsidiary of the company that controls the member bank, if the Board finds that such individual does not actually participate in major policymaking functions of the member bank.".

SEC. 340. REVISIONS OF STANDARDS.

Section 305(b)(1) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 1828 note) is amended—

(1) in subparagraph (A), by striking "and" at the end;

(2) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(C) take into account the size and activities of the institutions and do not cause undue reporting burdens.".

SEC. 341. ALTERNATIVE RULES FOR RADIO ADVERTISING OF CONSUMER LEASES.

Section 184 of the Truth in Lending Act (15 U.S.C. 1667c) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection:

"(b) RADIO ADVERTISEMENTS.—

"(1) IN GENERAL.—An advertisement by radio broadcast to aid, promote, or assist, directly or indirectly, any consumer lease shall be deemed to be in compliance with the requirements of subsection (a) if such advertisement clearly and conspicuously—

"(A) states the information required by paragraphs (1) and (2) of subsection (a);

"(B) states the number, amounts, due dates, or periods of scheduled payments, and the total of such payments under the lease; and

"(C) includes—

"(i) a referral to—

"(I) a toll-free telephone number established in accordance with paragraph (2) that may be used by consumers to obtain the information required under subsection (a); or

"(II) a written advertisement that—

"(aa) appears in a publication in general circulation in the community served by the radio station on which such advertisement is broadcast during the period beginning 3 days before any such broadcast and ending 10 days after such broadcast; and

"(bb) includes the information required to be disclosed under subsection (a); and

"(ii) the name and dates of any publication referred to in clause (i)(II); and

"(D) includes any other information which the Board determines necessary to carry out this chapter.

"(2) ESTABLISHMENT OF TOLL-FREE NUMBER.—

"(A) IN GENERAL.—In the case of a radio broadcast advertisement described in paragraph (1) that includes a referral to a toll-free telephone number, the lessor who offers the consumer lease shall—

"(i) establish such a toll-free telephone number not later than the date on which the advertisement including the referral is broadcast;

"(ii) maintain such telephone number for not less than 10 days, beginning on the date of any such broadcast; and

"(iii) provide the information required under subsection (a) with respect to the lease to any person who calls such number.

"(B) FORM OF INFORMATION.—The information required to be provided under subparagraph (A)(iii) shall be provided orally or, if requested by the consumer, in written form.

"(3) NO EFFECT ON OTHER LAW.—Nothing in this subsection shall affect the requirements of Federal law as such requirements apply to advertisement by any other medium.".

SEC. 342. DEPOSIT BROKER REGISTRATION.

Section 29(g)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1831f(g)(3)) is amended—

(1) by inserting "that is not well capitalized" after "includes any insured depository institution";

(2) by striking "of any insured depository" and inserting "of such";

(3) by striking "(with respect to such deposits)"; and

(4) by striking "having the same type of charter".

SEC. 343. EXTENSION OF MANAGEMENT INTERLOCKS GRANDFATHER CLAUSE.

Subsections (a) and (b) of section 206 of the Depository Institution Management Interlocks Act (12 U.S.C. 3205) are each amended by striking "15 years" and inserting "20 years".

SEC. 344. 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.".

SEC. 345. 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 the 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) 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.

SEC. 346. 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.

SEC. 347. 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 Seven 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 Seven 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.

SEC. 348. 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.

TITLE IV—MONEY LAUNDERING

SEC. 401. SHORT TITLE.

This title may be cited as the "Money Laundering Suppression Act of 1994".

SEC. 402. REFORM OF CTR EXEMPTION REQUIREMENTS TO REDUCE NUMBER AND SIZE OF REPORTS CONSISTENT WITH EFFECTIVE LAW ENFORCEMENT.

(a) IN GENERAL.—Section 5313 of title 31, United States Code, is amended by adding at the end the following new subsections:

"(d) MANDATORY EXEMPTIONS FROM REPORTING REQUIREMENTS.—

"(1) IN GENERAL.—The Secretary of the Treasury shall exempt, pursuant to section 5318(a)(5), a depository institution from the reporting requirements of subsection (a) (and regulations prescribed under such subsection) with respect to transactions between the depository institution and the following categories of entities:

"(A) Another depository institution.

"(B) A department or agency of the United States, any State, or any political subdivision of any State, including any entity established under the laws of the United States, any State, or any political subdivision of any State, or under an interstate compact between 2 or more States, which exercises governmental authority on behalf of the United States, the State, or the political subdivision.

"(C) Any business or category of business the reports on which have little or no value for law enforcement purposes.

"(2) NOTICE OF EXEMPTION.—The Secretary of the Treasury shall publish in the Federal Register at such times as the Secretary determines to be appropriate (but not less frequently than once during each year) a list of all the entities whose transactions with a depository institution are exempt under this subsection from the reporting requirements of subsection (a) (and regulations prescribed under such subsection).

"(e) DISCRETIONARY EXEMPTIONS FROM REPORTING REQUIREMENTS.—

"(1) IN GENERAL.—The Secretary of the Treasury may exempt, pursuant to section 5318(a)(5), a depository institution from the reporting requirements of subsection (a) (and regulations prescribed under such subsection) with respect to transactions between the depository institution and a qualified business customer of the institution on the basis of information submitted to the Secretary by the institution in accordance with procedures which the Secretary shall establish.

"(2) QUALIFIED BUSINESS CUSTOMER DEFINED.—For purposes of this subsection, the term 'qualified business customer' means a business which—

"(A) maintains a transaction account (as defined in section 19(b)(1)(C) of the Federal Reserve Act) at the depository institution;

"(B) frequently engages in transactions with the depository institution which are subject to the reporting requirements of subsection (a) (and regulations prescribed under such subsection); and

"(C) meets criteria which the Secretary determines are sufficient to ensure that the purposes of this subchapter are carried out without requiring a report with respect to such transactions.

"(3) CRITERIA FOR EXEMPTION.—The Secretary of the Treasury shall establish, by regulation, the criteria for granting and maintaining an exemption under paragraph (1).

"(4) GUIDELINES.—

"(A) IN GENERAL.—The Secretary of the Treasury shall establish guidelines for depository institutions to follow in selecting customers for an exemption under this subsection.

"(B) CONTENTS.—The guidelines may include a description of the types of businesses or an itemization of specific businesses for which no exemption will be granted under this subsection to any depository institution.

"(5) ANNUAL REVIEW.—The Secretary of the Treasury shall prescribe regulations requiring each depository institution to—

"(A) review, at least once during each year, the qualified business customers of such institution with respect to whom an exemption has been granted under this subsection; and

"(B) upon the completion of such review, resubmit information about such customers, with such modifications as the institution determines to be appropriate, to the Secretary for the Secretary's approval.

"(6) 2-YEAR PHASE-IN PROVISION.—During the 2-year period beginning on the date of enactment of the Money Laundering Suppression Act of 1994, this subsection shall be applied by the Secretary on the basis of such criteria as the Secretary determines to be appropriate to achieve an orderly implementation of the requirements of this subsection.

"(f) PROVISIONS APPLICABLE TO MANDATORY AND DISCRETIONARY EXEMPTIONS.—

"(1) LIMITATION ON LIABILITY OF DEPOSITORY INSTITUTIONS.—No depository institution shall be subject to any penalty which may be imposed under this subchapter for the failure of the institution to file a report with respect to a transaction with a customer for whom an exemption has been granted under subsection (d) or (e), unless the institution—

"(A) knowingly files false or incomplete information to the Secretary with respect to the transaction or the customer engaging in the transaction; or

"(B) has reason to believe at the time the exemption is granted or the transaction is entered into that the customer or the transaction does not meet the criteria established for granting such exemption.

"(2) COORDINATION WITH OTHER PROVISIONS.—Any exemption granted by the Secretary of the Treasury under section 5318(a) in accordance with this section, and any transaction which is subject to such exemption, shall be subject to any other provision of law applicable to such exemption, including—

"(A) the authority of the Secretary, under section 5318(a)(5), to revoke such exemption at any time; and

"(B) any requirement to report, or any authority to require a report on, any possible violation of any law or regulation or any suspected criminal activity.

"(g) DEPOSITORY INSTITUTION DEFINED.—For purposes of this section, the term 'depository institution' has the meaning given to such term in section 19(b)(1)(A) of the Federal Reserve Act.".

(b) REPORT REDUCTION GOAL; REPORTS.—

(1) IN GENERAL.—In implementing the amendment made by subsection (a), the Secretary of the Treasury shall seek to reduce, within a reasonable period of time, the number of reports required to be filed in the aggregate by depository institutions pursuant to section 5313(a) of title 31, United States Code, by not less than 30 percent of the number filed during the year preceding the date of enactment of this Act.

(2) INTERIM REPORT.—The Secretary of the Treasury shall submit a report to the Congress not later than the end of the 180-day period beginning on the date of enactment of this Act on the progress made by the Secretary in implementing the amendment made by subsection (a).

(3) ANNUAL REPORT.—The Secretary of the Treasury shall submit an annual report to the Congress after the end of each of the first 5 calendar years which begin after the date of enactment of this Act on the extent to which the Secretary has reduced the overall number of currency transaction reports required to be filed with the Secretary pursuant to section 5313(a) of title 31, United States Code, consistently with the purposes of such section and effective law enforcement.

(c) STREAMLINED CURRENCY TRANSACTION REPORTS.—The Secretary of the Treasury shall take such action as may be appropriate to redesign the format of reports required to be filed by any financial institution (as defined in section 5312(a)(2) of title 31, United States Code) under section 5313(a) of title 31, United States Code, to eliminate the need to report information which has little or no value for law enforcement purposes and reduce the time and effort required to prepare such report for filing by any such financial institution under such section.

SEC. 403. SINGLE DESIGNEE FOR REPORTING OF SUSPICIOUS TRANSACTIONS.

(a) IN GENERAL.—Section 5318(g) of title 31, United States Code, is amended by adding at the end the following new paragraph:

"(4) SINGLE DESIGNEE FOR REPORTING SUSPICIOUS TRANSACTIONS.—

"(A) IN GENERAL.—In requiring reports under paragraph (1) of suspicious transactions, the Secretary of the Treasury shall designate, to the extent practicable and appropriate, a single officer or agency of the United States to whom such reports shall be made.

"(B) DUTY OF DESIGNEE.—The officer or agency of the United States designated by the Secretary of the Treasury pursuant to subparagraph (A) shall refer any report of a suspicious transaction to the appropriate law enforcement or supervisory agency.

"(C) COORDINATION WITH OTHER REPORTING REQUIREMENTS.—Subparagraph (A) shall not be construed as precluding any supervisory agency for any financial institution from requiring the financial institution to submit any information or report to the agency or another agency pursuant to any provision of law other than this subsection.

"(D) REPORTS.—

"(i) REPORTS REQUIRED.—The Secretary of the Treasury shall submit an annual report to the Congress at the times required under clause (ii) on the number of suspicious transactions reported to the officer or agency designated under subparagraph (A) during the period covered by the report and the disposition of such reports.

"(ii) TIME FOR SUBMITTING REPORTS.—The first report required under clause (i) shall be filed before the end of the 1-year period beginning on the date of enactment of the Money Laundering Suppression Act of 1994, and each subsequent report shall be filed, not later than 90 days after the end of each of the 5 calendar years which begin after such date of enactment.".

(b) DESIGNATION REQUIRED TO BE MADE EXPEDITIOUSLY.—The initial designation of an officer or agency of the United States pursuant to the amendment made by subsection (a) shall be made before the end of the 180-day period beginning on the date of enactment of this Act.

SEC. 404. IMPROVEMENT OF IDENTIFICATION OF MONEY LAUNDERING SCHEMES.

(a) ENHANCED TRAINING, EXAMINATIONS, AND REFERRALS BY BANKING AGENCIES.—Before the end of the 6-month period beginning on the date of enactment of this Act, each appropriate Federal banking agency shall, in consultation with the Secretary of the Treasury and other appropriate law enforcement agencies—

(1) review and enhance training and examination procedures to improve the identification of money laundering schemes involving depository institutions; and

(2) review and enhance procedures for referring cases to any other appropriate law enforcement agency.

(b) IMPROVED REPORTING OF CRIMINAL SCHEMES BY LAW ENFORCEMENT AGENCIES.—The Secretary of the Treasury and each appropriate law enforcement agency shall, on a regular basis, provide information regarding money laundering schemes and activities involving depository institutions to each appropriate Federal banking agency to enhance the agency's ability to examine for and identify money laundering.

(c) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Federal banking agencies shall jointly submit a report to the Congress on the progress made in carrying out subsection (a) and the usefulness of information received pursuant to subsection (b).

(d) DEFINITIONS.—The terms "appropriate Federal banking agency" and "Federal banking agencies" have the same meanings as in section 3 of the Federal Deposit Insurance Act.

SEC. 405. NEGOTIABLE INSTRUMENTS DRAWN ON FOREIGN BANKS SUBJECT TO RECORDKEEPING AND REPORTING REQUIREMENTS.

Section 5312(a)(3) of title 31, United States Code, is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(C) as the Secretary of the Treasury shall provide by regulation for purposes of section 5316, checks, drafts, notes, money orders, and other similar instruments which are drawn on or by a foreign financial institution and are not in bearer form.".

SEC. 406. IMPOSITION OF CIVIL MONEY PENALTIES BY APPROPRIATE FEDERAL BANKING AGENCIES.

Section 5321 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(e) DELEGATION OF ASSESSMENT AUTHORITY TO BANKING AGENCIES.—

"(1) IN GENERAL.—The Secretary of the Treasury shall delegate, in accordance with section 5318(a)(1), and subject to such terms and conditions as the Secretary may impose in accordance with paragraph (3), any authority of the Secretary to assess a civil money penalty under this section on depository institutions to the appropriate Federal banking agencies.

"(2) AUTHORITY OF AGENCIES.—Subject to any term or condition imposed by the Secretary of the Treasury under paragraph (3), the provisions of this section shall apply to an appropriate Federal banking agency to which is delegated any authority of the Secretary under this section in the same manner such provisions apply to the Secretary.

"(3) TERMS AND CONDITIONS.—

"(A) IN GENERAL.—The Secretary of the Treasury shall prescribe by regulation the terms and conditions which shall apply to any delegation under paragraph (1).

"(B) MAXIMUM DOLLAR AMOUNT.—The terms and conditions authorized under subparagraph (A) may include, in the Secretary's sole discretion, a limitation on the amount of any civil penalty which may be assessed by an appropriate Federal banking agency pursuant to a delegation under paragraph (1).

"(4) DEFINITIONS.—For purposes of this subsection, the terms 'depository institution' and 'Federal banking agencies' have the same meanings as in section 3 of the Federal Deposit Insurance Act.".

SEC. 407. UNIFORM STATE LICENSING AND REGULATION OF CHECK CASHING, CURRENCY EXCHANGE, AND MONEY TRANSMITTING BUSINESSES.

(a) UNIFORM LAWS AND ENFORCEMENT.—For purposes of preventing money laundering and protecting the payment system from fraud and abuse, it is the sense of the Congress that the several States should—

(1) establish uniform laws for licensing and regulating businesses which—

(A) provide check cashing, currency exchange, or money transmitting or remittance services, or issue or redeem money orders, travelers' checks, and other similar instruments; and

(B) are not depository institutions (as defined in section 19(b)(1)(A) of the Federal Reserve Act); and

(2) provide sufficient resources to the appropriate State agency to enforce such laws and regulations prescribed pursuant to such laws.

(b) MODEL STATUTE.—It is the sense of the Congress that the several States should develop, through the auspices of the National Conference of Commissioners on Uniform State Laws, the American Law Institute, or such other forum as the States may determine to be appropriate, a model statute to carry out the goals described in subsection (a) which would include the following:

(1) LICENSING REQUIREMENTS.—A requirement that any business described in subsection (a)(1) be licensed and regulated by an appropriate State agency in order to engage in any such activity within the State.

(2) LICENSING STANDARDS.—A requirement that—

(A) in order for any business described in subsection (a)(1) to be licensed in the State, the appropriate State agency shall review and approve—

(i) the business record and the capital adequacy of the business seeking the license; and

(ii) the competence, experience, integrity, and financial ability of any individual who—

(I) is a director, officer, or supervisory employee of such business; or

(II) owns or controls such business; and

(B) any record, on the part of any business seeking the license or any person referred to in subparagraph (A)(ii), of—

(i) any criminal activity;

(ii) any fraud or other act of personal dishonesty;

(iii) any act, omission, or practice which constitutes a breach of a fiduciary duty; or

(iv) any suspension or removal, by any agency or department of the United States or any State,

from participation in the conduct of any federally or State licensed or regulated business;

may be grounds for the denial of any such license by the appropriate State agency.

(3) PROCEDURES TO ENSURE COMPLIANCE WITH FEDERAL CASH TRANSACTION REPORTING REQUIREMENTS.—A civil or criminal penalty for operating any business referred to in paragraph (1) without establishing and complying with appropriate procedures to ensure compliance with subchapter II of chapter 53 of title 31, United States Code (relating to records and reports on monetary instruments transactions).

(4) CRIMINAL PENALTIES FOR OPERATION OF BUSINESS WITHOUT A LICENSE.—A criminal penalty for operating any business referred to in paragraph (1) without a license within the State after the end of an appropriate transition period beginning on the date of enactment of such model statute by the State.

(c) STUDY REQUIRED.—The Secretary of the Treasury shall conduct a study of—

(1) the progress made by the several States in developing and enacting a model statute which—

(A) meets the requirements of subsection (b); and

(B) furthers the goals of—

(i) preventing money laundering by businesses which are required to be licensed under any such model statute; and

(ii) protecting the payment system, including the receipt, payment, collection, and clearing of checks, from fraud and abuse by such businesses; and

(2) the adequacy of—

(A) the activity of the several States in enforcing the requirements of such statute; and

(B) the resources made available to the appropriate State agencies for such enforcement activity.

(d) REPORT REQUIRED.—Before the end of the 3-year period beginning on the date of enactment of this Act and by the end of each of the first two 1-year periods beginning after the end of such 3-year period, the Secretary of the Treasury shall submit a report to the Congress containing the findings and recommendations of the Secretary in connection with the study under subsection (c), together with such recommendations for legislative and administrative action as the Secretary may determine to be appropriate.

(e) RECOMMENDATIONS IN CASES OF INADEQUATE REGULATION AND ENFORCEMENT BY STATES.—If the Secretary of the Treasury determines that any State has been unable—

(1) to enact a statute which meets the requirements described in subsection (b);

(2) to undertake adequate activity to enforce such statute; or

(3) to make adequate resources available to the appropriate State agency for such enforcement activity;

the report submitted pursuant to subsection (d) shall contain recommendations designed to facilitate enactment and enforcement of such a statute.

(f) FEDERAL FUNDING STUDY.—

(1) STUDY REQUIRED.—The Secretary of the Treasury shall conduct a study to identify possible available sources of Federal funding to cover costs to the States to implement this section.

(2) REPORT.—The Secretary of the Treasury shall submit a report to the Congress on the study conducted pursuant to paragraph (1) before the end of the 18-month period beginning on the date of enactment of this Act.

SEC. 408. REGISTRATION OF MONEY TRANSMITTING BUSINESSES TO PROMOTE EFFECTIVE LAW ENFORCEMENT.

(a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—The Congress finds the following:

(A) Money transmitting businesses are subject to the recordkeeping and reporting requirements of subchapter II of chapter 53 of title 31, United States Code.

(B) Money transmitting businesses are largely unregulated businesses and are frequently used in sophisticated schemes to—

(i) transfer large amounts of money which are the proceeds of unlawful enterprises; and

(ii) evade the requirements of subchapter II of chapter 53 of title 31, United States Code, the Internal Revenue Code of 1986, and other laws of the United States.

(C) Information on the identity of money transmitting businesses and the names of the persons who own or control, or are officers or employees of, a money transmitting business would have a high degree of usefulness in criminal, tax, or regulatory investigations and proceedings.

(2) PURPOSE.—It is the purpose of this section to establish a registration requirement for businesses engaged in providing check cashing, currency exchange, or money transmitting or remittance services, or issuing or redeeming money orders, travelers' checks, and other similar instruments to assist the Secretary of the Treasury, the Attorney General, and other supervisory and law enforcement agencies to effectively enforce the criminal, tax, and regulatory laws and prevent such money transmitting businesses from engaging in illegal activities.

(b) IN GENERAL.—Subchapter II of chapter 53 of title 31, United States Code, is amended by adding at the end the following new section:

"§5329. Registration of money transmitting businesses

"(a) REGISTRATION WITH SECRETARY OF THE TREASURY REQUIRED.—

"(1) IN GENERAL.—Any person who owns or controls a money transmitting business which is not a depository institution (as defined in section 19(b)(1)(A) of the Federal Reserve Act) shall register the business (whether or not the business is licensed as a money transmitting business in any State) with the Secretary of the Treasury before the end of the 180-day period beginning on the later of—

"(A) the date of enactment of this section; or

"(B) the date the business is established.

"(2) FORM AND MANNER OF REGISTRATION.—Subject to the requirements of subsection (b), the Secretary of the Treasury shall prescribe, in regulations, the form and manner for registering a money transmitting business pursuant to paragraph (1).

"(3) BUSINESSES REMAIN SUBJECT TO STATE LAW.—This section shall not be construed as superseding any requirement of State law relating to money transmitting businesses operating in such State.

"(4) FALSE AND INCOMPLETE INFORMATION.—The filing of false or materially incomplete information in connection with the registration of a money transmitting business shall be considered as a failure to comply with the requirements of this subsection.

"(b) CONTENTS OF REGISTRATION.—The registration of a money transmitting business under subsection (a) shall include the following information:

"(1) The name and location of the business.

"(2) The name and address of each person who—

"(A) owns or controls the business;

"(B) is a director or officer of the business; or

"(C) otherwise participates in the conduct of the affairs of the business.

"(3) The name and address of any depository institution at which the business maintains a transaction account (as defined in section 19(b)(1)(C) of the Federal Reserve Act).

"(4) An estimate of the volume of business to be reported annually.

"(5) Such other information as the Secretary of the Treasury may require.

"(c) AGENTS OF MONEY TRANSMITTING BUSINESSES.—

"(1) MAINTENANCE OF LISTS OF AGENTS OF MONEY TRANSMITTING BUSINESSES.—Pursuant to regulations which the Secretary of the Treasury shall prescribe, each money transmitting business shall—

"(A) maintain a list containing the names and addresses of all persons authorized to act as an agent for such business in connection with activities described in subsection (d)(1)(A) and such other information about such agents as the Secretary may require; and

"(B) make the list and other information available on request to any appropriate law enforcement agency.

"(2) TREATMENT OF AGENT AS MONEY TRANSMITTING BUSINESS.—The Secretary of the Treasury shall prescribe regulations establishing, on the basis of such criteria as the Secretary determines to be appropriate, a threshold point for treating an agent of a money transmitting business as a money transmitting business for purposes of this section.

"(d) DEFINITIONS.—For purposes of this section—

"(1) MONEY TRANSMITTING BUSINESS.—The term 'money transmitting business' means any business other than the United States Postal Service which—

"(A) provides check cashing, currency exchange, or money transmitting or remittance services, or issues or redeems money orders, travelers' checks, and other similar instruments;

"(B) is required to file reports under section 5313; and

"(C) is not a depository institution (as defined in section 19(b)(1)(A) of the Federal Reserve Act).

"(2) MONEY TRANSMITTING SERVICE.—The term 'money transmitting service' includes accepting currency or funds denominated in the currency of any country and transmitting the currency or funds, or the value of the currency or funds, by any means through a financial agency or institution, a Federal reserve bank or other facility of the Board of Governors of the Federal Reserve System, or an electronic funds transfer network.

"(e) CIVIL PENALTY FOR FAILURE TO COMPLY WITH REGISTRATION REQUIREMENTS.—

"(1) IN GENERAL.—Any person who fails to comply with the money transmitting business registration requirements under subsection (a) or regulations prescribed under such subsection shall be liable to the United States for a civil penalty of $5,000 for each such violation.

"(2) CONTINUING VIOLATION.—Each day a violation described in paragraph (1) continues shall constitute a separate violation for purposes of such paragraph.

"(3) ASSESSMENTS.—Any penalty imposed under this subsection shall be assessed and collected by the Secretary of the Treasury in the manner provided in section 5321 and any such assessment shall be subject to the provisions of such section.".

(c) CRIMINAL PENALTY FOR FAILURE TO COMPLY WITH REGISTRATION REQUIREMENTS.—Section 1960(b)(1) of title 18, United States Code, is amended to read as follows:

"(1) the term 'illegal money transmitting business' means a money transmitting business which affects interstate or foreign commerce in any manner or degree and—

"(A) is intentionally operated without an appropriate money transmitting license in a State where such operation is punishable as a misdemeanor or a felony under State law; or

"(B) fails to comply with the money transmitting business registration requirements under section 5329 of title 31, United States Code, or regulations prescribed under such section;".

(d) CIVIL FORFEITURE.—Section 981(a)(1)(A) of title 18, United States Code, is amended by striking "or of section 1956 or 1957 of this title," and inserting ", of section 1956, 1957, or 1960 of this title,".

(e) CLERICAL AMENDMENT.—The table of sections for chapter 53 of title 31, United States Code, is amended by inserting after the item relating to section 5328 the following new item:

"5329. Registration of money transmitting businesses.".

SEC. 409. CRIMINAL AND CIVIL PENALTY FOR STRUCTURING DOMESTIC AND INTERNATIONAL TRANSACTIONS.

(a) CRIMINAL PENALTY.—Section 5324 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(c) CRIMINAL PENALTY.—

"(1) IN GENERAL.—Whoever violates this section shall be fined in accordance with title 18, United States Code, imprisoned for not more than 5 years, or both.

"(2) ENHANCED PENALTY FOR AGGRAVATED CASES.—Whoever violates this section while violating another law of the United States or as part of a pattern of any illegal activity involving more than $100,000 in a 12-month period shall be fined twice the amount provided in subsection (b)(3) or (c)(3) (as the case may be) of section 3571 of title 18, United States Code, imprisoned for not more than 10 years, or both.".

(b) AMENDMENT RELATING TO CIVIL PENALTY.—Section 5321(a)(4)(A) of title 31, United States Code, is amended by striking "willfully".

(c) TECHNICAL AND CONFORMING AMENDMENT.—Subsections (a) and (b) of section 5322 of title 31, United States Code, are amended by inserting "or 5324" after "section 5315" each place such term appears.

SEC. 410. GAO STUDY OF CASHIERS' CHECKS.

(a) STUDY REQUIRED.—The Comptroller General of the United States shall conduct a study to determine—

(1) the extent to which the practice of issuing of cashiers' checks by financial institutions is vulnerable to money laundering schemes;

(2) the extent to which additional recordkeeping requirements should be imposed on financial institutions which issue cashiers' checks; and

(3) such other factors relating to the use and regulation of cashiers' checks as the Comptroller General determines to be appropriate.

(b) REPORT REQUIRED.—Before the end of the 180-day period beginning on the date of enactment of this Act, the Comptroller General shall submit a report to the Congress containing—

(1) the findings and conclusions in connection with the study conducted pursuant to subsection (a); and

(2) such recommendations for legislative and administrative action as the Comptroller General may determine to be appropriate.

TITLE V—FAIR TRADE IN FINANCIAL SERVICES

SEC. 501. SHORT TITLE.

This title may be cited as the "Fair Trade in Financial Services Act of 1994".

SEC. 502. EFFECTUATING THE PRINCIPLE OF NATIONAL TREATMENT FOR BANKING ORGANIZATIONS.

The International Banking Act of 1978 (12 U.S.C. 3101 et seq.) is amended by adding at the end the following new section:

"SEC. 18. NATIONAL TREATMENT.

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

"(b) IDENTIFYING COUNTRIES THAT DENY NATIONAL TREATMENT TO UNITED STATES BANKS OR BANK HOLDING COMPANIES.—The Secretary shall identify the extent to which foreign countries deny national treatment to United States banking organizations—

"(1) according to the most recent report under section 3602 of the Omnibus Trade and Competitiveness Act of 1988 (or update thereof); or

"(2) based on more recent information that the Secretary deems appropriate.

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

"(1) IN GENERAL.—The Secretary shall determine whether the denial of national treatment to United States banking organizations by a foreign country identified under subsection (b) has a significant adverse effect on such organizations.

"(2) FACTORS TO BE CONSIDERED.—In determining whether and to what extent a foreign country denies national treatment to United States banking organizations, and in determining the effect of any such denial on such banking organizations, the Secretary shall consider appropriate factors, including—

"(A) the size of the foreign country's markets for the financial services involved, and the extent to which United States banking organizations operate or seek to operate in those markets;

"(B) the extent to which United States banking organizations may participate in developing regulations, guidelines, or other policies regarding new products, services, and markets in the foreign country;

"(C) the extent to which the foreign country issues written regulations, guidelines, or other policies applicable to United States banking organizations operating or seeking to operate in the foreign country that are—

"(i) prescribed after adequate notice and opportunity for comment;

"(ii) readily available to the public; and

"(iii) prescribed in accordance with objective standards that effectively prevent arbitrary and capricious determinations;

"(D) the extent to which United States banking organizations may offer foreign exchange services in the foreign country; and

"(E) the effects of the regulatory policies of the foreign country on—

"(i) the lending policies of the central bank of that country;

"(ii) capital requirements applicable in that country;

"(iii) the regulation of deposit interest rates by that country;

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

"(v) restrictions on access to automated teller machine networks in that country.

"(d) PUBLICATION OF DETERMINATION.—

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

"(A) may, after initiating negotiations in accordance with subsection (g), and after consultation in accordance with subsection (i), publish that determination in the Federal Register;

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

"(C) shall inform State bank supervisors of the publication of that determination.

"(2) EXCEPTION FOR COUNTRIES THAT ARE PARTIES TO CERTAIN AGREEMENTS GOVERNING FINANCIAL SERVICES.—Paragraph (1) shall not apply to a foreign country to the extent that 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.

"(e) SANCTIONS.—

"(1) ACTION BY SECRETARY OF TREASURY.—

"(A) IN GENERAL.—The Secretary may, after consultation in accordance with subsection (i), recommend to the appropriate Federal banking agency that such agency deny or suspend consideration of a request for authorization filed after the date of publication of a determination under subsection (d)(1) by a person of a foreign country listed in such publication if the Secretary determines that—

"(i) such action would assist the United States in negotiations to eliminate discrimination against United States banking organizations;

"(ii) negotiations undertaken pursuant to subsection (g) are not likely to result in an agreement that eliminates the denial of national treatment; or

"(iii) the country has not adequately adhered to an agreement reached as a result of negotiations undertaken pursuant to subsection (g).

"(B) EXERCISE OF AUTHORITY.—The authority of subparagraph (A) shall be exercised according to the specific direction (if any) of the President.

"(C) COMPLIANCE EXCEPTIONS.—The appropriate Federal banking agency shall comply with the recommendation of the Secretary made under subparagraph (A), unless the agency determines, in writing, and transmits such determination to the Secretary and to the Congress, that such recommendation—

"(i) would likely result in a serious impairment to the safe and sound operation of the United States banking system; or

"(ii) would compromise the ability of a Federal banking agency to resolve a failing or failed financial institution because a foreign banking institution otherwise barred by an action under subparagraph (A) represents the only bona fide reasonable offer available to the Federal banking agency.

"(2) NO AFFECT ON CERTAIN AGREEMENTS.—The exercise of authority under this subsection does not affect any obligation of the United States to pursue dispute resolution procedures pursuant to any international agreement governing financial services, approved by the House of Representatives and the Senate, with respect to a dispute arising out of any obligation under that agreement.

"(f) EXEMPTIONS FROM SANCTIONS.—

"(1) IN GENERAL.—Subsection (e) does not apply to the subsidiaries in the United States of a person of a foreign country if the Secretary determines that the banking laws and regulations of the foreign country, as actually applied, meet or exceed—

"(A) the standards for treatment of subsidiaries of United States banking organizations contained in the Second Banking Directive, and in any amendment to the Second Banking Directive, if the Secretary determines that such amendment—

"(i) does not restrict any operation, activity, or authority to expand any operation or activity, permitted under those standards, of any subsidiary in the foreign country of any such bank or bank holding company; or

"(ii) is in accordance with national treatment of subsidiaries of such banking organizations; or

"(B) any set of standards that, taken as a whole, is no less favorable to United States banking organizations than the standards referred to in subparagraph (A).

"(2) STANDARDS FOR EXERCISE OF DISCRETION.—In exercising any discretion under this subsection, the Secretary shall consider, with respect to a bank, foreign bank, branch, agency, commercial lending company, or other affiliated entity that is a person of a foreign country and that is operating in the United States—

"(A) the extent to which the foreign country is progressing toward according national treatment to United States banking organizations; and

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

"(g) NEGOTIATIONS.—

"(1) IN GENERAL.—The Secretary—

"(A) shall initiate negotiations with any foreign country with respect to which a determination made under subsection (c)(1) is in effect; and

"(B) may initiate negotiations with any foreign country which denies national treatment to United States banking organizations to ensure that the foreign country accords national treatment to such organizations.

"(2) EXCEPTIONS.—Paragraph (1) does not require the Secretary to initiate negotiations with a foreign country if the Secretary—

"(A) determines that the negotiations—

"(i) would be so unlikely to result in progress toward according national treatment to United States banking organizations as to be a waste of effort; or

"(ii) would impair the economic interests of the United States; and

"(B) gives written notice of that determination to the chairperson and the ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and of the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

"(h) REPORT.—

"(1) CONTENTS OF REPORT.—Not later than December 1, 1994, and biennially thereafter, the Secretary shall submit to the Congress a report that—

"(A) specifies the foreign countries identified under subsection (b);

"(B) if a determination is published under subsection (d)(1) with respect to the foreign country, provides the reasons therefor;

"(C) if the Secretary has not made or has rescinded such a determination with respect to the foreign country, provides the reasons therefor;

"(D) describes the results of any negotiations conducted under subsection (g)(1) with the foreign country; and

"(E) discusses the effectiveness of this section in achieving the purpose of this section.

"(2) SUBMISSION OF REPORT.—The report required by paragraph (1) may be submitted as part of a report or update submitted under section 3602 of the Omnibus Trade and Competitiveness Act of 1988.

"(i) CONSULTATION.—Consultation in accordance with this subsection means consultation with the Secretary of State, the Secretary of Commerce, the United States Trade Representative, and the appropriate Federal banking agency.

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

"(1) APPROPRIATE FEDERAL BANKING AGENCY.—The term 'appropriate Federal banking agency'—

"(A) in the case of a noninsured State bank or branch and a representative office of a foreign bank, means the Board of Governors of the Federal Reserve System; and

"(B) in any other case, has the same meaning as in section 3 of the Federal Deposit Insurance Act.

"(2) BANKING ORGANIZATION.—The term 'banking organization' means—

"(A) a depository institution, as defined in section 3 of the Federal Deposit Insurance Act, including a branch or subsidiary thereof;

"(B) a bank holding company, as defined in section 2 of the Bank Holding Company Act of 1956;

"(C) any company required to file information pursuant to section 4(f)(6) of the Bank Holding Company Act of 1956;

"(D) a savings and loan holding company, as defined in section 10(a)(1)(D) of the Home Owners' Loan Act; and

"(E) any nonbank financial entity, the primary purpose of which is to provide credit or financing, regardless of whether such entity accepts deposits.

"(3) NATIONAL TREATMENT.—A foreign country accords 'national treatment' to United States banking organizations if it offers them the same competitive opportunities (including effective market access) as are available to its domestic banking organizations in like circumstances.

"(4) PERSON OF A FOREIGN COUNTRY.—The term 'person of a foreign country' means—

"(A) a person organized under the laws of the foreign country;

"(B) a person that has its principal place of business in the foreign country;

"(C) an individual who is—

"(i) a citizen of the foreign country, or

"(ii) domiciled in the foreign country; and

"(D) a person that is directly or indirectly controlled by a person or persons described in subparagraph (A) or (B), or by an individual or individuals described in subparagraph (C).

"(5) REQUEST FOR AUTHORIZATION.—The term 'request for authorization'—

"(A) means an application, registration, notice, or other request to commence a financial service or establish a financial services office that is required under title LXII of the Revised Statutes, the International Banking Act of 1978, the Federal Reserve Act, the Home Owners' Loan Act, or the Bank Holding Company Act of 1956; and

"(B) does not include any such request by a company described in section 2(h)(2) of the Bank Holding Company Act of 1956.

"(6) SECOND BANKING DIRECTIVE.—The term 'Second Banking Directive' means the Second Council Directive of December 15, 1989, on the Coordination of Laws, Regulations, and Administrative Provisions Relating to the Taking Up and Pursuit of the Business of Credit Institutions and Amending Directive 77/780/EEC (89/646/EEC).

"(7) SECRETARY.—The term 'Secretary' means the Secretary of the Treasury.".

SEC. 503. EFFECTUATING THE PRINCIPLE OF NATIONAL TREATMENT FOR SECURITIES ORGANIZATIONS.

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

(b) IDENTIFYING COUNTRIES THAT DENY NATIONAL TREATMENT TO UNITED STATES SECURITIES ORGANIZATIONS.—The Secretary shall identify whether and to what extent foreign countries deny national treatment to United States securities organizations—

(1) according to the most recent report under section 3602 of the Omnibus Trade and Competitiveness Act of 1988 (or update thereof); or

(2) based upon more recent information that the Secretary deems appropriate.

(c) DETERMINING WHETHER DENIAL OF NATIONAL TREATMENT HAS SIGNIFICANT ADVERSE EFFECT.—The Secretary shall determine whether the denial of national treatment to United States securities organizations by a foreign country identified under subsection (b) has a significant adverse effect on such organizations.

(d) PUBLICATION OF DETERMINATION.—

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

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

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

(2) EXCEPTION FOR COUNTRIES THAT ARE PARTIES TO CERTAIN AGREEMENTS GOVERNING FINANCIAL SERVICES.—Paragraph (1) shall not apply to a foreign country to the extent that 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.

(e) SANCTIONS.—

(1) ACTION BY SECRETARY OF TREASURY.—

(A) IN GENERAL.—The Secretary may, after consultation in accordance with subsection (h), recommend to the Commission that the Commission deny or suspend consideration of a request for authorization filed after the date of publication of a determination under subsection (d)(1) by a person of a foreign country listed in such publication if the Secretary determines that—

(i) such action would assist the United States in negotiations to eliminate discrimination against United States securities organizations;

(ii) negotiations undertaken pursuant to subsection (f) are not likely to result in an agreement that eliminates the denial of national treatment; or

(iii) the country has not adequately adhered to an agreement reached as a result of negotiations undertaken pursuant to subsection (f).

(B) EXERCISE OF AUTHORITY.—The authority of subparagraph (A) shall be exercised according to the specific direction (if any) of the President.

(C) COMMISSION ACTION.—The Commission shall deny or suspend consideration of a request for authorization in accordance with the recommendation of the Secretary made under subparagraph (A), unless such recommendation would likely result in a serious adverse impact on—

(i) the maintenance of fair and orderly securities markets; or

(ii) the protection of investors.

(D) AUTHORITY UPON DENIAL OF AUTHORIZATION.—

(i) IN GENERAL.—In connection with the denial of a request for authorization under subparagraph (A), the Commission may order—

(I) disposition of any controlling interest referred to in subsection (i)(9)(B)(i);

(II) closure of any office referred to in subsection (i)(9)(B)(ii); or

(III) termination of any advisory relationship referred to in subparagraphs (C) and (D) of subsection (i)(9).

(ii) PENALTY FOR NONCOMPLIANCE.—The Commission may revoke the underlying registration under Federal securities laws of any person who fails to comply with an order issued under clause (i).

(2) NOTICE REQUIRED TO FILE REQUESTS FOR AUTHORIZATION.—

(A) IN GENERAL.—If a determination is published under subsection (d)(1) with respect to a foreign country, no person of that foreign country may file a request for authorization unless such person files notice of such request simultaneously with the Commission and the Secretary, not less than 90 days in advance of the action that is the subject of the request, in such form and containing such information as the Commission may prescribe by rule.

(B) NOTIFYING SECRETARY.—The Commission shall promptly notify the Secretary of any notice received under subparagraph (A).

(C) EXTENDING 90-DAY PERIOD.—The Commission may, by order, extend for an additional 180 days the period during which the Commission may consider a notice received under subparagraph (A).

(3) STANDARDS FOR EXERCISE OF DISCRETION.—In exercising any discretion under this subsection, the Secretary shall consider, with respect to a securities organization that is controlled, directly or indirectly, by a person of a foreign country—

(A) the extent to which the foreign country is progressing toward according national treatment to United States securities organizations; and

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

(f) NEGOTIATIONS.—

(1) IN GENERAL.—The Secretary—

(A) shall initiate negotiations with any foreign country with respect to which a determination under subsection (c)(1) is in effect; and

(B) may initiate negotiations with any foreign country which denies national treatment to United States securities organizations to ensure that the foreign country accords national treatment to such organizations.

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

(A) determines that the negotiations—

(i) would be so unlikely to result in progress toward according national treatment to United States securities organizations as to be a waste of effort; or

(ii) would impair the economic interests of the United States; and

(B) gives written notice of that determination to the chairperson and the ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and of the Committee of Energy and Commerce of the House of Representatives.

(g) REPORT.—

(1) CONTENTS OF REPORT.—Not later than December 1, 1994, and biennially thereafter, the Secretary shall submit to the Congress a report that—

(A) specifies the foreign countries identified under subsection (b);

(B) if a determination is published under subsection (d)(1) with respect to the foreign country, provides the reasons therefor;

(C) if the Secretary has not made, or has rescinded, a determination under subsection (d)(1) with respect to the foreign country, provides the reasons therefor;

(D) describes the results of any negotiations conducted under subsection (f)(1) with the foreign country; and

(E) discusses the effectiveness of this section in achieving the purpose of this section.

(2) SUBMISSION OF REPORT.—The report required by paragraph (1) may be submitted as part of a report or update submitted under section 3602 of the Omnibus Trade and Competitiveness Act of 1988.

(h) CONSULTATION.—Consultation in accordance with this subsection means consultation with the Secretary of State, the Secretary of Commerce, the United States Trade Representative, and the Commission.

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

(1) BROKER.—The term "broker" has the same meaning as in section 3(a)(4) of the Securities Exchange Act of 1934.

(2) COMMISSION.—The term "Commission" means the Securities and Exchange Commission.

(3) CONTROL.—The terms "directly or indirectly controlled by" and "controlled, directly or indirectly" shall have the meanings given to such terms in rules or regulations issued by the Secretary of the Treasury, not later than 6 months after the date of enactment of this Act, after consultation with the Commission.

(4) DEALER.—The term "dealer" has the same meaning as in section 3(a)(5) of the Securities Exchange Act of 1934.

(5) INVESTMENT ADVISER.—The term "investment adviser" has the same meaning as in section 202(a)(11) of the Investment Advisers Act of 1940.

(6) INVESTMENT COMPANY.—The term "investment company" has the same meaning as in section 3 of the Investment Company Act of 1940.

(7) NATIONAL TREATMENT.—A foreign country accords "national treatment" to United States securities organizations if it offers them the same competitive opportunities (including effective market access) as are available to its domestic securities organizations in like circumstances.

(8) PERSON OF A FOREIGN COUNTRY.—The term "person of a foreign country" means—

(A) a person organized under the laws of the foreign country;

(B) a person that has its principal place of business in the foreign country;

(C) an individual who is—

(i) a citizen of the foreign country; or

(ii) domiciled in the foreign country;

(D) a person that is directly or indirectly controlled by one or more persons described in subparagraph (A), (B), or (C); and

(E) an investment company, an investment adviser of which is a person described in any of subparagraphs (A) through (D).

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

(A) an application to register under section 15(b), 15B, or 15C of the Securities Exchange Act of 1934, or section 203(c) of the Investment Advisers Act of 1940, including an application to succeed to the business of a registered entity;

(B) an amendment to a registration statement referred to in subparagraph (A) that reflects—

(i) the acquisition of control of the registered entity; or

(ii) the addition of a United States office by the registered entity;

(C) a registration statement filed by an investment company under section 8(b) of the Investment Company Act of 1940, if a person of a foreign country will serve as an investment adviser to the investment company; and

(D) an amendment to an investment company registration statement filed under section 8(b) of the Investment Company Act of 1940 that reflects the retention of a person of a foreign country as an investment adviser.

(10) SECRETARY.—The term "Secretary" means the Secretary of the Treasury.

(11) SECURITIES ORGANIZATION.—The term "securities organization" means a broker, a dealer, an investment company, or an investment adviser.

SEC. 504. 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.—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 inconsist-

ent 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 section 504(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.—Paragraph (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 or 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.

SEC. 505. FINANCIAL INTERDEPENDENCE STUDY.

Subtitle G of title III of the Omnibus Trade and Competitiveness Act of 1988 (22 U.S.C. 5351 et seq.) is amended by adding at the end the following new section:

"SEC. 3605. FINANCIAL INTERDEPENDENCE STUDY.

"(a) INVESTIGATION REQUIRED.—The Secretary, in consultation and coordination with the Securities and Exchange Commission, the Federal banking agencies, and any other appropriate Federal department or agency designated by the Secretary, shall conduct an investigation to determine—

"(1) the extent of the interdependence of the financial services sectors of the United States and foreign countries—

"(A) whose financial services institutions provide financial services in the United States; or

"(B) whose persons have substantial ownership interests in United States financial services institutions; and

"(2) the economic, strategic, and other consequences of that interdependence for the United States.

"(b) REPORT.—

"(1) REPORT REQUIRED.—Not later than 3 years after the date of enactment of this section, the Secretary shall submit a report on the results of the investigation under subsection (a) to the President, the Congress, the Securities and Exchange Commission, the Federal banking agencies, and any other appropriate Federal agency or department, as designated by the Secretary.

"(2) CONTENTS OF REPORT.—The report required under paragraph (1) shall—

"(A) describe the activities and estimate the scope of financial services activities conducted by United States financial services institutions in foreign markets (differentiated according to major foreign markets);

"(B) describe the activities and estimate the scope of financial services activities conducted by foreign financial services institutions in the United States (differentiated according to the most significant home countries or groups of home countries);

"(C) estimate the number of jobs created in the United States by financial services activities conducted by foreign financial services institutions and the number of jobs created in foreign countries by financial service activities conducted by United States financial services institutions;

"(D) estimate the additional jobs and revenues (both foreign and domestic) that would be created by the activities of United States financial services institutions in foreign countries if those countries offered such institutions the same competitive opportunities (including effective market access) as are available to the domestic financial services institutions of those countries;

"(E) describe the extent to which foreign financial services institutions discriminate against United States persons in procurement, employment, the provision of credit or other financial services, or otherwise;

"(F) describe the extent to which foreign financial services institutions and other persons from foreign countries purchase or otherwise facilitate the marketing from the United States of government and private debt instruments and private equity instruments;

"(G) describe how the interdependence of the financial services sectors of the United States and foreign countries affects the autonomy and effectiveness of United States monetary policy;

"(H) describe the extent to which United States companies rely on financing by or through foreign financial services institutions and the consequences of such reliance (including disclosure of proprietary information) for the industrial competitiveness and national security of the United States;

"(I) describe the extent to which foreign financial services institutions, in purchasing high technology products such as computers and telecommunications equipment, favor manufacturers from their home countries over United States manufacturers; and

"(J) contain other appropriate information relating to the results of the investigation required by subsection (a).

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

"(1) DEPOSITORY INSTITUTION AND DEPOSITORY INSTITUTION HOLDING COMPANY.—The terms 'depository institution' and 'depository institution holding company' have the same meanings as in section 3 of the Federal Deposit Insurance Act.

"(2) FEDERAL BANKING AGENCIES.—The term 'Federal banking agencies' has the same meaning as in section 3 of the Federal Deposit Insurance Act.

"(3) FINANCIAL SERVICES INSTITUTION.—The term 'financial services institution' means—

"(A) a broker, dealer, underwriter, clearing agency, transfer agent, or information processor with respect to securities, including government and municipal securities;

"(B) an investment company, investment manager, investment adviser, indenture trustee, or any depository institution, insurance company, or other organization operating as a fiduciary, trustee, underwriter, or other financial services provider;

"(C) any depository institution or depository institution holding company; and

"(D) any other entity providing financial services.

"(4) SECRETARY.—The term 'Secretary' means the Secretary of the Treasury.".

SEC. 506. 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.

SEC. 507. CONFORMING AMENDMENTS.

(a) REPORTS ON FOREIGN TREATMENT OF UNITED STATES FINANCIAL INSTITUTIONS.—Section 3602 of the Omnibus Trade and Competitiveness Act of 1988 (22 U.S.C. 5352) is amended—

(1) in the first sentence, by inserting "with updates on significant developments every 2 years following submission of the 1994 report," before "the Secretary of the Treasury"; and

(2) by adding at the end the following: "For purposes of this section, a foreign country denies national treatment to United States entities unless the foreign country offers such entities the same competitive opportunities (including effective market access) as are available to the domestic entities of the foreign country.".

(b) NEGOTIATIONS TO PROMOTE FAIR TRADE IN FINANCIAL SERVICES.—Section 3603(a)(1) of the Omnibus Trade and Competitiveness Act of 1988 (22 U.S.C. 5353(a)(1)) is amended by inserting "effective" before "access".

(c) PRIMARY DEALERS IN GOVERNMENT DEBT INSTRUMENTS.—Section 3502(b)(1) of the Omnibus Trade and Competitiveness Act of 1988 (22 U.S.C. 5342(b)(1)) is amended—

(1) by striking "does not accord to" and inserting "does not offer"; and

(2) by striking "as such country accords to" and inserting "(including effective market access) as are available to".

(d) CONFORMING AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934.—

(1) SECTION 15.—Section 15(b)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)(1)) is amended by adding at the end the following: "The Commission may suspend consideration, deny registration, issue an order, or revoke registration, as provided in section 403(e)(1) of the Fair Trade in Financial Services Act of 1994.".

(2) SECTION 15B.—Section 15B(a)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-4(a)(2)) is amended by adding at the end the following: "The Commission may suspend consideration, deny registration, issue an order, or revoke registration, as provided in section 403(e)(1) of the Fair Trade in Financial Services Act of 1994.".

(3) SECTION 15C.—Section 15C(a)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-5(a)(2)) is amended by adding at the end the following: "The Commission may suspend consideration, deny registration, issue an order, or revoke registration, as provided in section 403(e)(1) of the Fair Trade in Financial Services Act of 1994.".

(e) CONFORMING AMENDMENT TO THE INVESTMENT COMPANY ACT OF 1940.—Section 8 of the Investment Company Act of 1940 (15 U.S.C. 80a-8) is amended by adding at the end the following new subsection:

"(g) The Commission may suspend consideration, deny registration, issue an order, or revoke registration, as provided in section 403(e)(1) of the Fair Trade in Financial Services Act of 1994.".

(f) CONFORMING AMENDMENT TO THE INVESTMENT ADVISERS ACT OF 1940.—Section 203(c)(2) of the Investment Advisers Act of 1940 (15 U.S.C. (c)(2)) is amended by adding at the end the following: "The Commission may suspend consideration, deny registration, issue an order, or revoke registration, as provided in section 403(e)(1) of the Fair Trade in Financial Services Act of 1994.".

TITLE VI—NATIONAL FLOOD INSURANCE REFORM

SEC. 601. SHORT TITLE.

This title may be cited as the "National Flood Insurance Reform Act of 1994".

SEC. 602. 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.

(3) 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;

(4) the problem of erosion warrants greater analysis;

(5) 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;

(6) 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;

(7) 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;

(8) 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

(9) these community-based, individual mitigation, and loss prevention methods and incentives should be incorporated into the National Flood Insurance Program.

SEC. 603. DEFINITION.

As used in this title, the term "Director" means the Director of the Federal Emergency Management Agency.

Subtitle A—Definitions

SEC. 611. 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. 612. 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 floodproofing 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. 621. 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 611(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. 622. 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. 623. 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. 624. 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 622(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. 625. 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. 626. 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. 627. 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 622 and 624, 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. 628. 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. 629. 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. 631. 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 section 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. 632. 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. 633. 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. 641. 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. 642. 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 625, 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. 643. 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 625 and 642, 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 floodplain 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-BENEFIFICIAL 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. 644. 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. 645. 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. 646. 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. 651. 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. 661. 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 Na-

tional 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. 662. 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. 663. 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. 664. 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. 665. 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 on 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 643 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 662 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 664 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 infrasturcture 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. 666. COORDINATION OF FLOOD INSURANCE RATE MAP REVISIONS AND UPDATES WITH COASTAL ZONE MANAGEMENT PROGRAMS.

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. 667. 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 664; 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. 668. 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 632, 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. 669. 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. 670. 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. 671. 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. 672. 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. 673. 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. 674. 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. 675. 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 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. 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. 5121 et seq.), as a result of flood conditions existing in or affecting that area.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to disasters declared after the date of enactment of the National Flood Insurance Reform Act of 1994.

TITLE VII—GENERAL PROVISIONS

SEC. 701. STUDY OF EFFECT OF THE NORTHERN SPOTTED OWL ON SMALL BUSINESS CONCERNS.

(a) DEFINITIONS.—For purposes of this section—

(1) the term "Administrator" means the Administrator of the Small Business Administration; and

(2) the term "small business concerns" has the same meaning as in section 3 of the Small Business Act.

(b) BUSINESS STUDY.—The Administrator in consultation with the Secretary of the Interior shall conduct a study that analyzes—

(1) the nature and extent of economic losses to small business concerns in the forest products industry that have occurred as a result of the

designation of the Northern spotted owl as a threatened species pursuant to section 4 of the Endangered Species Act of 1973, or that are reasonably likely to occur in the future;

(2) the ability of small business concerns to recoup the fair market value of equipment and other property employed in the harvest and processing of timber prior to the listing of the Northern spotted owl as a threatened species; and

(3) the ability of small business concerns in the affected area to offer alternative products or services for which there is a ready or likely suitable market.

(c) REPORT.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this section, the Administrator and the Secretary of the Interior shall submit a report of the results of the study conducted under subsection (c) to the President and to the relevant committees of the Senate and the House of Representatives.

(2) OPTIONS.—The report shall include options for Congress and the President for compensating small business concerns for economic losses and for promoting business transition and diversification.

(3) CONSULTATION.—In preparing the report, the Administrator and the Secretary of the Interior shall consult with small business concerns in the forest products industry, and shall solicit comments from the public.

SEC. 702. NEGATIVE INFORMATION ABOUT CONSUMER.

Section 609(a) of the Fair Credit Reporting Act (15 U.S.C. 1681g(a)) is amended by adding after paragraph (3) the following:

"(4) The dates, original payees, and amounts of any checks upon which is based any negative information about the consumer included in the file at the time of the disclosure.".

SEC. 703. 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 United States 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 that—

(1) 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) sacrificing core principles for short term objectives will ultimately retard, not advance, the peace process;

(3) 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.

SEC. 704. AMENDMENT TO THE FEDERAL RESERVE ACT.

SECTION 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.".

SEC. 705. OVERSIGHT HEARINGS.

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.

SEC. 706. INSURANCE TRANSFER AGREEMENT.

(a) SENSE OF SENATE.—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.

MESSAGES FROM THE HOUSE

At 1:10 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 bill (S. 636) to amend the Public Health Service Act to permit individuals to have freedom of access to certain medical clinics and facilities, and for other purposes; with amendments; it insists upon its amendments to the bill; asks for a conference with the Senate on the

disagreeing votes of the two Houses thereon, and appoints the following as conferees on the part of the House:

From the Committee on the Judiciary: Mr. BROOKS, Mr. SCHUMER, Mr. EDWARDS of California, Mr. CONYERS, Mrs. SCHROEDER, Mr. SENSENBRENNER, Mr. HYDE, and Mr. CANADY;

From the Committee on Energy and Commerce: Mr. DINGELL, Mr. WAXMAN, Mr. SYNAR, Mr. MOOREHEAD, and Mr. BLILEY.

The message also announced that pursuant to the provisions of 22 U.S.C. 276a–1, the Speaker appoints to the delegation to attend the conference of the Interparliamentary Union to be held at Paris, France, from March 20, 1994, to March 26, 1994, the following Members on the part of the House: Mr. HILLIARD, Mr. THOMPSON of Mississippi, and Mr. DORNAN.

The message further announced that pursuant to the provisions of 22 U.S.C. 276a–1, the Speaker appoints to the delegation to attend the conference of the Interparliamentary Union to be held in Paris, France, from March 20, 1994, to March 26, 1994, the following Members on the part of the House: Mr. ENGEL, chairman, Mr. FALEOMAVAEGA, vice chairman, Mr. PAYNE of New Jersey, Mr. TANNER, and Miss COLLINS of Michigan.

The message also announced that pursuant to the provisions of 22 U.S.C. 276h, the Speaker appoints as members of the United States delegation of the Mexico-United States Interparliamentary Group for the second session of the One Hundred Third Congress the following Members on the part of the House: Mr. DE LA GARZA, chairman, Mr. TORRICELLI, vice chairman, Mr. GEJDENSON, Mr. COLEMAN, Mr. MILLER of California, Mr. RANGEL, Mr. MATSUI, Mr. GILMAN, Mr. GOODLING, Mr. DREIER, Mr. KOLBE, and Mr. DELAY.

REPORTS OF COMMITTEES

Under the authority of the order of the Senate of March 17, 1994, the following reports of committees were submitted on March 18, 1994:

By Mr. SASSER, from the Committee on the Budget, without amendment:

S. Con. Res. 63: An original concurrent resolution setting forth the congressional budget for the U.S. Government for the fiscal years 1995, 1996, 1997, 1998, and 1999 (Rept. No. 103–238).

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. FORD:

S. 1953. A bill to amend the Flood Control Act of 1968 to prohibit the imposition of certain fees for the use of developed recreation sites and facilities, and for other purposes; to the Committee on Environment and Public Works.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. FORD:

S. 1953. A bill to amend the Flood Control Act of 1968 to prohibit the imposition of certain fees for the use of developed recreation sites and facilities, and for other purposes; to the Committee on Environment and Public Works.

FLOOD CONTROL ACT OF 1968 AMENDMENT ACT OF 1994

Mr. FORD. Mr. President, today I am introducing a bill prohibiting the Corps of Engineers from charging user fees at underdeveloped or lightly developed lake facilities in Kentucky and other States. The corps now charges user fees at highly developed facilities requiring round-the-clock maintenance and supervision of corps personnel. Clearly, user fees are proper in these situations.

But beginning in May of this year, the corps proposes to establish user fees for beaches, boat ramps, and other unmaintained facilities that are currently free of charge. For many hard-working families in my State, you may as well put up "closed for the season" signs. All across my State—and I am sure my colleagues' own States—there are families who put in a hard day's work, pay their bills, put a roof over the family's head and food on the table. Once they have done all that, there is not much left in the family budget for an expensive vacation.

Because States understood there was a need for easily accessible, affordable places for families to vacation, they gave up land so that many of these corps-maintained lakes could be built. I think all would agree that the citizens whose tax dollars built those facilities and whose tax dollars maintain these facilities should be able to use these facilities.

Mr. President, my legislation will assure the park gates will not be closed for any tourist, regardless how big or how small their vacation budget might be.

I might say, the distinguished Congressman from the First District in Kentucky has filed a companion bill in the House, and I hope my colleagues will join me.

I send the bill to the desk and ask that it be appropriately referred. I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. WALLOP. Mr. President, I will say to my friend from Kentucky that I have not seen the bill, but I am inclined to be on it with him. I see all over the place signs that we are going to start charging for unimproved access to various recreation forests, national recreation areas, and other kinds of things.

I hope that it puts in the back of his mind a little bit the thought as to what it is to deal with unimproved facilities and that he has a gentle thought at grazers as the vote comes down.

Mr. FORD. Mr. President, without the Senator losing his right to the floor, I do have a general thought. It just seems as if they were charged 70 percent, and it would be to maintain it. Where you have unmaintained boat ramps, picnic areas, $2 to take your boat to put it in the water, $1 to take your family, each person, or so much per carload to go in, it seems to me, as we say down in Kentucky, it is too much sugar for the sand.

Mr. WALLOP. Mr. President, I say to the Senator, I agree with him. We are seeing signs of it all over our State. I am seeing signs of it in various published statements around and about. I think it is time for Congress to speak to it.

It is well and good to spend money on improving things and providing people with something for the value which they are being asked to pony up. However, if there is no value at all, it seems genuinely unfair to ask people to pay for that.

ADDITIONAL COSPONSORS

S. 208

At the request of Mr. BUMPERS, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 208, a bill to reform the concessions policies of the National Park Service, and for other purposes.

S. 1075

At the request of Mr. WARNER, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 1075, a bill to designate the Federal building in Fredericksburg, Virginia, as the "Samuel E. Perry Postal Building", and for other purposes.

S. 1142

At the request of Mr. HARKIN, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 1142, a bill to improve counseling services for elementary school children.

S. 1485

At the request of Mr. DECONCINI, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 1485, a bill to extend certain satellite carrier compulsory licenses, and for other purposes.

S. 1806

At the request of Mr. NICKLES, the names of the Senator from North Carolina [Mr. HELMS] and the Senator from Mississippi [Mr. LOTT] were added as cosponsors of S. 1806, a bill to rescind the fee required for the use of public recreation areas at lakes and reservoirs under the jurisdiction of the Army Corps of Engineers, and for other purposes.

S. 1907

At the request of Mr. ROCKEFELLER, the name of the Senator from Min-

nesota [Mr. WELLSTONE] was added as a cosponsor of S. 1907, a bill to require that the Department of Veterans Affairs adjudicate and resolve certain claims relating to medical malpractice in the health care services provided by the Department.

AMENDMENTS SUBMITTED

MARINE MAMMAL PROTECTION ACT

KERRY (AND STEVENS) AMENDMENT NO. 1550

Mr. JOHNSTON (for Mr. KERRY for himself and Mr. STEVENS) proposed an amendment to amendment No. 1550 proposed by Mr. KERRY to the bill (S. 1636) to authorize appropriations for the Marine Mammal Protection Act of 1972 to improve the program to reduce the incidental taking of marine mammals during the course of commercial fishing operations, and for other purposes; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Marine Mammal Protection Act Amendments of 1994".

SEC. 2. PURPOSES.

The purposes of this Act are to—

(1) authorize appropriations to carry out the Marine Mammal Protection Act of 1972 for the fiscal years 1994 through 1999;

(2) ensure that the incidental mortality and serious injury of marine mammals in commercial fisheries does not cause any species or stock of marine mammals to be reduced to or maintained at, for significant periods of time, a level that is below the lower limit of its optimum sustainable that is below the lower limit of its optimum sustainable population range;

(3) prohibit intentional killing of marine mammals during commercial fishing;

(4) improve efforts to identify and address the most significant problems involving incidental mortality and serious injury of marine mammals in commercial fishing operations, considering the population size and status of the affected marine mammal stocks and the numbers of marine mammals that are incidentally killed or injured in commercial fisheries;

(5) ensure that the procedure for authorizing the incidental taking of marine mammals in commercial fisheries is consistent with the long-term objective of identifying and taking such steps as may be practicable to reduce incidental mortality and serious injury from commercial fishing operations to insignificant rates approaching zero; and

(6) continue cost-effective programs for reliably monitoring (A) the levels of incidental mortality and serious injury of marine mammals in commercial fisheries and (B) the size and current population trends of the affected marine mammal stocks.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

(a) DEPARTMENT OF COMMERCE.—Section 7(a) of the Act entitled "An Act to improve the operation of the Marine Mammal Protection Act of 1972, and for other purposes, approved October 9, 1981 (16 U.S.C. 1384(a)), is amended to read as follows:

"(a) DEPARTMENT OF COMMERCE.—(1) There are authorized to be appropriated to the Department of Commerce, for purposes of carrying out such functions and responsibilities as it may have been given under title I of the Marine Mammal Protection Act of 1972 (other than sections 117 and 118 of that Act), $12,138,000 for fiscal year 1994, $12,623,000 for fiscal year 1995, $13,128,000 for fiscal year 1996, $13,653,000 for fiscal year 1997, $14,200,000 for fiscal year 1998, and $14,768,000 for fiscal year 1999.

"(2) There are authorized to be appropriated to the Department of Commerce, for purposes of carrying out sections 117 and 118 of the Marine Mammal Protection Act of 1972, $15,000,000 for each of the fiscal years 1994 through 1999.".

(b) DEPARTMENT OF THE INTERIOR.—Section 7(b) of the Act entitled "An Act to improve the operation of the Marine Mammal Protection Act of 1972, and for other purposes", approved October 9, 1981 (16 U.S.C. 1384(b)), is amended to read as follows:

"(b) DEPARTMENT OF THE INTERIOR.—There are authorized to be appropriated to the Department of the Interior, for purposes of carrying out such functions and responsibilities as it may have been given under title I of the Marine Mammal Protection Act of 1972, $8,000,000 for fiscal year 1994, $8,600,000 for fiscal year 1995, $9,000,000 for fiscal year 1996, $9,400,000 for fiscal year 1997, $9,900,000 for fiscal year 1998, and $10,296,000 for fiscal year 1999.".

"(c) MARINE MAMMAL COMMISSION.—Section 7(c) of the Act entitled "An Act to improve the operation of the Marine Mammal Protection Act of 1972, and for other purposes", approved October 9, 1981 (16 U.S.C. 1407), is amended to read as follows:

"(c) MARINE MAMMAL COMMISSION.—There are authorized to be appropriated to the Marine Mammal Commission, for purposes of carrying out such functions and responsibilities as it may have been given under title II of the Marine Mammal Protection Act of 1972, $1,350,000 for fiscal year 1994, $1,400,000 for fiscal year 1995, $1,450,000 for fiscal year 1996, $1,500,000 for fiscal year 1997, $1,500,000 for fiscal year 1998, and $1,600,000 for fiscal year 1999.".

SEC. 4. MORATORIUM AND EXCEPTIONS.

(A) IN GENERAL.—The introductory matter of section 101(a) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)) is amended—

(1) by inserting ", harassment," immediately before "and importation"; and

(2) by inserting "or harassment" immediately after "for the taking".

(b) PERMITS FOR RESEARCH, DISPLAY, ENHANCING SURVIVAL OR RECOVERY.—Section 101(a)(1) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(1)) is amended to read as follows:

"(1) Consistent with the provisions of section 104, permits may be issued by the Secretary for the taking, harassment, and importation of marine mammals for purposes of scientific research, public display, or enhancing the survival or recovery of a species or stock. Such permits may be issued if the taking, harassment, or importation proposed to be made is first reviewed by the Marine Mammal Commission and the Committee of Scientific Advisors on Marine Mammals established under title II. The Commission and the Committee shall recommend any proposed taking, harassment, or importation which is consistent with the purpose and policies of section 2. The Secretary shall, if the Secretary grants approval for importation, issue to the importer concerned a certificate to that effect which shall be in such form as the Secretary of the Treasury prescribes and such importation may be made upon presentation of the certificate to the customs officer concerned.".

(c) AUTHORIZATION FOR INCIDENTAL TAKING DURING COMMERCIAL FISHERIES.—The first sentence of section 101(a)(2) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(2)) is amended by inserting immediately before the period at the end the following: ", or in lieu of such permits, authorizations may be granted therefor under section 118, subject to regulations prescribed under that section by the Secretary without regard to section 103.".

(d) TAKING OR IMPORTATION FROM DEPLETED STOCKS.—(1) Section 101(a)(3)(A) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(3)(A)) is amended by inserting ", except as provided in paragraph (6)," after "that" in the second proviso.

(2) Section 101(a)(3)(B) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(3)(B)) is amended by inserting ", or as provided for under paragraph (5) of this subsection," immediately after "subsection,".

(e) AUTHORIZATION FOR HARASSMENT OF SMALL NUMBERS OF MARINE MAMMALS.—Section 101(a)(5) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(5)) is amended—

(1) in subparagraph (A), by inserting "or harassment" immediately after "taking" each place it appears; and

(2) by adding at the end the following new subparagraph:

"(D)(i) Upon request therefor by citizens of the United States who engage in a specified activity (other than commercial fishing) within a specific geographic region, the Secretary shall authorize, for periods of not more than one year, subject to such conditions as the Secretary may specify, the incidental, but not intentional, harassment of small numbers of marine mammals of a species or population stock by such citizens while engaging in that activity within that region if the Secretary finds that such harassment during each period concerned—

"(I) will have a negligible impact on such species or stock; and

"(II) will not have an unmitigable adverse impact on the availability of such species or stock for taking for subsistence uses pursuant to subsection (b), or section 109(f), or pursuant to a cooperative agreement under section 120.

"(ii) The authorization for such activity shall prescribe, where applicable—

"(I) permissible methods of taking pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for subsistence uses pursuant to subsection (b), or section 109(f), or pursuant to a cooperative agreement under section 120;

"(II) the measures that the Secretary determines are necessary to ensure no unmitigable adverse impact on the availability of the species or stock for subsistence uses pursuant to subsection (b), or section 109(f), or pursuant to cooperative agreement under section 120; and

"(III) requirements pertaining to the monitoring and reporting of such taking, including requirements for the independent peer review of proposed monitoring plans or other research proposals where the proposed activity may affect the availability of a species or stock for taking for subsistence uses pursu-

ant to subsection (b), or section 109(f), or pursuant to a cooperative agreement under section 120.

"(iii) The Secretary shall publish a proposed authorization not later than 45 days after receiving an application under this subparagraph and request public comment through notice in the Federal Register, newspapers of general circulation, and appropriate electronic media and to all locally affected communities for a period of 30 days after publication. Not later than 45 days after the close of the public comment period, if the Secretary makes the findings set forth in clause (i), the Secretary shall issue an authorization with appropriate conditions to meet the requirements of clause (ii).

"(iv) The Secretary shall modify, suspend, or revoke an authorization if the Secretary finds that the provisions of clauses (i) and (ii) are not being met.

"(v) A person conducting an activity for which an authorization has been granted under this subparagraph shall not be subject to the penalties of this Act for harassment that occurs in compliance with such authorization."

(f) PERMITS CONCERNING ENDANGERED OR THREATENED MARINE MAMMAL STOCKS.—Section 101(a)(5) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(5)), as amended by this Act, is further amended by adding at the end the following new subparagraph:

"(E)(i) During any period of three consecutive years, the Secretary shall allow the incidental, but not the intentional, taking or harassment by persons using vessels of the United States or vessels which have valid fishing permits issued by the Secretary in accordance with section 204(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)), while engaging in commercial fishing operations, of marine mammals from a species or stock designated as depleted because of its listing as an endangered or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) if the Secretary, after notice and opportunity for public comment, determines that—

"(I) the incidental mortality and serious injury from commercial fisheries will have a negligible impact on such species or stock;

"(II) a recovery plan has been developed or is being developed for such species or stock pursuant to the Endangered Species Act of 1973; and

"(III) where required under section 118, a monitoring program is established under subsection (d) of such section, vessels engaged in such fisheries are registered in accordance with such section, and an incidental take reduction plan has been developed or is being developed for such species or stock.

"(ii) Upon a determination by the Secretary that the requirements of clause (i) have been met, the Secretary shall publish in the Federal Register a list of those fisheries for which such determination was made, and, for vessels required to register under section 118, shall issue an appropriate permit for each authorization granted under such section to vessels to which this paragraph applies. Vessels engaged in a fishery included in the notice published by the Secretary under this clause which are not required to register under section 118 shall not be subject to the penalties of this Act for the incidental taking of marine mammals to which this paragraph applies, so long as the owner or master of such vessel reports any incidental mortality or injury of such marine mammals to the Secretary in accordance with section 118.

"(iii) If, during the course of the commercial fishing season, the Secretary determines that the level of incidental mortality or serious injury from commercial fisheries for which a determination was made under clause (i) has resulted or is likely to result in an impact that is more than negligible on the endangered or threatened species or stock, the Secretary shall use the emergency authority granted under section 118 to protect such species or stock, and may modify any permit granted under this paragraph as necessary.

"(iv) The Secretary may suspend for a time certain or revoke a permit granted under this subparagraph only if the Secretary determines that the conditions or limitations set forth in such permit are not being substantially complied with. The Secretary may amend or modify, after notice and opportunity for public comment, the list of fisheries published under clause (ii) whenever the Secretary determines there has been a substantial change in the information or conditions used to determine such list.

"(v) Sections 103 and 104 shall not apply to the taking of marine mammals under the authority of this subparagraph.".

(g) IMPORTATION OF CERTAIN PRODUCTS.—Section 101(a) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)) is amended by adding at the end the following new paragraph:

"(6)(A) A marine mammal product may be imported into the United States if the product—

"(i) was owned and exported by any person in conjunction with travel outside the United States;

"(ii) was acquired outside of the United States as part of a cultural exchange by an Indian, Aleut, or Eskimo residing in Alaska; or

"(iii) is owned by a Native inhabitant of Russia, Canada, or Greenland and is imported for noncommercial purposes in conjunction with travel within the United States or as part of a cultural exchange with an Indian, Aleut, or Eskimo residing in Alaska.

"(B) For the purposes of this paragraph, the term—

"(i) 'Native inhabitant of Russia, Canada, or Greenland' means a person residing in Russia, Canada, or Greenland who is related by blood, is a member of the same clan or ethnological grouping, or shares a common heritage with an Indian, Aleut, or Eskimo residing in Alaska; and

"(ii) 'cultural exchange' means the sharing or exchange of ideas, information, gifts, clothing, or handicrafts between an Indian, Aleut, or Eskimo residing in Alaska and a Native inhabitant of Russia, Canada, or Greenland, including rendering of raw marine mammal parts as part of such exchange into clothing or handicrafts through carving, painting, sewing, or decorating.".

(h) ACTIONS AFFECTING SECTION 101(b).—Section 101(b) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(b)) is amended by adding at the end the following new sentence: "In promulgating any regulation or making any assessment pursuant to a hearing or proceeding under this subsection or section 117(b)(2), or in making any determination or finding under this Act that affects stocks or persons to which this subsection applies, the Secretary shall be responsible for demonstrating that such regulation, assessment, determination, or finding is supported by substantial evidence on the basis of the record as a whole. The preceding sentence shall only be applicable in an action brought by one or more Alaska Native organizations representing persons to which this subsection applies.".

(i) TAKING IN DEFENSE OF SELF OR ANOTHER PERSON.—Section 101(c) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(c)) is amended to read as follows:

"(c) It shall not be a violation of this Act to take a marine mammal if—

"(1) such taking is imminently necessary in self-defense or to save the life of a person in immediate danger; and

"(2) such taking is reported to the Secretary within 48 hours and, whenever feasible, any carcass is made available to the Secretary intact.".

SEC. 5. PERMITS.

Section 104 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1374) is amended—

(1) in subsection (a)—

(A) by inserting ", harassment," immediately after "taking"; and

(B) by inserting "except for the incidental taking of marine mammals during the course of commercial fishing operations" immediately before the period at the end; and (2) by amending subsection (c)(3) to read as follows:

"(3)(A) A permit may be issued, for scientific research purposes that are likely to result in the taking or harassment of a marine mammal, to an applicant who submits information with the permit application indicating that the taking or harassment is required to further a bona fide scientific purpose. The Secretary is authorized to issue permits under this paragraph prior to the end of the mandatory public review and comment period if delaying the issuance of such permit could result in harm to a species, stock, or individual marine mammal, or result in loss of unique research opportunities.

"(B) No permit issued for purposes of scientific research under subparagraph (A) shall authorize the lethal taking of a marine mammal unless the applicant submits documentation to the Secretary that a nonlethal method of conducting the research is not feasible. The Secretary shall not issue a permit for research which involves the lethal taking of a marine mammal from a species or stock designated as depleted, unless the Secretary determines that the results of such research will directly benefit that species or stock, or that such research fulfills a critically important research need.

"(C) Not later than 60 days after the date of enactment of the Marine Mammal Protection Act Amendments of 1994, the Secretary shall grant a general authorization and shall issue implementing regulations allowing bona fide scientific research that is not likely to result in the taking or harassment of a marine mammal. Such authorization shall apply to persons who submit, at least 60 days prior to commencement of the research, a letter of intent to the Secretary specifying—

"(i) the species or stock of marine mammal on which the research will be conducted;

"(ii) the geographic location of the research;

"(iii) the period of time over which the research will be conducted;

"(iv) the purpose of the research, including a description of how the definition of bona fide research as established by the Secretary under this Act would apply; and

"(v) the methods used to conduct the research.

Not later than 30 days after receipt of a letter of intent to conduct scientific research under the general authorization, the Sec-

retary may notify the applicant that the proposed research is likely to result in the taking or harassment of a marine mammal, and that the provisions of subparagraph (A) apply. If no such notification is received, the proposed research shall be covered under the general authorization.".

SEC. 6. CONSERVATION PLANS.

Section 115(b) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1383(b)) is amended by adding at the end the following new paragraph:

"(4) If the Secretary determines that an incidental take reduction plan is necessary to reduce the incidental taking of marine mammals in the course of commercial fishing operations from a stock specified under section 117(a)(7), or for stocks which interact with a commercial fishery for which the Secretary has made a determination under section 118(b)(1), any conservation plan prepared under this subsection for such stock shall incorporate the incidental take reduction plan required under section 118 for such stock.".

SEC. 7. STOCK ASSESSMENTS.

(a) IN GENERAL.—Title I of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371 et seq.) is amended by adding at the end the following new section:

"SEC. 117. STOCK ASSESSMENTS.

"(a) IN GENERAL.— Not later than August 1, 1994, the Secretary shall, after consultation with the appropriate regional scientific working group established under subsection (d), prepare a draft stock assessment for each marine mammal stock which occurs in waters under the jurisdiction of the United States. Each draft stock assessment, based on the best scientific information available, shall—

"(1) describe the geographic range of the affected stock, including any seasonal or temporal variation in such range;

"(2) provide for such stock the minimum population estimate, current and maximum net productivity rates, and current population trend, including a description of the information upon which these are based;

"(3) estimate the annual anthropogenic mortality and serious injury of the stock and, for a stock specified under paragraph (7), other factors that may be causing a decline or impeding recovery of the stock, including effects on marine mammal habitat and prey;

"(4) describe commercial fisheries that interact with the stock, including—

"(A) the approximate number of vessels actively participating in each such fishery;

"(B) the estimated level of incidental mortality and serious injury of the stock by each such fishery on an annual basis;

"(C) seasonal or area differences in such incidental mortality or serious injury; and

"(D) the rate, based on a unit of fishing effort, of such incidental mortality and serious injury, and an analysis stating whether such level is insignificant and is approaching a zero mortality and serious injury rate;

"(5) categorize the status of the stock as one that either—

"(A) has a level of anthropogenic mortality and serious injury that is not likely to cause the stock to be reduced below its optimum sustainable population; or

"(B)(i) meets the criteria described under paragraph (7);

"(ii) is listed as threatened or endangered under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), or designated as depleted under this Act; or

"(iii) meets the criteria specified in both clause (i) and (ii);

"(6) estimate the calculated removal level for the stock, describing the information used to calculate it, including the recovery factor; and

"(7) specify whether the Secretary has reason to believe that the level of anthropogenic mortality and serious injury for the stock is such that it may cause the stock to be reduced or maintained below its optimum sustainable population.

"(b) PUBLIC COMMENT.—(1) The Secretary shall publish in the Federal Register a notice of the availability of a draft stock assessment or any revision thereof and provide an opportunity for public review and comment during a period of 90 days. Such notice shall include a summary of the assessment and a list of the sources of information or published reports upon which the assessment is based.

"(2) Subsequent to the notice of availability required under paragraph (1), if requested by a person to which section 101(b) applies, the Secretary shall conduct a proceeding on the record prior to publishing a final stock assessment or any revision thereof for any stock subject to taking under section 101(b).

"(3) After consideration of the best scientific information available, the advice of the appropriate regional scientific review group established under section (d), and the comments of the general public, the Secretary shall publish in the Federal Register a notice of availability and a summary of the final stock assessment or any revision thereof, not later than 90 days after—

"(A) the close of the public comment period on a draft stock assessment or revision thereof; or

"(B) final action on an agency proceeding pursuant to paragraph (2).

"(c) REVIEW AND REVISION.—(1) The Secretary, in consultation with the appropriate regional scientific review group established under subsection (d), shall review stock assessments under this section—

"(A) annually for stocks specified under subsection (a)(7) or for which substantial new information is available; and

"(B) at least once every 3 years for all other marine mammal stocks.

"(2) If the review under paragraph (1) indicates that the status of the stock has changed or can be more accurately determined, the Secretary shall revise the stock assessment in accordance with subsection (b).

"(d) REGIONAL SCIENTIFIC REVIEW GROUPS.—(1) Not later than 60 days after the date of enactment of this section, the Secretary of Commerce shall, in consultation with the Secretary of Interior (with respect to marine mammals under that Secretary's jurisdiction), the Governors of affected adjacent coastal States, regional fishery and wildlife management authorities, Alaska Native organizations and Indian tribes, environmental and fishery groups, establish at least two independent regional scientific review groups consisting of individuals with expertise in marine mammal biology and ecology, population dynamics and modeling, commercial fishing technology and practices, and stocks taken under section 101(b). The Secretary of Commerce shall, to the maximum extent practicable, attempt to achieve a balanced representation of viewpoints among the individuals on each regional scientific working group. The regional scientific review group shall advise the Secretary on all aspects of the stock assessments required under this section.

"(2) The regional scientific review groups established under this section shall not be subject to the Federal Advisory Committee Act (5 App. U.S.C.).

"(3) Members of the regional scientific review groups shall serve without compensation, but may be reimbursed by the Secretary, upon requests, for reasonable travel costs and expenses incurred in performing their duties as members of such regional scientific review groups.

"(4) The Secretary may appoint or reappoint individuals to the regional scientific working groups under paragraph (1) as needed.

"(e) EFFECT ON SECTION 101(b).—This section shall not affect or otherwise modify the provisions of section 101(b).".

SEC. 8. TAKING OF MARINE MAMMALS INCIDENTAL TO COMMERCIAL FISHING OPERATIONS.

Title I of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371 et seq.), as amended by this Act, is further amended by adding at the end the following new section:

"SEC. 118. TAKING OF MARINE MAMMALS INCIDENTAL TO COMMERCIAL FISHING OPERATIONS.

"(a) IN GENERAL.—(1) Effective on the date of enactment of this section, and except as provided in section 114 and in paragraphs (2), (3), and (4) of this section, the provisions of this section shall govern the incidental taking of marine mammals in the course of commercial fishing operations by persons using vessels of the United States or vessels which have valid fishing permits issued by the Secretary in accordance with section 204(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)). In any event it shall be the immediate goal that the incidental mortality or serious injury of marine mammals occurring in the course of commercial fishing operations be reduced to insignificant levels approaching a zero mortality and serious injury rate.

"(2) In the case of the incidental taking of marine mammals from species or stocks designated under this Act as depleted on the basis of their listing as threatened or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), both this section and section 101(a)(5)(E) of this Act shall apply.

"(3) Sections 104(h) and title III, and not this section, shall govern the taking of marine mammals in the course of commercial purse seine fishing for yellowfin tuna in the eastern tropical Pacific Ocean.

"(4) This section shall not govern the taking of marine mammals from the California population of sea otters to which the Act of November 7, 1986 (Public Law 99-625; 100 Stat. 3500) applies.

"(5) Sections 103 and 104 shall not apply to the incidental taking of marine mammals under the authority of this section.

"(6) Except as provided in section 101(c)(2), the intentional killing of any marine mammal in the course of commercial fishing operations is prohibited.

"(b) INCIDENTAL TAKE REDUCTION PLANS.—(1) The Secretary shall develop and implement an incidental take reduction plan designed to assist in the recovery of each marine mammal stock that is specified under section 117(a)(7) which interacts with a commercial fishery listed under subsection (f)(1)(A) (i) or (ii), and may develop and implement such a plan for any other marine mammal stocks which interact with a commercial fishery listed under subsection (f)(1)(A)(i) which the Secretary determines, after notice and opportunity for public comment, has an excessive rate of mortality and serious injury across a number of such marine mammal stocks.

"(2) If there is insufficient funding available to develop and implement an incidental

take reduction plan for all such stocks that interact with commercial fisheries listed under subsection (f)(1)(A) (i) or (ii), the Secretary shall give highest priority to the development and implementation of incidental take reduction plans for species or stocks whose level of incidental mortality and serious injury exceeds the calculated removal level, those that have a small population size, and those which are declining most rapidly.

"(3) Each incidental take reduction plan developed under this subsection for a stock shall include the following:

"(A) A review and evaluation of the information contained in the stock assessment published under section 117 and any substantial new information that may be available.

"(B) An evaluation and estimate of the total number and percentage of animals from the stock that are being killed or seriously injured each year as a result of commercial fishing activities.

"(C) Proposed management measures and voluntary actions for the reduction of incidental mortality and serious injury of marine mammals in commercial fisheries which interact with such stock.

"(D) A long-term strategy to reduce, to insignificant levels approaching a zero rate within 10 years, the incidental mortality and serious injury of marine mammals from the stock in the course of commercial fishing operations.

"(4)(A) Each incidental take reduction plan shall include projected dates for achieving the objectives of the plan.

"(B) For any stock in which incidental mortality and serious injury from commercial fisheries exceeds the calculated removal level established under section 117, the plan shall include measures the Secretary expects will reduce, within 6 months after commencement of operations by commercial fisheries that interact with that stock, such mortality and serious injury to a level below the calculated removal level.

"(C) For any stock in which anthropogenic mortality and serious injury exceeds the calculated removal level, other than a stock to which subparagraph (B) applies, the plan shall include measures the Secretary expects will reduce, to the maximum extent practicable within 6 months after commencement of operations by commercial fisheries that interact with that stock, the incidental mortality and serious injury by such commercial fisheries from that stock. For purposes of this subparagraph, the term 'maximum extent practicable' means to the lowest level that is feasible for such fisheries within the 6-month period.

"(5)(A) At the earliest possible time (not later than 60 days) after the Secretary issues a final stock assessment for a stock specified under section 117(a)(7), the Secretary shall, and for stocks that interact with a fishery listed under subsection (f)(1)(A)(i) for which the Secretary has made a determination under paragraph (1), the Secretary may—

"(i) establish an incidental take reduction team for such stock and appoint the members of such team in accordance with subparagraph (C); and

"(ii) publish in the Federal Register a notice of the team's establishment, the names of the team's appointed members, the full geographic range of such stock, and a list of all commercial fisheries that cause incidental mortality and serious injury of marine mammals from such stock.

"(B) The Secretary may charge an incidental take reduction team to address a stock that extends over one or more regions or fisheries, or multiple stocks within a region or fishery, if the Secretary determines that doing so would facilitate the development and implementation of plans required under this subsection.

"(C) Members of incidental take reduction teams shall be individuals knowledgeable and experienced regarding measures to conserve such stocks and to reduce incidental mortality and serious injury to such stock from commercial fishing operations. Members may include representatives of Federal and State agencies, Councils, interstate fishery commissions, academic and scientific organizations, environmental and fishery groups, Alaska Native organizations and Indian tribes, and others as the Secretary considers appropriate. Incidental take reduction teams shall include a representative of each affected Council and State, and shall, to the maximum extent practicable, include an equitable balance among representatives of government, resource user interests, and public interest groups. Incidental take reduction teams shall not be subject to the Federal Advisory Committee Act (5 App. U.S.C.) but their meetings shall be open to the public, after timely notice of the time and place of such meetings.

"(D) Members of incidental take reduction teams shall serve without compensation, but may be reimbursed by the Secretary, upon request, for reasonable travel costs and expenses incurred in performing their duties as members of the team.

"(6) Where the anthropogenic mortality and serious injury from a stock specified under section 117(a)(7) is estimated to be equal to or greater than the calculated removal level established under section 117 for such stock and such stock interacts with a fishery listed under subsection (f)(1)(A) (i) or (ii), the following procedures shall apply in the development of the incidental take reduction plan for the stock:

"(A)(i) Not later than 6 months after the date of establishment of an incidental take reduction team for the stock, the team shall submit a draft incidental take reduction plan for such stock to the Secretary, consistent with the other provisions of this section.

"(ii) Such draft incidental take reduction plan shall be developed by consensus. In the event consensus cannot be reached, the team shall advise the Secretary in writing on the range of possibilities considered by the team, and the views of both the majority and minority.

"(B)(i) The Secretary shall take the draft incidental take reduction plan into consideration and, not later than 60 days after the submission of the draft plan by the team, the Secretary shall publish in the Federal Register the plan proposed by the team, and changes proposed by the Secretary with an explanation of the reasons therefor, and proposed regulations to implement such plan, for public review and comment during a period of not to exceed 90 days.

"(ii) In the event that the incidental take reduction team does not submit a draft plan to the Secretary within 6 months, the Secretary shall, not later than 8 months after the establishment of the team, publish in the Federal Register a proposed incidental take reduction plan and implementing regulations, for public review and comment during a period of not to exceed 90 days.

"(C) Not later than 90 days after the close of the comment period required under subparagraph (B), the Secretary shall issue a final incidental take reduction plan and implementing regulations, consistent with the other provisions of this section.

"(D) The Secretary and the incidental take reduction team shall meet every 6 months, or a such other intervals as the Secretary determines are necessary, to monitor the implementation of the final incidental take reduction plan until such time that the Secretary determines that the objectives of such plan have been met.

"(E) The Secretary shall amend the incidental take reduction plan and implementing regulations as necessary to meet the requirements of this section, in accordance with the procedures in this section for the issuance of such plans and regulations.

"(7) Where the anthropogenic mortality and serious injury from a stock specified under section 117(a)(7) is estimated to be less than the calculated removal level established under section 117 for such stock and such stock interacts with a fishery listed under subsection (f)(1)(A) (i) or (ii), or for any marine mammal stocks which interact with a commercial fishery listed under subsection (f)(1)(A) (i) for which the Secretary has made a determination under paragraph (1), the following procedures shall apply in the development of the incidental take reduction plan for such stock:

"(A)(i) Not later than 11 months after the date of establishment of an incidental take reduction team for the stock, the team shall submit a draft incidental take reduction plan for the stock to the Secretary, consistent with the other provisions of this section.

"(ii) Such draft incidental take reduction plan shall be developed by consensus. In the event consensus cannot be reached, the team shall advise the Secretary in writing on the range of possibilities considered by the team, and the views of both the majority and minority.

"(B)(i) The Secretary shall take the draft incidental tax reduction plan into consideration and, not later than 60 days after the submission of the draft plan by the team, the Secretary shall publish in the Federal Register the plan proposed by the team, and changes proposed by the Secretary with an explanation of the reasons therefor, and proposed regulations to implement such plan, for public review and comment during a period of not to exceed 90 days.

"(ii) In the event that the incidental take reduction team does not submit a draft plan to the Secretary within 11 months, the Secretary shall, not later than 13 months after the establishment of the team, publish in the Federal Register a proposed incidental take reduction plan and implementing regulations, for public review and comment during a period of not to exceed 90 days.

"(C) Not later than 90 days after the close of the comment period required under subparagraph (B), the Secretary shall issue a final incidental take reduction plan and implementing regulations, consistent with the other provisions of this section.

"(D) The Secretary and the incidental take reduction team shall meet on an annual basis, or at such other intervals as the Secretary determines are necessary, to monitor the implementation of the final incidental take reduction plan until such time that the Secretary determines that the objectives of such plan have been met.

"(E) The Secretary shall amend the incidental take reduction plan and implementing regulations as necessary to meet the requirements of this section, in accordance with the procedures in this section for the issuance of such plans and regulations.

"(8) In implementing an incidental take reduction plan developed pursuant to this subsection, the Secretary may, where necessary

to implement an incidental take reduction plan to protect or restore a marine mammal stock or species covered by such plan, promulgate regulations which include, but are not limited to, measures to—

"(A) establish fishery-specific limits on incidental mortality and serious injury of marine mammals in commercial fisheries or restrict commercial fisheries by time or area;

"(B) require the use of alternative commercial fishing gear or techniques and new technologies, encourage the development of such gear or technology, or convene expert skippers' panels;

"(C) educate commercial fishermen, through workshops and other means, on the importance of reducing the incidental mortality and serious injury of marine mammals in affected commercial fisheries; and

"(D) monitor the effectiveness of measures taken to reduce the level of incidental mortality and serious injury of marine mammals in the course of commercial fishing operations, as set forth in subsection (d).

"(9)(A) Notwithstanding paragraph (5), in the case of any stock to which paragraph (5) applies for which a final stock assessment has not been published under section 117(b)(3) by April 1, 1995, due to a proceeding under section 117(b)(2), or any Federal court review of such proceeding, the Secretary shall establish an incidental take reduction team under paragraph (5) for such stock as if a final stock assessment had been published.

"(B) The draft stock assessment published for stock under section 117(b)(1) shall be deemed the final stock assessment for purposes of preparing and implementing an incidental take reduction plan for such stock under this section.

"(C) Upon publication of a final stock assessment for such stock under section 117(b)(3) the Secretary shall immediately reconvene the incidental take reduction team for such stock for the purpose of amending the incidental take reduction plan, and any regulations issued to implement such plan, if necessary, to reflect the final stock assessment or court action. Such amendments shall be made in accordance with paragraph (6)(E) or (7)(E), as appropriate.

"(D) A draft stock assessment may only be used as the basis for an incidental take reduction plan under this paragraph for a period of not to exceed two years, or until a final stock assessment is published, whichever is earlier. If, at the end of the two-year period, a final stock assessment has not been published, the Secretary shall categorize such stock under section 117(a)(5)(A) and shall revoke any regulations to implement an incidental take reduction plan for such stock.

"(E) Subparagraph (D) shall not apply for any period beyond two years during which a final stock assessment for such stock has not been published due to review of a proceeding on such stock assessment by a Federal court. Immediately upon final action by such court, the Secretary shall proceed under subparagraph (C).

"(10) Incidental take reduction plans developed under this section for a species or stock listed as a threatened or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) shall be consistent with any recovery plan developed for such species or stock under section 4 of such Act.

"(c) EMERGENCY REGULATIONS.—(1) If the Secretary finds that incidental mortality and serious injury of marine mammals from commercial fisheries is having, or is likely to have, an immediate and significant adverse impact on a stock or species, the Secretary shall take action as follows:

"(A) In the case of a stock or species for which an approved incidental take reduction plan is in effect, the Secretary shall—

"(i) prescribe emergency regulations that, consistent with such plan to the maximum extent practicable, reduce such incidental mortality and serious injury in that fishery; and

"(ii) approve and implement, on an expedited basis, any amendments to such plan that are recommended by the incidental take reduction team to address such adverse impact.

"(B) In the case of a stock or species for which an incidental take reduction plan is being developed, the Secretary shall—

"(i) prescribe emergency regulations to reduce such incidental mortality and serious injury in that fishery; and

"(ii) approve and implement, on an expedited basis, such plan, which shall provide methods to address such adverse impact if still necessary.

"(C) In the case of a stock or species for which an incidental take reduction plan does not exist and is not being developed, or in the case of a commercial fishery listed under subsection (f)(1)(A)(iii) which the Secretary believes may be contributing to such adverse impact, the Secretary shall—

"(i) prescribe emergency regulations to reduce such incidental mortality and serious injury in that fishery, to the extent necessary to mitigate such adverse impact;

"(ii) immediately review the stock assessment for such stock or species under section 117 and the classification of such commercial fishery under subsection (f)(1)(A) to determine if an incidental take reduction team should be established under this section; and

"(iii) may, where necessary to address such adverse impact, require the placement of observers pursuant to subsection (d) upon vessels in a commercial fishery listed under subsection (f)(1)(A)(iii), if the Secretary has reason to believe that such vessels may be causing incidental mortality and serious injury to marine mammals for such stock.

"(2) Prior to taking action under paragraph (1) (A), (B), or (C), the Secretary shall consult with the Marine Mammal Commission, all appropriate Councils, State fishery managers, and the appropriate incidental take reduction team (if established).

"(3) Emergency regulations prescribed under this subsection—

"(A) shall be published in the Federal Register, together with an explanation thereof;

"(B) shall remain in effect for not more than 180 days, or until the end of the applicable commercial fishing season, whichever is earlier; and

"(C) may be terminated by the Secretary at an earlier date by publication in the Federal Register of a notice of termination, if the Secretary determines that the reasons for the emergency regulations no longer exist.

"(4) If the Secretary finds that incidental mortality and serious injury of marine mammals in a commercial fishery is continuing to have an immediate and significant adverse impact on a stock or species, the Secretary may extend the emergency regulations for an additional period of not more than 90 days or until reasons for the emergency no longer exist, whichever is earlier.

"(d) MONITORING OF INCIDENTAL TAKES.—(1) The Secretary shall establish a program to monitor incidental mortality and serious injury of marine mammals during the course of commercial fishing operations for commercial fisheries listed under subsection (f)(1)(A) (i) or (ii). The purposes of the monitoring program shall be to—

"(A) obtain statistically reliable estimates of incidental mortality and serious injury;

"(B) determine the reliability of reports of incidental mortality and serious injury under subsection (g); and

"(C) report on the impacts of changes in commercial fishing methods or technology.

"(2) Pursuant to paragraph (1), the Secretary is authorized to place observers on board vessels as necessary, subject to the provisions of this section. Observers may perform other tasks including, but not limited to—

"(A) recording other sources of mortality;

"(B) recording the number of marine mammals sighted and the behavior of such mammals observed in the vicinity of commercial fishing gear;

"(C) Other related scientific or fishery management observations; and

"(D) Collection of marine mammals tissues, where such collection can be done safely and without interruption of commercial fishing operations.

"(3) When determining the distribution of observers among fisheries and vessels within a fishery, the Secretary shall be guided by the following standards;

"(A) the need to obtain the best scientific information available;

"(B) the requirement that assignment of observers be fair and equitable among fisheries and among vessels in a fishery;

"(C) the requirement that no individual person or vessel, or group of persons or vessels, be subject to excessive or overly burdensome observer coverage; and

"(D) where practicable, the need to minimize costs and avoid duplication.

"(4) To the extent practicable, the Secretary shall allocate observers among commercial fisheries in accordance with the following priority:

"(A) The highest priority for allocation shall be for commercial fisheries that have incidental mortality or serious injury of marine mammals from stocks designated as depleted on the basis of their listing as endangered or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

"(B) The second highest priority for allocation shall be for commercial fisheries that have incidental mortality and serious injury of marine mammals from stocks specified under section 117(a)(7).

"(C) The third highest priority for allocation shall be for commercial fisheries that have incidental mortality or serious injury of marine mammals from stocks for which the level of incidental mortality and serious injury is uncertain.

"(5) Notwithstanding paragraph (1), the Secretary may establish an alternative observer program to provide statistically reliable information on the species and number of any marine mammals incidentally taken in the course of commercial fishing operations. The alternative program may include, but need not be limited to, direct observation of fishing activities from vessels, airplanes, or points on shore.

"(6) The Secretary may, with the consent of the vessel owner, station an observer on board a vessel engaged in a commercial fishery not listed under subsection (f)(1)(A) (i) or (ii).

"(7) The Secretary shall not be required to place an observer on a vessel in a commercial fishery if the Secretary finds that—

"(A) in a situation where harvesting vessels are delivering fish to a processing vessel and the catch is not taken on board the harvesting vessel, statistically reliable informa-

tion can be obtained from an observer on board the processing vessel to which the fish are delivered;

"(B) the facilities of a vessel for quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized; or

"(C) for reasons beyond the control of the Secretary, an observer is not available.

"(8) Any proprietary information collected under this subsection shall be confidential and shall not be disclosed except—

"(A) to Federal employees whose duties require access to such information;

"(B) to State or tribal employees pursuant to an agreement with the Secretary that prevents public disclosure of the identity or business of any person;

"(C) when required by court order; or

"(D) in the case of scientific information involving fisheries, to employees of Councils who are responsible for fishery management plan development and monitoring.

"(9) The Secretary shall prescribe such procedures as may be necessary to preserve the confidentiality of proprietary information collected under this subsection, except that the Secretary shall release or make public upon request any such information in aggregate, summary, or other form which does not directly or indirectly disclose the identity or business of any person.

"(e) ZERO MORTALITY RATE GOAL.—(1) Commercial fisheries shall reduce incidental mortality and serious injury of marine mammals to insignificant levels approaching a zero mortality and serious injury rate within 10 years after the date of enactment of this section.

"(2) Fisheries which maintain insignificant serious injury and mortality levels approaching a zero rate shall not be required to further reduce their mortality rates.

"(3) Three years after such date of enactment, the Secretary shall review the progress of all commercial fisheries, by fishery, toward reducing incidental mortality and serious injury to insignificant levels approaching a zero rate. The Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report setting forth the results of such review within 1 year after commencement of the review. The Secretary shall note any commercial fishery for which inadequate information exists on the level of incidental mortality and serious injury of marine mammals in the fishery.

"(4) If the Secretary determines after review under paragraph (3) that the rate of incidental mortality and serious injury of marine mammals in a commercial fishery is not consistent with paragraph (1), then the Secretary shall take appropriate action under subsection (b), and shall make recommendations to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives on any legislative changes needed to achieve the goal specified in paragraph (1).

"(f) REGISTRATION AND AUTHORIZATION.—(1) The Secretary shall, within 90 days after the date of enactment of this section—

"(A) publish in the Federal Register for public comment, for a period of not less than 90 days, any necessary changes to the Secretary's list of commercial fisheries published under section 114 (along with an explanation of such changes and a statement of the marine mammals and the approximate number of vessels or persons actively involved in each such fishery) that have—

"(i) frequent incidental mortality and serious injury of marine mammals;

"(ii) occasional incidental mortality and serious injury of marine mammals; or

"(iii) a remote likelihood of or no known incidental mortality or serious injury of marine mammals;

"(B) after the close of the period for such public comment, publish in the Federal Register a revised list of commercial fisheries and an update of information required by subparagraph (A), together with a summary of the provisions of this section and information sufficient to advise vessel owners on how to obtain an authorization and otherwise comply with the requirements of this section; and

"(C) at least once each year thereafter, and at such other times as the Secretary considers appropriate, reexamine, based on information gathered under this Act and other relevant sources and after notice and opportunity for public comment, the classification of commercial fisheries and other determinations required under subparagraph (A) and publish in the Federal Register any necessary changes.

"(2)(A) An authorization shall be granted by the Secretary in accordance with this section for a vessel engaged in a commercial fishery listed under paragraph (1)(A) (i) or (ii), upon receipt by the Secretary of a completed registration form providing the name of the vessel owner and operator, the name and description of the vessel, the fisheries in which it will be engaged, the approximate time, duration, and location of such fishery operations, and the general type and nature of use of the fishing gear and techniques used. Such information shall be in a readily usable format that can be efficiently entered into and utilized by an automated or computerized data processing system. A decal or other physical evidence that the authorization is current and valid shall be issued by the Secretary at the time an authorization is granted, and so long as the authorization remains current and valid, shall be reissued annually thereafter.

"(B) No authorization may be granted under this section to the owner of a vessel unless such vessel—

"(i) is a vessel of the United States; or

"(ii) has a valid fishing permit issued by the Secretary in accordance with section 204(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)).

"(C) Except as provided in subsection (a), an authorization granted under this section shall allow the incidental taking of all species and stocks of marine mammals to which this Act applies.

"(3)(A) An owner of a vessel engaged in any fishery listed under paragraph (1)(A) (i) or (ii) shall, in order to engage in the lawful incidental taking of marine mammals in a commercial fishery—

"(i) have registered as required under paragraph (2) with the Secretary in order to obtain for each such vessel owned an authorization for the purpose of incidentally taking marine mammals in accordance with this section, except that owners of vessels holding valid certificates of exemption under section 114 are deemed to have registered for purposes of this subsection for the period during which such registration is valid;

"(ii) ensure that a decal or such other physical evidence of a current and valid authorization as the Secretary may require is displayed on or is in the possession of the master of each such vessel; and

"(iii) report as required by subsection (g).

"(B) Any owner of a vessel receiving an authorization under this section for any fishery listed under paragraph (1)(A) (i) or (ii) shall, as a condition of that authorization, take on board an observer if requested to do so by the Secretary.

"(C) An owner of a vessel engaged in a fishery listed under paragraph (1)(A) (i) or (ii) who—

"(i) fails to obtain from the Secretary an authorization for such vessel under this section;

"(ii) fails to maintain a current and valid authorization for such vessel; or

"(iii) fails to ensure that a decal or other physical evidence of such authorization issued by the Secretary is displayed on or is in possession of the master of the vessel,

and the master of any such vessel engaged in such fishery, shall be deemed to have violated this title. Such owner and master shall be subject to penalty under sections 105 and 107 for a violation of clause (i) or (ii), and shall be subject to a fine of not more than $100 for each offense for a violation of clause (iii).

"(D) If the owner of a vessel has obtained and maintains a current and valid authorization from the Secretary under this section and meets the requirements set forth in this section, including compliance with any regulations to implement an incidental take reduction plan under this section, the owner of such vessel, and the master and crew members of the vessel, shall not be subject to the penalties set forth in this title for the incidental taking of marine mammals while such vessel is engaged in a fishery to which the authorization applies.

"(E) Each owner of a vessel engaged in any fishery not listed under paragraph (1)(A) (i) or (ii), and the master and crew members of such a vessel, shall not be subject to the penalties set forth in this title for the incidental taking of marine mammals if such owner reports to the Secretary, in the form and manner required under subsection (g), instances of incidental mortality or injury of marine mammals in the course of that fishery.

"(4) The Secretary shall suspend or revoke an authorization granted under this section and shall not issue a decal or other physical evidence of the authorization for any vessel until the owner of such vessel complies with the reporting requirements under subsection (g) and such requirements to take on board an observer under paragraph (3)(B) as are applicable to such vessel. Previous failure to comply with the requirements of section 114 shall not bar the grant of an authorization under this section for an owner who complies with the requirements of this section. The Secretary may suspend or revoke an authorization granted under this subsection, and may not issue a decal or other physical evidence of the authorization for any vessel which fails to comply with regulations implementing an incidental take reduction plan or emergency regulations issued under this section.

"(5)(A) The Secretary shall develop, in consultation with the appropriate States, affected Councils, and other interested persons, the means by which the granting and administration of authorizations under this section shall be integrated and coordinated, to the maximum extent practicable, with existing fishery licenses, registrations, and related programs.

"(B) The Secretary shall utilize newspapers of general circulation, fishery trade associations, electronic media, and other means of advising commercial fishermen of

the provisions of this section and the means by which they can comply with its requirements.

"(C) The Secretary is authorized to charge a fee for the granting of an authorization under this section. The level of fees charged under this subparagraph shall not exceed the administrative costs incurred in granting an authorization. Fees collected under this subparagraph shall be available to the Under Secretary of Commerce for Oceans and Atmosphere for expenses incurred in the granting and administration of authorizations under this section.

"(g) REPORTING REQUIREMENT.—The owner or operator of a commercial fishing vessel subject to this Act shall report all incidental mortality and injury of marine mammals in the course of commercial fishing operations to the Secretary by mail or other means acceptable to the Secretary within 48 hours after the end of each fishing trip on a standard postage-paid form to be developed by the Secretary under this section. Such form shall be capable of being readily entered into and usable by an automated or computerized data processing system and shall require the vessel owner or operator to provide the following:

"(1) The vessel name, and Federal, State, or tribal registration numbers of the registered vessel.

"(2) The name and address of the vessel owner or operator.

"(3) The name and description of the fishery.

"(4) the species of each marine mammal incidentally killed or injured, and the date, time, and approximate geographic location of such occurrence.

"(h) PENALTIES.—Except as provided in subsection (f), any person who violates this section shall be subject to the provisions of sections 105 and 107, and may be subject to section 106 as the Secretary establishes by regulations.

"(i) VOLUNTARY MEASURES.—Noting in this section shall be construed to limit the Secretary's authority to permit voluntary measures to be utilized in reducing the incidental taking of marine mammals in commercial fisheries.

"(j) CONSULTATION WITH SECRETARY OF THE INTERIOR.—The Secretary shall consult with the Secretary of the Interior on measures promulgated under this section with affect species or stocks under such Secretary's jurisdiction.".

SEC. 9. PENALTIES; PROHIBITIONS.

(a) CIVIL PENALTIES.—Section 105(a)(1) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1375(a)(1)) is amended by inserting ", except as provided in section 118," immediately after "thereunder" and by inserting ", harassment," immediately after "taking".

(b) CRIMINAL PENALTIES.—Section 105(b) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1375(b)) is amended by inserting "(except as provided in section 118)" immediately after "thereunder".

(c) PROHIBITIONS.—Section 102(a) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1372(a)) is amended by striking "and 114 of this title or title III" and inserting in lieu thereof "114, and 118 of this title and title IV".

SEC. 10. AUTHORIZATION TO DETER MARINE MAMMALS NONLETHALLY.

Section 101 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371) is amended by adding at the end the following new subsection:

"(d)(1) Except as provided in paragraph (2), the provisions of this Act shall not apply to the use of measures—

"(A) by the owner of fishing gear or catch, or an employee or agent of such owner, to deter a marine mammal from damaging the gear or catch;

"(B) by the owner of other private property, or an agent, bailee, or employee of such owner, to deter a marine mammal from damaging private property;

"(C) by any person, to deter a marine mammal from endangering personal safety; or

"(D) by a government employee, to deter a marine mammal from damaging public property,

so long as such measures do not result in the death or serious injury of the marine mammal.

"(2) The Secretary shall, through consultation with appropriate experts, and after notice and opportunity for public comment, publish in the Federal Register a list of guidelines for use in safely deterring marine mammals. In the case of marine mammals designated as threatened or endangered under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), the Secretary shall recommend specific measures which may be used to nonlethally deter such marine mammals. Actions to deter marine mammals consistent with such guidelines or specific measures shall not be a violation of this Act.

"(3) If the Secretary determines, using the best scientific information available, that certain forms of deterrence have a significant adverse effect on marine mammals, the Secretary may prohibit such deterrent methods, after notice and opportunity for public comment, through regulation under this Act.

"(4) The authority to deter marine mammals pursuant to paragraph (1) applies to all marine mammals, including all stocks designated as depleted under this Act.".

SEC. 11. INDIAN TREATY RIGHTS; ALASKA NATIVE SUBSISTENCE.

Nothing in this Act, including any amendments to the Marine Mammal Protection Act of 1972 made by this Act—

(1) alters or is intended to alter any treaty between the United States and one or more Indian tribes; or

(2) affects or otherwise modifies the provisions of section 101(b) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(b)), except as specifically provided in the amendment made by section 4(h) of this Act.

SEC. 12. TRANSITION RULE; IMPLEMENTING REGULATIONS.

(a) TRANSITION RULE.—Section 114(a)(1) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1383a(a)(1)) is amended by striking "ending April 1, 1994," and inserting in lieu thereof "until superseded by regulations prescribed under section 118, or until December 31, 1996, whichever is earlier,".

(b) IMPLEMENTING REGULATIONS.—Except as provided otherwise in this Act, or the amendments to the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) made by this Act, the Secretary of Commerce or the Secretary of the Interior, as appropriate, shall, after notice and opportunity for public comment, promulgate regulations to implement this Act and the amendments made by this Act within 270 days after the date of enactment of this Act.

SEC. 13. TECHNICAL AND CONFORMING AMENDMENTS.

(a) DEFINITIONS.—Section 3 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362) is amended)—

(1) by striking paragraph (17);

(2) by redesignating the second paragraph (15) and paragraph (16) as paragraphs (16) and (17), respectively; and

(3) in paragraph (12)(B), by striking "in title III" and inserting in lieu thereof "In section 118 and in title IV".

(b) MARINE MAMMAL HEALTH AND STRANDING RESPONSE.—The Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) is amended—

(1) by redesignating title III, as added by Public Law 102-587 (106 Stat. 5060), as title IV; and

(2) by redesignating the sections of that title (16 U.S.C. 1421 through 1421h) as sections 401 through 409, respectively.

(c) UNUSUAL MORTALITY EVENT FUND.—Section 405(a) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1421d(a)), as so redesignated by subsection (b)(2) of this section, in amended by striking "a fund" and inserting in the lieu thereof "an interest bearing fund".

SEC. 14. DEFINITIONS.

Section 3 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362), as amended by this Act, is further amended—

(1) in paragraph (12), as redesignated by section 15 of this Act, by striking "harass," each place it appears; and

(2) by adding at the end of the following new paragraphs:

"(18) The term 'calculated removal level' for a marine mammal stock is the product of the following factors:

"(A) the minimum population estimate of the stock;

"(B) one-half the maximum theoretical or estimated net productivity rate for the stock at a small population size; and

"(C) if the stock is specified under section 117(a)(7), listed as endangered or threatened under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), or designated as depleted under this Act, a recovery factor that is no greater than 1.0 to ensure that the stock will recover to its optimum sustainable population.

The recovery factor under subparagraph (C) shall not be less than 0.1 for an endangered stock, shall not be less than 0.3 for a threatened or depleted stock, and shall not be less than 0.5 for any other stock.

"(19) The term 'Council' means any Regional Fishery Management Council established under section 302 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852).

"(20) The term 'harassment' means any act of approach, pursuit, torment, or annoyance which—

"(A) has the potential to harm a marine mammal in the wild; or

"(B) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including but not limited to migration, respiration, nursing, breeding, feeding, and sheltering.

"(21) The term 'incidental take reduction plan' means a plan developed under section 118.

"(22) The term 'incidental take reduction team' means a team established under section 118.

"(23) The term 'net productivity rate' means the annual per capita rate of increase in a stock resulting from additions due to reproduction, less losses due to mortality.

"(24) The term 'minimum population estimate' means an estimate of the number of animals in a stock that—

"(A) is based on the best available scientific information on abundance, incorporating the precision and variability associated with such information; and

"(B) provides reasonable assurance that the stock size is equal to or greater than the estimate.".

SEC. 15. HUMAN ACTIVITIES WITHIN PROXIMITY OF WHALES.

(a) LAWFUL APPROACHES.—In waters of the United States surrounding the State of Hawaii, it is lawful for a person subject to the jurisdiction of the United States to approach, by any means other than an aircraft, no closer than 100 yards to a humpback whale or any other whale, regardless of whether the approach is made in waters designated under section 222.31 of title 50, Code of Federal Regulations, as cow/calf waters.

(b) TERMINATION OF LEGAL EFFECT OF CERTAIN REGULATIONS.—Subsection (b) of section 222.31 of title 50, Code of Federal Regulations, shall cease to be in force and effect.

SEC. 16. PINNIPED-FISHERY INTERACTION TASK FORCE.

Title I of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371 et seq.), as amended by this Act, is further amended by adding at the end the following new section:

"SEC. 119. PINNIPED-FISHERY INTERACTION TASK FORCE.

"(a) PINNIPED REMOVAL AUTHORITY.—Notwithstanding any other provision of this title, the Secretary may permit the lethal removal of pinnipeds in accordance with this section.

"(b) APPLICATION.—Any person may apply to the Secretary to authorize the lethal removal of pinnipeds identified as habitually exhibiting dangerous or damaging behavior that cannot otherwise be deterred. Any such application shall include a means of identifying the individual pinniped or pinnipeds, and shall include a detailed description of the problem interaction and expected benefits of the removal.

"(c) ACTIONS IN RESPONSE TO APPLICATION.—(1) Within 15 days of receiving an application, the Secretary shall determine whether the application has produced sufficient evidence to warrant establishing a Pinniped-Fishery Interaction Task Force to address the situation described in the application. If the Secretary determines that such sufficient evidence has been provided, the Secretary shall establish a Pinniped-Fishery Interaction Task Force and publish a notice in the Federal Register requesting public comment on the application.

"(2) A Pinniped-Federal Interaction Task Force established under paragraph (1) shall consist of designated employees of the Department of Commerce, scientists who are knowledgeable about the pinniped interaction that the application addresses, representatives of affected conservation and fishing community organizations, Indian Treaty tribes, the States, and such other organizations as the Secretary deems appropriate.

"(3) Within 60 days after establishment, and after reviewing public comments in response to the Federal Register notice, the Pinniped-Fishery Interaction Task Force shall—

"(A) recommend to the Secretary whether to approve or deny the proposed lethal removal of the pinniped or pinnipeds, including along with the recommendation a description of the specific pinniped individual or individuals, the proposed location, time, and method of removal, criteria for evaluating the success of the action, and the duration of the authority; and

"(B) suggest nonlethal alternatives, if available and practicable, including a recommended course of action.

"(4) Within 30 days after receipt of recommendations from the Pinniped-Fishery Interaction Task Force, the Secretary shall either approve or deny the application. If such application is approved, the Secretary shall immediately take steps to implement the lethal removal, which shall be performed by Federal or State agencies, or qualified individuals under contract to such agencies.

"(5) After implementation of an approved application, the Pinniped-Fishery Interaction Task Force shall evaluate the effectiveness of the permitted lethal removal or alternative actions implemented. If implementation was ineffective in eliminating the problem interaction, the Task Force shall recommend additional actions. If the implementation was effective, the Task Force shall so advise the Secretary, and the Secretary shall disband the Task Force.

"(d) CONSIDERATIONS.—In considering whether an application should be approved or denied, the Task Force and the Secretary shall consider—

"(1) population trends, feeding habits, the location of the pinniped interaction, how and when the interaction occurs, and how many individuals pinnipeds are involved;

"(2) past efforts to nonlethally deter such pinnipeds, and whether the applicant has demonstrated that no feasible and prudent alternatives exist and that the applicant has taken all reasonable nonlethal steps without success;

"(3) the extent to which such pinnipeds are causing undue harm, impact, or imbalance with other species in the ecosystem, including fish populations; and

"(4) the extent to which such pinnipeds are exhibiting behavior that presents an ongoing threat to public safety.

"(e) LIMITATION.—The Secretary shall not approve lethal removal for any pinniped from a species or stock that is—

"(1) listed as threatened or endangered under the Endangered Species Act of 1973;

"(2) designated as depleted under this Act; or

"(3) specified under section 117(a)(7) of this Act.

"(f) REGIONWIDE PINNIPED-FISHERY INTERACTION STUDY.—(1)(A) The Secretary shall conduct a study, of not less than three high predation areas in anadromous fish migration corridors within the Northwest Region of the National Marine Fisheries Service, on the interaction between fish and pinnipeds. In carrying out the study, the Secretary shall consult with other State and Federal agencies with expertise in pinniped-fishery interaction. The study shall evaluate—

"(i) fish behavior in the presence of predators generally;

"(ii) holding times and passage rates of anadromous fish stocks in areas where such aradromous fish are vulnerable to predation;

"(iii) whether additional facilities exist, or could be reasonably developed, that could improve escapement for anadromous fish; and

"(iv) other issues the Secretary considers relevant.

"(B) Subject to the availability of appropriations, the Secretary shall, not later than 18 months after the date of enactment of this section, transmit a report on the results of the study required by this paragraph to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives.

"(C) There are authorized to be appropriated to the Secretary $700,000 for the purpose of carrying out the study required by this paragraph.

"(2) The study conducted under this subsection shall not be considered relevant in any determination under subsection (c), nor reviewed by any Task Force in connection with considerations under subsection (d), until such study is completed, and may not be used by the Secretary as a reason for delaying or deferring a determination under subsection (c).".

SEC. 17. MARINE MAMMAL COOPERATIVE AGREEMENTS IN ALASKA.

Title I of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371 et seq.), as amended by this Act, is further amended by adding at the end the following new section:

"SEC. 120. MARINE MAMMAL COOPERATIVE AGREEMENTS IN ALASKA.

"(a) IN GENERAL.—The Secretary may enter into cooperative agreements with Alaska Native organizations to conserve marine mammals and provide co-management of subsistence use by Alaska Natives.

"(b) GRANTS.—Agreements entered into under this section may include grants to Alaska Native organizations for, among other purposes—

"(1) collecting and analyzing data on marine mammal populations;

"(2) monitoring the harvest of marine mammals for subsistence use;

"(3) participating in marine mammal research conducted by the Federal Government, States, academic institutions, and private organizations; and

"(4) developing marine mammal co-management structures with Federal and State agencies.

"(c) EFFECT OF JURISDICTION.—Nothing in this section is intended or shall be construed—

"(1) as authorizing any expansion or change in the respective jurisdiction of Federal, State, or tribal governments over fish and wildlife resources; or

"(2) as altering in any respect the existing political or legal status of Alaska Natives, or the governmental or jurisdictional status of Alaska Native communities or Alaska Native entities.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the purposes of carrying out this section—

"(1) $1,500,000 to the Secretary of Commerce for each of the fiscal years 1994, 1995, 1996, 1997, 1998, and 1999; and

"(2) $1,000,000 to the Secretary of Interior for each of the fiscal years 1994, 1995, 1996, 1997, 1998, and 1999.

The amounts authorized to be appropriated under this subsection are in addition to the amounts authorized to be appropriated under section 7 of the Act entitled 'An Act to improve the operation of the Marine Mammal Protection Act of 1972, and for other purposes', approved October 9, 1981 (16 U.S.C. 1384).".

SEC. 18. BERING SEA MARINE ECOSYSTEM PROTECTION.

Section 110 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1380) is amended by striking subsection (c) and inserting in lieu thereof the following:

"(c)(1) The Secretary of Commerce, in consultation with the Secretary of the Interior, the Marine Mammal Commission, the State of Alaska, Alaska Native organizations, and fishery and environmental groups, shall, not later than 180 days after the date of enactment of the Marine Mammal Protection Act Amendments of 1994, undertake a scientific research program to monitor the health and stability of the Bering Sea marine ecosystem and to resolve uncertainties concerning the causes of population declines of marine mammals, sea birds, and other living resources of that marine ecosystem. The program shall address the research rec-

ommendations developed by previous workshops on Bering Sea living marine resources, and shall include research on subsistence uses of such resources and ways to provide for the continued opportunity for such uses.

"(2) To the maximum extent practicable, the research program undertaken pursuant to paragraph (1) shall be conducted in Alaska. The Secretary shall utilize, where appropriate, traditional local knowledge and may contract with a qualified Alaska Native organization to conduct such research.

"(3) The Secretary of Commerce, the Secretary of the Interior, and the Commission shall address the status and findings of the research program in their annual reports to Congress required by sections 103(f) and 204.".

SEC. 19. INTERJURISDICTIONAL FISHERIES ACT OF 1986.

Section 308(b) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(b)) is amended by striking "$2,500,000 for each of the fiscal years 1989, 1990, 1991, 1992, 1993, 1994, and 1995" and inserting in lieu thereof "$65,000,000 for each of the fiscal years 1994 and 1995".

SEC. 20. COASTAL ECOSYSTEM HEALTH.

(a) REQUIREMENT TO CONVEY.—Not later than September 30, 1994, the Secretary of the Navy shall convey, without payment or other consideration, to the Secretary of Commerce, all right, title, and interest to the property comprising that portion of the Naval Base, Charleston, South Carolina, bounded by Hobson Avenue, the Cooper River, the landward extension of the northwest side of Pier R, and the fenceline between the buildings known as RTC–1 and 200. Such property shall include Pier R, the buildings known as RTC–1 and RTC–4, and all walkways and parking areas associated with such buildings and Pier R.

(b) SURVEY; EFFECT ON LIABILITY OF SECRETARY OF THE NAVY.—The acreage and legal description of the property to be conveyed pursuant to this section shall be determined by a survey approved by the Secretary of the Navy. Such conveyance shall not release the Secretary of the Navy from any liability arising prior to, during, or after such conveyance as a result of the ownership or occupation of the property by the United States Navy.

(c) USE BY NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.—The property conveyed pursuant to this section shall be used by the Secretary of Commerce in support of the operations of the National Oceanic and Atmospheric Administration.

(d) REVERSION RIGHTS.—Conveyance of the property pursuant to this section shall be subject to the condition that all right, title, and interest in and to the property so conveyed shall immediately be conveyed to the public entity vested with ownership of the remainder of the Charleston Naval Base, if and when—

(1) continued ownership and occupation of the property by the National Oceanic and Atmospheric Administration no longer is compatible with the comprehensive plan for reuse of the Charleston Naval Base developed by the community reuse committee and approved by the Secretary of the Navy; and

(2) such public entity provides for relocation of the programs and personnel of the National Oceanic and Atmospheric Administration occupying such property, at no further cost to the United States Government, to a comparable facility, including adjacent waterfront and pier, within the Charleston area.

EXON (AND OTHERS) AMENDMENT NO. 1551

Mr. JOHNSTON (for Mr. EXON for himself, Mr. DANFORTH, Mr. GRAHAM, Mr. INOUYE, Mr. MACK, Mrs. HUTCHISON, Mr. PACKWOOD, Mr. PRESSLER, Mr. COCHRAN, Mr. LOTT, Mr. GORTON, Mr. KERREY, Mr. DASCHLE, Mr. DECONCINI, Mr. SIMON, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, and Mr. D'AMATO) proposed an amendment to Amendment No. 1550 proposed by Mr. KERRY to the bill S. 1636, supra; as follows:

Strike all on page 13, line 15, through page 15, line 19, and insert the following:

SEC. 5. PERMITS.

(a) PROHIBITIONS.—Section 102(a) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1372(a)) is amended—

(1) in paragraph (2)(B), by striking "for any purpose in any way connected with the taking or importation of" and inserting in lieu thereof "to take or import"; and

(2) by amending paragraph (4) to read as follows:

"(4) for any person to transport, purchase, sell, export, or offer to purchase, sell, or export any marine mammal or marine mammal product—

"(A) that is taken in violation of this Act; or

"(B) for any purpose other than public display, scientific research, or enhancing the survival of a species or stock as provided for under section 104(c); and".

(b) PERMITS.—(1) Section 104(a) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1374(a)) is amended—

(A) by inserting ", harassment," immediately after "taking"; and

(B) by inserting "except for the incidental taking of marine mammals during the course of commercial fishing operations" immediately before the period at the end.

(2) Section 104(c)(1) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1374(c)(1) is amended by striking "and after" in the first sentence.

(3) Paragraph (2) of section 104(c) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1374(c)) is amended to read as follows:

"(2)(A) A permit may be issued to take or import a marine mammal for the purpose of public display only to a person which the Secretary determines—

"(i) offers a program for education or conservation purposes that is based on professionally recognized standards of the public display community;

"(ii) is registered or holds a license issued under the Animal Welfare Act (7 U.S.C. 2131 et seq.); and

"(iii) maintains facilities for the public display of marine mammals that are open to the public on a regularly scheduled basis and that access to such facilities is not limited or restricted other than by charging of an admission fee.

"(B) A permit under this paragraph shall grant to the person to which it is issued the right, without obtaining any additional permit or authorization under this Act, to—

"(i) take, import, purchase, offer to purchase, possess, or transport the marine mammal that is the subject of the permit; and

"(ii) sell, export, or otherwise transfer possession of the marine mammal, or offer to sell, export, or otherwise transfer possession of the marine mammal—

"(I) for the purpose of public display, to a person that meets the requirements of clauses (i), (ii), and (iii) of subparagraph (A);

"(II) for the purpose of scientific research, to a person that meets the requirements of paragraph (3); or

"(III) for the purpose of enhancing the survival or recovery of a species or stock, to a person that meets the requirements of paragraph (4).

"(C) A person to which a marine mammal is sold or exported or to which possession of a marine mammal is otherwise transferred under the authority of subparagraph (B) shall have the rights and responsibilities described in subparagraph (B) with respect to the marine mammal without obtaining any additional permit or authorization under this Act. Such responsibilities shall—

"(i) for the purpose of public display, be limited to the responsibility to meet the requirements of clauses (i), (ii), and (iii) of subparagraph (A);

"(ii) for the purpose of scientific research, be limited to the responsibility to meet the requirements of paragraph (3); and

"(iii) for the purpose of enhancing the survival or recovery of a species or stock, be limited to the responsibility to meet the requirements of paragraph (4).

"(D) If the Secretary—

"(i) finds, in concurrence with the Secretary of Agriculture, that a person that holds a permit under this paragraph for a marine mammal, or a person exercising rights under subparagraph (C), no longer meets the requirements of subparagraph (A)(ii) and is not reasonably likely to meet those requirements in the near future, or

"(ii) finds that a person that holds a permit under this paragraph for a marine mammal, or a person exercising rights under subparagraph (C), no longer meets the requirements of subparagraph (A) (i) or (iii) and is not reasonably likely to meet those requirements in the near future,

the Secretary may revoke the permit in accordance with section 104(e), seize the marine mammal, or cooperate with other persons authorized to hold marine mammals under this Act for disposition of the marine mammal. The Secretary may recover from the person expenses incurred by the Secretary for that seizure.

"(E) No marine mammal held pursuant to a permit issued under subparagraph (A) may be sold, purchased, exported, or transported unless the Secretary is notified of such action no later than 15 days before such action, and such action is for purposes of public display, scientific research, or enhancing the survival or recovery of a species or stock. The Secretary may only require the notification to include the information required for the inventory established under paragraph (10).".

(4) Paragraph (3) of section 104(c) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1374(c)) is amended to read as follows:

"(3)(A) A permit may be issued, for scientific research purposes that are likely to result in the taking or harassment of a marine mammal, to an applicant who submits information with the permit application indicating that the taking or harassment is required to further a bona fide scientific purpose. The Secretary is authorized to issue permits under this paragraph prior to the end of the mandatory public review and comment period if delaying the issuance of such permit could result in harm to a species, stock, or individual marine mammal, or result in loss of unique research opportunities.

"(B) No permit issued for purposes of scientific research under subparagraph (A) shall authorize the lethal taking of a marine mammal unless the applicant submits docu-

mentation to the Secretary that a nonlethal method of conducting the research is not feasible. The Secretary shall not issue a permit for research which involves the lethal taking of a marine mammal from a species or stock designated as depleted, unless the Secretary determines that the results of such research will directly benefit that species or stock, or that such research fulfills a critically important research need.

"(C) Not later than 60 days after the date of enactment of the Marine Mammal Protection Act Amendments of 1994, the Secretary shall grant a general authorization and shall issue implementing regulations allowing bona fide scientific research that is not likely to result in the taking or harassment of a marine mammal. Such authorization shall apply to persons who submit, at least 60 days prior to commencement of the research, a letter of intent to the Secretary specifying—

"(i) the species or stock of marine mammal on which the research will be conducted;

"(ii) the geographic location of the research;

"(iii) the period of time over which the research will be conducted;

"(iv) the purpose of the research, including a description of how the definition of bona fide research as established by the Secretary under this Act would apply; and

"(v) the methods used to conduct the research.

Not later than 30 days after receipt of a letter of intent to conduct scientific research under the general authorization, the Secretary may notify the applicant that the proposed research is likely to result in the taking or harassment of a marine mammal, and that the provisions of subparagraph (A) apply. If no such notification is received, the proposed research shall be covered under the general authorization.".

(5) Section 104(c) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1374(c)) is amended by adding at the end the following new paragraphs:

"(7) Upon request by a person for a permit under paragraph (2), (3), or (4) for a marine mammal which is in the possession of any person authorized to possess it under this Act and which is determined under guidance under section 402(a) not to be releasable to the wild, the Secretary shall issue the permit to the person requesting the permit if that person—

"(A) meets the requirements of clauses (i), (ii), and (iii) of paragraph (2)(A), in the case of a request for a permit under paragraph (2);

"(B) meets the requirements of paragraph (3), in the case of a request for a permit under that paragraph; or

"(C) meets the requirements of paragraph (4), in the case of a request for a permit under that paragraph.

"(8)(A) No additional permit or authorization shall be required to possess, sell, purchase, transport, export, or offer to sell or purchase the progeny of marine mammals taken or imported under this subsection, if such possession, sale, purchase, transport, export, or offer to sell or purchase is—

"(i) for the purpose of public display, and by or to, respectively, a person which meets the requirements of clauses (i), (ii), and (iii) of paragraph (2)(A);

"(ii) for the purpose of scientific research, and by or to, respectively, a person which meets the requirements of paragraph (3); or

"(iii) for the purpose of enhancing the survival or recovery of a species or stock, and by or to, respectively, a person which meets the requirements of paragraph (4).

"(B)(i) A person which has possession of a marine mammal pursuant to a permit under paragraph (2), or a person exercising rights under paragraph (2)(C), that gives birth to progeny shall—

"(I) notify the Secretary of the birth of such progeny within 30 days after the date of birth; and

"(II) notify the Secretary of the sale, purchase, or transport of such progeny no later than 15 days before such action.

"(ii) The Secretary may only require notification under clause (i) to include the information required for the inventory established under paragraph (10).

"(C) Any progeny of a marine mammal born in captivity before the date of enactment of the Marine Mammal Protection Act Amendments of 1994 and held in captivity for the purpose of public display shall be treated as though born after that date of enactment.

"(9) No marine mammal may be exported for the purpose of public display, scientific research, or enhancing the survival or recovery of a species or stock unless the receiving facility meets standards that are comparable to the requirements that a person must meet to receive a permit under this subsection for that purpose.

"(10) The Secretary shall establish and maintain an inventory of all marine mammals possessed pursuant to permits issued under paragraph (2) and all progeny of such marine mammals. The inventory shall contain, for each marine mammal, only the following information, which shall be provided by a person holding a marine mammal under this Act:

"(A) The name of the marine mammal or other identification.

"(B) The sex of the marine mammal.

"(C) The estimated or actual birth date of the marine mammal.

"(D) The date of acquisition or disposition of the marine mammal by the permit holder.

"(E) The source from whom the marine mammal was acquired, including the location of the take from the wild, if applicable.

"(F) If the marine mammal is transferred, the name of the recipient.

"(G) A notation if the animal was acquired as the result of a stranding.

"(H) The date of death of the marine mammal and the cause of death when determined.".

(c) EXISTING PERMITS.—Any permit issued under section 104(c)(2) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1374(c)(2)) before the date of the enactment of this Act is hereby modified to be consistent with that section, as amended by this Act.

NATIONAL PARK SERVICE CONCESSIONS POLICY REFORM ACT OF 1994

WALLOP AMENDMENT NO. 1552

Mr. WALLOP proposed an amendment to the bill (S. 208) to reform the concessions policies of the National Park Service, and for other purposes; as follows:

On Page 32, on lines 14 through 21, strike paragraph 3 in its entirety and insert in lieu thereof the following:

"(3)(A) Except as provided in subparagraph (B), with respect to a concessions contract entered into on or after the date of enactment of this Act, the provisions of subsection (b) shall apply to any existing structure, fixture, or improvement as defined in paragraph (a)(1), except that the value of the possessory interest as of the termination date of the first contract expiring after the date of enactment of this Act shall be used as the basis for depreciation, in lieu of the actual original cost of such structure, fixture, or improvement.

"(B) If the Secretary determines during the competitive selection process that all proposals submitted either fail to meet the minimum requirements or are rejected (as provided in section 6), the Secretary may, solely with respect to a structure, fixture, or improvement covered under this paragraph, suspend the depreciation provisions of subsection (b)(1) for the duration of the contract: *Provided*, That the Secretary may suspend such depreciation provisions only if the Secretary determines that the establishment of other new minimum contract requirements is not likely to result in the submission of satisfactory proposals, and that the suspension of the depreciation provisions is likely to result in the submission of satisfactory proposals.

WALLOP AMENDMENT NO. 1553

Mr. WALLOP proposed an amendment to the bill S. 208, supra; as follows:

At the appropriate place insert the following new section:

SEC. . Beginning on June 1, 1997 and bi-annually thereafter the Inspector General of the Department of the Interior shall submit a report to the Committee on Energy and Natural Resources of the United States Senate and the appropriate Committees of the House of Representatives on the implementation of this Act and the effect of such implementation on facilities operated pursuant to concession contracts and on visitor services. Each report shall

(a) identify any concession contracts which have been renewed, renegotiated, terminated, or transferred during the year prior to the submission of the report and identify any significant changes in the terms of the new contract;

(b) state the amount of franchise fees the rates which would be charged for services, and the level other of services required to be provided by the concessioner in comparison to that required in the previous contract,

(c) assess the degree to which concession facilities are being maintained using the condition of such facilities on the date of enactment of this Act as a baseline;

(d) determine whether competition has been increased or decreased with respect to the awarding of each contract;

(e) set forth the amount of revenues received and financial obligations incurred or reduced by the Federal Government as a result of the comparison of the Act for the reporting period and in comparison with previous reporting periods and the baseline year of 1993, including the costs, if any, associated with the acquisition of possessory interests.

MCCAIN AMENDMENT NO. 1554

Mr. WALLOP (for Mr. MCCAIN) proposed an amendment to the bill S. 208, supra; as follows:

On page 34, lines 24 and 25, between "Federal State and Local regulatory agencies", and "If the Secretary's performance", insert the following, ", and shall seek and consider the applicable views of park visitors and concession customers."

MCCAIN AMENDMENT NO. 1555

Mr. WALLOP (for Mr. MCCAIN) proposed an amendment to the bill S. 208 to reform the concessions policies of the National Park Service, and for other purposes; as follows:

On page 21, line 25, after "to the public at a park", insert the following, "except that the Secretary shall take all reasonable and appropriate steps to consider competing alternatives for such contract.".

COHEN AMENDMENT NO. 1556

Mr. WALLOP (for Mr. COHEN) proposed an amendment to the bill S. 208 to reform the concessions policies of the National Park Service, and for other purposes; as follows:

On page 35, line 21, through page 36, line 5, strike section 14 in its entirety and insert in lieu thereof the following:

SEC. 14. RECORDKEEPING REQUIREMENTS.

(a) IN GENERAL.—Each concessioner shall keep such records as the Secretary may prescribe to enable the Secretary to determine that all terms of the concessioner's contract have been, and are being faithfully performed, and the Secretary or any of the Secretary's duly authorized representatives shall, for the purpose of audit and examination, have access to such records and to other books, documents and papers of the concessioner pertinent to the contract and all the terms and conditions thereof as the Secretary deems necessary.

(b) GENERAL ACCOUNTING OFFICE REVIEW.—The Comptroller General of the United States or any of his or her duly authorized representatives shall, until the expiration of five calendar years after the close of the business year for each concessioner, have access to and the right to examine any pertinent books, documents, papers, and records of the concessioner related to the contracts or contracts involved.

NOTICE OF JOINT HEARING

COMMITTEE ON INDIAN AFFAIRS AND COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. INOUYE. Mr. President, I would like to announce that the Senate Committee on Indian Affairs and the Senate Committee on Labor and Human Resources will be holding a joint hearing on Friday, March 25, 1994, beginning at 10 a.m., in 485 Russell Senate Office Building on the Headstart Programs serving native Americans.

Those wishing additional information should contact the Committee on Indian Affairs at 224-2251.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON ANTITRUST, MONOPOLIES, AND BUSINESS RIGHTS

Mr. BUMPERS. Mr. President, I ask unanimous consent that the Antitrust, Monopolies, and Business Rights Subcommittee of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Monday, March 21, 1994, at 10:30 a.m. in St. Petersburg, FL, to hold a field hearing on "baseball and antitrust."

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

ORDERS FOR TOMORROW

Mr. BUMPERS. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m., Tuesday, March 22; that following the Prayer, the Journal of proceedings be approved to date and the time for the two leaders reserved for their use later in the day; that there then be a period for morning business, not to extend beyond 10 a.m., with Senators permitted to speak therein for up to 5 minutes each, with the following Senators recognized to speak for the time limits specified and in the order listed, if present: Senator WOFFORD for up to 20 minutes, Senator BRADLEY for up to 15 minutes, and Senator HATCH for up to 15 minutes; that at 10 a.m., the Senate proceed to the consideration of Calendar No. 390, Senate Concurrent Resolution 63, the concurrent budget resolution, with the statutory time limit for consideration of the concurrent resolution reduced to 30 hours; that on Tuesday, March 22, the Senate stand in recess from 12:30 p.m., to 2:30 p.m., in order to accommodate the respective party conferences, with the time of the recess period for the conferences being charged against the statutory time limit for consideration of the concurrent budget resolution.

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

RECESS UNTIL 9 A.M., TUESDAY, MARCH 22, 1994

Mr. BUMPERS. 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 the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 1:53 p.m., recessed until Tuesday, March 22, 1994, at 9 a.m.

HOUSE OF REPRESENTATIVES—*Monday, March 21, 1994*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We pray this day that we will learn to experience the power of the spirit in our relations with each other. Teach us, O God, to turn away from any act or thought that hinders our respect one for another, and bring us to realize the spiritual energy of faith and hope and love. May we not see each other only in terms of power or influence, but also as brothers and sisters bound together in the walk through life. May we understand more clearly the gifts of kindness and devotion, of affection and appreciation, of admiration and esteem, of shared loyalties and commitment so that we portray the wonders and miracle of Your creation and the power of Your love. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The Chair will ask the gentleman from Alabama [Mr. EVERETT] if he would kindly come forward and lead the membership in the Pledge of Allegiance.

Mr. EVERETT led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 2139. An act to amend title 44, United States Code, to authorize appropriations for the National Historical Publications and Records Commission.

The message also announced that the Senate agrees to the amendments of the House to the joint resolution (S.J. Res. 56) "Joint resolution to designate the week beginning April 12, as National Public Safety Telecommunications Week."

The message also announced that the Senate had passed a bill and a joint resolution of the following titles, in which the concurrence of the House is requested:

S. 1636. An act to authorize appropriations for the Marine Mammal Protection Act of 1972 and to improve the program to reduce the incidental taking of marine mammals during the course of commercial fishing operations, and for other purposes.

S.J. Res. 171. Joint resolution to designate March 20 through March 26, 1994, as "Small Family Farm Week."

IT IS TIME TO CHANGE THE TAX CODE

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, several years ago a man by the name of Alex Council of North Carolina, confronted by an IRS problem that exhausted all of his savings and money, committed suicide. He left this suicide note for his wife, Kay:

Kay, I have taken my life in order to provide money for you and our family to fight the IRS that is out of control and has taken liens against our property illegally. I have made the only decision I can, Kay; the only decision I can, Congress, to commit suicide.

Shame, Congress, for allowing the tax law that most attorneys cannot read and understand, a tax law that most accountants cannot even agree upon, a tax law that treats taxpayers and makes them guilty and must prove themselves innocent. This is unbelievable.

Jeffrey Dahmer was innocent until proven guilty, but a taxpayer is guilty and must prove themselves innocent.

I think it is time to change that Tax Code and to, in fact, treat a taxpayer and let that taxpayer be innocent and let the IRS prove their case.

IT SOUNDS LIKE SOCIALISM

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, every day Americans learn more unintended negative consequences of the Clinton health plan. A current Lewin-VHI study on the President's health reform plan found it will kill at least 155,000 private-sector jobs with an estimated 88 percent of the cost of its heavy-handed employer mandate punishing workers through reduced wages.

We also learn from a multinational business services report that implementing Clinton's health plan will require 98,164 new Government employees to manage the 2,900 pages of new Government redtape.

The rest of the world is moving at lightning speed away from centralized economies and toward free markets. We now have more Government employees involved in redistributing wealth in our country than we have private-sector employees producing wealth. Still, President Clinton wants to substitute Government bureaucrats for private-sector workers. It has been done before. It is called socialism. It does not work.

MEMBERS MUST CLOSELY EXAMINE H.R. 6

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS of Wyoming. Mr. Speaker, the House is scheduled to continue the consideration of H.R. 6, a bill that was originally designed to reauthorize the elementary and secondary education programs. Since then, however, it has changed substantially with additional Federal mandates placed in it.

I am very skeptical of this bill, Mr. Speaker, because it mostly ignores the primary role of local teachers, administrators, school boards, and States in educational quality. This is one of those defining issues in which we determine whether you want more Federal bureaucracy in the operation of local programs or whether, in fact, you believe that local people have a better feel for what they want to do with their kids and their schools.

I am a strong believer in local control of education. It is the core of what is right with the system.

H.R. 6 flies in the face of that tradition: the opportunity-to-learn standards, which address conditions in schools, not results, which dictate what kinds of things you ought to do, not saying do it to come out with the results that are best for your region and your area; corrective-action provisions that will target local school district governments; over $1 billion in narrow, categorical programs and grants; numerous mandates for schools.

When you add it all up, you get one answer: too much Federal control. Once again, the Feds want 60 percent of control for 6 percent of the bucks. That is not a good deal for education in this country and our schools.

I urge my colleagues to closely examine H.R. 6.

THE TAX DOUBLE STANDARD

(Mr. EVERETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EVERETT. Mr. Speaker, tax day is fast approaching middle-class America. Yes; April 15 promises to be an unnatural disaster for many small businesses across the country.

Small business owners must look at the first family with a mixture of envy and anger. Envy at how they may have avoided paying many taxes over the years, and anger at their decision to sock it to the middle class.

According to their own admission, the Clintons may have underreported their tax liabilities in regards to the whole Whitewater affair.

The Clintons have said that any mistakes on their taxes were unintentional and inadvertent. I imagine the IRS is full of those who claim that its all just a big misunderstanding.

In any event, there is a double standard here. The White House loves taxes, just as long as they don't have to pay them.

MFN STATUS FOR CHINA?

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLF. Mr. speaker, we are ready to face the question of granting or not granting MFN to China.

Let me just express disappointment for the business community in Beijing—that is, the American business community—the way they treated Secretary Christopher.

I would have hoped they would have said to Secretary Christopher, "Although there may be differences in whether you grant MFN or not grant MFN, Mr. Secretary, we share your goal for human rights, and we stand with you." The business community did not do that.

I want to express concern.

I want my colleagues to see the latest report in the National Journal about China, and I want to read it to you:

[From the National Journal, Mar. 5, 1994]

NEW CHARGES ABOUT CHINA

The coming debate over China's most-favored-nation trading status could be complicated by new allegations of brutality in China's corrections system. Zhang Guei-Xing, a Hong Kong-based business executive and holder of an American green card, was recently released after spending 30 months in a detention center in the Chinese city of Zhengzhou in Henan Province. He charges that during his stay, 200 inmates were executed and that some body parts were sold to transplant clinics in Japan and Hong Kong. The allegations are being investigated by the American government.

□ 1210

Body parts, before they killed the men, they took their corneas and they took their kidneys for sale of the body parts.

Third, I want to urge my colleagues to read the book by Harry Wo, who spent 19 years in a forced slave labor camp in China. As I say, there can be good men, and there are good men and women on both sides of the issue, but there should be no difference on whether or not we want to be strong for standing up for human rights and religious freedom.

I want again to express my disappointment and urge the American business community in Beijing that it is OK to differ on our approach, but please stand firm and support the American policy of strong support with regard to human rights and religious freedom.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken at the end of legislative business today.

MONEY LAUNDERING SUPPRESSION ACT OF 1994

Mr. GONZALEZ. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3235) to amend subchapter II of chapter 53 of title 31, United States Code, to improve enforcement of antimoney laundering laws, and for the purposes, as amended.

The Clerk read the bill as follows:

H.R. 3235

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 "Money Laundering Suppression Act of 1994".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Reform of CTR exemption requirements to reduce number and size of reports consistent with effective law enforcement.
Sec. 3. Single designee for reporting of suspicious transactions.
Sec. 4. Improvement of identification of money laundering schemes.
Sec. 5. Negotiable instruments drawn on foreign banks subject to recordkeeping and reporting requirements.
Sec. 6. Imposition of civil money penalties by appropriate Federal banking agencies.
Sec. 7. Uniform State licensing and regulation of check cashing, currency exchange, and money transmitting businesses.
Sec. 8. Registration of money transmitting businesses to promote effective law enforcement.
Sec. 9. Uniform Federal regulation of casinos.
Sec. 10. Uniform Federal administration of recordkeeping and reporting requirements.
Sec. 11. Criminal and civil penalty for structuring domestic and international transactions.
Sec. 12. GAO study of cashiers' checks.
Sec. 13. Technical corrections.

SEC. 2. REFORM OF CTR EXEMPTION REQUIREMENTS TO REDUCE NUMBER AND SIZE OF REPORTS CONSISTENT WITH EFFECTIVE LAW ENFORCEMENT.

(a) IN GENERAL.—Section 5313 of title 31, United States Code, is amended by adding at the end the following new subsections:

"(d) MANDATORY EXEMPTIONS FROM REPORTING REQUIREMENTS.—

"(1) IN GENERAL.—The Secretary of the Treasury shall exempt, pursuant to section 5318(a)(5), a depository institution from the reporting requirements of subsection (a) with respect to transactions between the depository institution and the following categories of entities:

"(A) Another depository institution.

"(B) A department or agency of the United States, any State, or any political subdivision of any State.

"(C) Any entity established under the laws of the United States, any State, or any political subdivision of any State, or under an interstate compact between 2 or more States, which exercises governmental authority on behalf of the United States, the State, or the political subdivision.

"(D) Any business or category of business the reports on which have little or no value for law enforcement purposes.

"(2) NOTICE OF EXEMPTION.—The Secretary of the Treasury shall publish in the Federal Register at such times as the Secretary determines to be appropriate (but not less frequently than once each year) a list of all the entities whose transactions with a depository institution are exempt under this subsection from the reporting requirements of subsection (a).

"(e) DISCRETIONARY EXEMPTIONS FROM REPORTING REQUIREMENTS.—

"(1) IN GENERAL.—The Secretary of the Treasury may exempt, pursuant to section 5318(a)(5), a depository institution from the reporting requirements of subsection (a) with respect to transactions between the depository institution and a qualified business customer of the institution on the basis of information submitted to the Secretary by the institution in accordance with procedures which the Secretary shall establish.

"(2) QUALIFIED BUSINESS CUSTOMER DEFINED.—For purposes of this subsection, the term 'qualified business customer' means a business which—

"(A) maintains a transaction account (as defined in section 19(b)(1)(C) of the Federal Reserve Act) at the depository institution;

"(B) frequently engages in transactions with the depository institution which are subject to the reporting requirements of subsection (a); and

"(C) meets criteria which the Secretary determines are sufficient to ensure that the purposes of this subchapter are carried out without requiring a report with respect to such transactions.

"(3) CRITERIA FOR EXEMPTION.—The Secretary of the Treasury shall establish, by regulation, the criteria for granting and maintaining an exemption under paragraph (1).

"(4) GUIDELINES.—

"(A) IN GENERAL.—The Secretary of the Treasury shall establish guidelines for depository institutions to follow in selecting customers for an exemption under this subsection.

"(B) CONTENTS.—The guidelines may include a description of the types of businesses or an itemization of specific businesses for which no exemption will be granted under this subsection to any depository institution.

"(5) ANNUAL REVIEW.—The Secretary of the Treasury shall prescribe regulations requiring each depository institution to—

"(A) review, at least once each year, the qualified business customers of such institution with respect to whom an exemption has been granted under this subsection; and

"(B) upon the completion of such review, resubmit information about such customers, with such modifications as the institution determines to be appropriate, to the Secretary for the Secretary's approval.

"(6) 2-YEAR PHASE-IN PROVISION.—During the 2-year period beginning on the date of the enactment of the Money Laundering Suppression Act of 1994, this subsection shall be applied by the Secretary on the basis of such criteria as the Secretary determines to be appropriate to achieve an orderly implementation of the requirements of this subsection.

"(f) PROVISIONS APPLICABLE TO MANDATORY AND DISCRETIONARY EXEMPTIONS.—

"(1) LIMITATION ON LIABILITY OF DEPOSITORY INSTITUTIONS.—No depository institution shall be subject to any penalty which may be imposed under this subchapter for the failure of the institution to file a report with respect to a transaction with a customer for whom an exemption has been granted under subsection (d) or (e) unless the institution—

"(A) knowingly files false or incomplete information to the Secretary with respect to the transaction or the customer engaging in the transaction; or

"(B) has reason to believe at the time the exemption is granted or the transaction is entered into that the customer or the transaction does not meet the criteria established for granting such exemption.

"(2) COORDINATION WITH OTHER PROVISIONS.—Any exemption granted by the Secretary of the Treasury under section 5318(a) in accordance with this section, and any transaction which is subject to such exemption, shall be subject to any other provision of law applicable to such exemption, including—

"(A) the authority of the Secretary, under section 5318(a)(5), to revoke such exemption at any time; and

"(B) any requirement to report, or any authority to require a report on, any possible violation of any law or regulation or any suspected criminal activity.

"(g) DEPOSITORY INSTITUTION DEFINED.—For purposes of this section, the term 'depository institution'—

"(1) has the meaning given to such term in section 19(b)(1)(A) of the Federal Reserve Act; and

"(2) includes—

"(A) any branch, agency, or commercial lending company (as such terms are defined in section 1(b) of the International Banking Act of 1978);

"(B) any corporation chartered under section 25A of the Federal Reserve Act; and

"(C) any corporation having an agreement or undertaking with the Board of Governors of the Federal Reserve System under section 25 of the Federal Reserve Act.".

(b) REPORT REDUCTION GOAL; REPORTS.—

(1) IN GENERAL.—In implementing the amendment made by subsection (a), the Secretary of the Treasury shall seek to reduce, within a reasonable period of time, the number of reports required to be filed in the aggregate by depository institutions pursuant to section 5313(a) of title 31, United States Code, by at least 30 percent of the number filed during the year preceding the date of the enactment of this Act.

(2) INTERIM REPORT.—The Secretary of the Treasury shall submit a report to the Congress not later than the end of the 180-day period beginning on the date of the enactment of this Act on the progress made by the Secretary in implementing the amendment made by subsection (a).

(3) ANNUAL REPORT.—The Secretary of the Treasury shall submit an annual report to the Congress after the end of each of the first 5 calendar years which begin after the date of the enactment of this Act on the extent to which the Secretary has reduced the overall number of currency transaction reports filed with the Secretary pursuant to section 5313(a) of title 31, United States Code, consistently with the purposes of such section and effective law enforcement.

(c) STREAMLINED CURRENCY TRANSACTION REPORTS.—The Secretary of the Treasury shall take such action as may be appropriate to redesign the format of reports required to be filed by any financial institution (as defined in section 5312(a)(2) of title 31, United States Code) under section 5313(a) of title 31, United States Code, to eliminate the need to report information which has little or no value for law enforcement purposes and reduce the time and effort required to prepare such report for filing by any such financial institution under such section.

SEC. 3. SINGLE DESIGNEE FOR REPORTING OF SUSPICIOUS TRANSACTIONS.

(a) IN GENERAL.—Section 5318(g) of title 31, United States Code, is amended by adding at the end the following new paragraph:

"(4) SINGLE DESIGNEE FOR REPORTING SUSPICIOUS TRANSACTIONS.—

"(A) IN GENERAL.—In requiring reports under paragraph (1) of suspicious transactions, the Secretary of the Treasury shall designate, to the extent practicable and appropriate, a single officer or agency of the United States to whom such reports shall be made.

"(B) DUTY OF DESIGNEE.—The officer or agency of the United States designated by the Secretary of the Treasury pursuant to subparagraph (A) shall refer any report of a suspicious transaction to any appropriate law enforcement or supervisory agency.

"(C) COORDINATION WITH OTHER REPORTING REQUIREMENTS.—Subparagraph (A) shall not be construed as precluding any supervisory agency for any financial institution from requiring the financial institution to submit any information or report to the agency or another agency pursuant to any provision of law other than this subsection.".

(b) REPORTS.—

(1) REPORTS REQUIRED.—The Secretary of the Treasury shall submit an annual report to the Congress at the times required under paragraph (2) on the number of suspicious transactions reported to the officer or agency designated under section 5318(g)(4)(A) of title 31, United States Code, during the period covered by the report and the disposition of such reports.

(2) TIME FOR SUBMITTING REPORTS.—The 1st report required under paragraph (1) shall be filed before the end of the 1-year period beginning on the date of the enactment of the Money Laundering Suppression Act of 1994 and each subsequent report shall be filed within 90 days after the end of each of the 5 calendar years which begin after such date of enactment.

(c) DESIGNATION REQUIRED TO BE MADE EXPEDITIOUSLY.—The initial designation of an officer or agency of the United States pursuant to the amendment made by subsection (a) shall be made before the end of the 180-day period beginning on the date of the enactment of this Act.

SEC. 4. IMPROVEMENT OF IDENTIFICATION OF MONEY LAUNDERING SCHEMES.

(a) ENHANCED TRAINING, EXAMINATIONS, AND REFERRALS BY BANKING AGENCIES.—Before the end of the 6-month period beginning on the date of the enactment of this Act, each appropriate Federal banking agency shall, in consultation with the Secretary of the Treasury and other appropriate law enforcement agencies—

(1) review and enhance training and examination procedures to improve the identification of money laundering schemes involving depository institutions; and

(2) review and enhance procedures for referring cases to any appropriate law enforcement agency.

(b) IMPROVED REPORTING OF CRIMINAL SCHEMES BY LAW ENFORCEMENT AGENCIES.—The Secretary of the Treasury and each appropriate law enforcement agency shall provide, on a regular basis, information regarding money laundering schemes and activities involving depository institutions to each appropriate Federal banking agency in order to enhance the agency's ability to examine for and identify money laundering activity.

(c) REPORT TO CONGRESS.—The Financial Institutions Examination Council shall submit a report on the progress made in carrying out subsection (a) and the usefulness of information received pursuant to subsection (b) to the Congress by the end of the 1-year period beginning on the date of the enactment of this Act.

(d) DEFINITIONS.—The terms "appropriate Federal banking agency" and "Federal banking agencies" have the same meanings as in section 3 of the Federal Deposit Insurance Act.

SEC. 5. NEGOTIABLE INSTRUMENTS DRAWN ON FOREIGN BANKS SUBJECT TO RECORDKEEPING AND REPORTING REQUIREMENTS.

Section 5312(a)(3) of title 31, United States Code, is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(C) as the Secretary of the Treasury shall provide by regulation for purposes of section 5316, checks, drafts, notes, money orders, and other similar instruments which are drawn on or by a foreign financial institution and are not in bearer form.".

SEC. 6. IMPOSITION OF CIVIL MONEY PENALTIES BY APPROPRIATE FEDERAL BANKING AGENCIES.

Section 5321 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(e) DELEGATION OF ASSESSMENT AUTHORITY TO BANKING AGENCIES.—

"(1) IN GENERAL.—The Secretary of the Treasury shall delegate, in accordance with

section 5318(a)(1) and subject to such terms and conditions as the Secretary may impose in accordance with paragraph (3), any authority of the Secretary to assess a civil money penalty under this section on depository institutions (as defined in section 3 of the Federal Deposit Insurance Act) to the appropriate Federal banking agencies (as defined in such section 3).

"(2) AUTHORITY OF AGENCIES.—Subject to any term or condition imposed by the Secretary of the Treasury under paragraph (3), the provisions of this section shall apply to an appropriate Federal banking agency to which is delegated any authority of the Secretary under this section in the same manner such provisions apply to the Secretary.

"(3) TERMS AND CONDITIONS.—

"(A) IN GENERAL.—The Secretary of the Treasury shall prescribe by regulation the terms and conditions which shall apply to any delegation under paragraph (1).

"(B) MAXIMUM DOLLAR AMOUNT.—The terms and conditions authorized under subparagraph (A) may include, in the Secretary's sole discretion, a limitation on the amount of any civil penalty which may be assessed by an appropriate Federal banking agency pursuant to a delegation under paragraph (1).".

SEC. 7. UNIFORM STATE LICENSING AND REGULATION OF CHECK CASHING, CURRENCY EXCHANGE, AND MONEY TRANSMITTING BUSINESSES.

(a) UNIFORM LAWS AND ENFORCEMENT.—For purposes of preventing money laundering and protecting the payment system from fraud and abuse, it is the sense of the Congress that the several States should—

(1) establish uniform laws for licensing and regulating businesses which—

(A) provide check cashing, currency exchange, or money transmitting or remittance services, or issue or redeem money orders, travelers' checks, and other similar instruments; and

(B) are not depository institutions (as defined in section 19(b)(1)(A) of the Federal Reserve Act); and

(2) provide sufficient resources to the appropriate State agency to enforce such laws and regulations prescribed pursuant to such laws.

(b) MODEL STATUTE.—It is the sense of the Congress that the several States should develop, through the auspices of the National Conference of Commissioners on Uniform State Laws, the American Law Institute, or such other forum as the States may determine to be appropriate, a model statute to carry out the goals described in subsection (a) which would include the following:

(1) LICENSING REQUIREMENTS.—A requirement that any business described in subsection (a)(1) be licensed and regulated by an appropriate State agency in order to engage in any such activity within the State.

(2) LICENSING STANDARDS.—A requirement that—

(A) in order for any business described in subsection (a)(1) to be licensed in the State, the appropriate State agency shall review and approve—

(i) the business record, the fee structure, and the capital adequacy of the business seeking the license; and

(ii) the competence, experience, integrity, and financial ability of any individual who—

(I) is a director, officer, or supervisory employee of such business; or

(II) owns or controls such business; and

(B) any record, on the part of any business seeking the license or any person referred to in subparagraph (A)(ii), of—

(i) any criminal activity;

(ii) any fraud or other act of personal dishonesty;

(iii) any act, omission, or practice which constitutes a breach of a fiduciary duty; or

(iv) any suspension or removal, by any agency or department of the United States or any State, from participation in the conduct of any federally or State licensed or regulated business,

may be grounds for the denial of any such license by the appropriate State agency.

(3) PROCEDURES TO ENSURE COMPLIANCE WITH FEDERAL CASH TRANSACTION REPORTING REQUIREMENTS.—A civil or criminal penalty for operating any business referred to in paragraph (1) without establishing and complying with appropriate procedures to ensure compliance with subchapter II of chapter 53 of title 31, United States Code (relating to records and reports on monetary instruments transactions).

(4) CRIMINAL PENALTIES FOR OPERATION OF BUSINESS WITHOUT A LICENSE.—A criminal penalty for operating any business referred to in paragraph (1) without a license within the State after the end of an appropriate transition period beginning on the date of the enactment of such model statute by the State.

(c) STUDY REQUIRED.—The Secretary of the Treasury shall conduct a study of—

(1) the progress made by the several States in developing and enacting a model statute which—

(A) meets the requirements of subsection (b); and

(B) furthers the goals of—

(i) preventing money laundering by businesses which are required to be licensed under any such statute; and

(ii) protecting the payment system, including the receipt, payment, collection, and clearing of checks, from fraud and abuse by such businesses; and

(2) the adequacy of—

(A) the activity of the several States in enforcing the requirements of such statute; and

(B) the resources made available to the appropriate State agencies for such enforcement activity.

(d) REPORT REQUIRED.—Before the end of the 3-year period beginning on the date of the enactment of this Act and by the end of each of the first 2 1-year periods beginning after the end of such 3-year period, the Secretary of the Treasury shall submit a report to the Congress containing the findings and recommendations of the Secretary in connection with the study under subsection (c), together with such recommendations for legislative and administrative action as the Secretary may determine to be appropriate.

(e) RECOMMENDATIONS IN CASES OF INADEQUATE REGULATION AND ENFORCEMENT BY STATES.—If the Secretary of the Treasury determines that any State has been unable to—

(1) enact a statute which meets the requirements described in subsection (b);

(2) undertake adequate activity to enforce such statute; or

(3) make adequate resources available to the appropriate State agency for such enforcement activity,

the report submitted pursuant to subsection (d) shall contain recommendations of the Secretary which are designed to facilitate the enactment and enforcement by the State of such a statute.

(f) FEDERAL FUNDING STUDY.—

(1) STUDY REQUIRED.—The Secretary of the Treasury shall conduct a study to identify possible available sources of Federal funding to cover costs which will be incurred by the States in carrying out the purposes of this section.

(2) REPORT.—The Secretary of the Treasury shall a submit a report to the Congress on the study conducted pursuant to paragraph (1) before the end of the 18-month period beginning on the date of the enactment of this Act.

SEC. 8. REGISTRATION OF MONEY TRANSMITTING BUSINESSES TO PROMOTE EFFECTIVE LAW ENFORCEMENT.

(a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—The Congress hereby finds the following:

(A) Money transmitting businesses are subject to the recordkeeping and reporting requirements of subchapter II of chapter 53 of title 31, United States Code.

(B) Money transmitting businesses are largely unregulated businesses and are frequently used in sophisticated schemes to—

(i) transfer large amounts of money which are the proceeds of unlawful enterprises; and

(ii) evade the requirements of such subchapter II, the Internal Revenue Code of 1986, and other laws of the United States.

(C) Information on the identity of money transmitting businesses and the names of the persons who own or control, or are officers or employees of, a money transmitting business would have a high degree of usefulness in criminal, tax, or regulatory investigations and proceedings.

(2) PURPOSE.—It is the purpose of this section to establish a registration requirement for businesses engaged in providing check cashing, currency exchange, or money transmitting or remittance services, or issuing or redeeming money orders, travelers' checks, and other similar instruments to assist the Secretary of the Treasury, the Attorney General, and other supervisory and law enforcement agencies to effectively enforce the criminal, tax, and regulatory laws and prevent such money transmitting businesses from engaging in illegal activities.

(b) IN GENERAL.—Subchapter II of chapter 53 of title 31, United States Code, is amended by adding at the end the following new section:

"§ 5329. Registration of money transmitting businesses

"(a) REGISTRATION WITH SECRETARY OF THE TREASURY REQUIRED.—

"(1) IN GENERAL.—Any person who owns or controls a money transmitting business which is not a depository institution (as defined in section 19(b)(1)(A) of the Federal Reserve Act) shall register the business (whether or not the business is licensed as a money transmitting business in any State) with the Secretary of the Treasury before the end of the 180-day period beginning on the later of—

"(A) the date of the enactment of the Money Laundering Suppression Act of 1994; or

"(B) the date the business is established.

"(2) FORM AND MANNER OF REGISTRATION.—Subject to the requirements of subsection (b), the Secretary of the Treasury shall prescribe, by regulation, the form and manner for registering a money transmitting business pursuant to paragraph (1).

"(3) BUSINESSES REMAIN SUBJECT TO STATE LAW.—This section shall not be construed as superseding any requirement of State law relating to money transmitting businesses operating in such State.

"(4) FALSE AND INCOMPLETE INFORMATION.—The filing of false or materially incomplete information in connection with the registration of a money transmitting business shall be considered as a failure to comply with the requirements of this subchapter.

"(b) CONTENTS OF REGISTRATION.—The registration of a money transmitting business under subsection (a) shall include the following information:

"(1) The name and location of the business.

"(2) The name and address of each person who—

"(A) owns or controls the business;

"(B) is an director or officer of the business; or

"(C) otherwise participates in the conduct of the affairs of the business.

"(3) The name and address of any depository institution at which the business maintains a transaction account (as defined in section 19(b)(1)(C) of the Federal Reserve Act).

"(4) An estimate of the volume of business in the coming year (which shall be reported annually to the Secretary).

"(5) Such other information as the Secretary of the Treasury may require.

"(c) AGENTS OF MONEY TRANSMITTING BUSINESSES.—

"(1) MAINTENANCE OF LISTS OF AGENTS OF MONEY TRANSMITTING BUSINESSES.—Pursuant to regulations which the Secretary of the Treasury shall prescribe, each money transmitting business shall—

"(A) maintain a list containing the names and addresses of all persons authorized to act as an agent for such business in connection with activities described in subsection (d)(1)(A) and such other information about such agents as the Secretary may require; and

"(B) make the list and other information available on request to any appropriate law enforcement agency.

"(2) TREATMENT OF AGENT AS MONEY TRANSMITTING BUSINESS.—The Secretary of the Treasury shall prescribe regulations establishing, on the basis of such criteria as the Secretary determines to be appropriate, a threshold point for treating an agent of a money transmitting business as a money transmitting business for purposes of this section.

"(d) DEFINITIONS.—For purposes of this section—

"(1) MONEY TRANSMITTING BUSINESS.—The term 'money transmitting business' means any business other than the United States Postal Service which—

"(A) provides check cashing, currency exchange, or money transmitting or remittance services, or issues or redeems money orders, travelers' checks, and other similar instruments;

"(B) is required to file reports under section 5313; and

"(C) is not a depository institution (as defined in section 19(b)(1)(A) of the Federal Reserve Act).

"(2) MONEY TRANSMITTING SERVICE.—The term 'money transmitting service' includes accepting currency or funds denominated in the currency of any country and transmitting the currency or funds, or the value of the currency or funds, by any means through a financial agency or institution, a Federal reserve bank or other facility of the Board of Governors of the Federal Reserve System, or an electronic funds transfer network.

"(e) CIVIL PENALTY FOR FAILURE TO COMPLY WITH REGISTRATION REQUIREMENTS.—

"(1) IN GENERAL.—Any person who fails to comply with the money transmitting business registration requirements under subsection (a) or regulations prescribed under such subsection shall be liable to the United States for a civil penalty of $5,000 for each such violation.

"(2) CONTINUING VIOLATION.—Each day a violation described in paragraph (1) continues shall constitute a separate violation for purposes of such paragraph.

"(3) ASSESSMENTS.—Any penalty imposed under this subsection shall be assessed and collected by the Secretary of the Treasury in the manner provided in section 5321 and any such assessment shall be subject to the provisions of such section.".

(c) CRIMINAL PENALTY FOR FAILURE TO COMPLY WITH REGISTRATION REQUIREMENTS.—Section 1960(b)(1) of title 18, United States Code, is amended to read as follows:

"(1) the term 'illegal money transmitting business' means a money transmitting business which affects interstate or foreign commerce in any manner or degree and—

"(A) is intentionally operated without an appropriate money transmitting license in a State where such operation is punishable as a misdemeanor or a felony under State law; or

"(B) fails to comply with the money transmitting business registration requirements under section 5329 of title 31, United States Code, or regulations prescribed under such section;".

(d) CIVIL FORFEITURE.—Section 981(a)(1)(A) of title 18, United States Code, is amended by striking "or of section 1956 or 1957 of this title," and inserting ", or of section 1956, 1957, or 1960 of this title,".

(e) CLERICAL AMENDMENT.—The table of sections for chapter 53 of title 31, United States Code, is amended by inserting after the item relating to section 5328 the following new item:

"5329. Registration of money transmitting businesses.".

SEC. 9. UNIFORM FEDERAL REGULATION OF CASINOS.

AMENDMENT TO DEFINITION OF FINANCIAL INSTITUTION TO SPECIFICALLY INCLUDE CERTAIN CASINOS.—Section 5312(a)(2) of title 31, United States Code, is amended—

(1) by redesignating subparagraphs (X) and (Y) as subparagraphs (Y) and (Z), respectively; and

(2) by inserting after subparagraph (W) the following new subparagraph:

"(X) a casino, gambling casino, or gaming establishment with an annual gaming revenue of more than $1,000,000 which—

"(i) is licensed as a casino or gambling casino under the laws of any State or any political subdivision of any State; or

"(ii) is an Indian gaming operation conducted under or pursuant to the Indian Gaming Regulatory Act other than an operation which is limited to class I gaming (as defined in section 4(6) of such Act);".

SEC. 10. UNIFORM FEDERAL ADMINISTRATION OF RECORDKEEPING AND REPORTING REQUIREMENTS.

(a) IN GENERAL.—Section 5318 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(i) UNIFORM ADMINISTRATION OF SUBCHAPTER.—

"(1) NO EXEMPTIONS.—No exemption from any recordkeeping or reporting requirement of this subchapter, including paragraph (1), or of any regulation prescribed pursuant to this subchapter may be granted to—

"(A) any State or any political subdivision of a State on behalf of any financial institution which but, for such exemption, would be required to maintain records or file reports under this subchapter or regulations prescribed by the Secretary of the Treasury pursuant to this subchapter; or

"(B) any financial institution on the basis that any State, any political subdivision of any State, or any officer, agency, or other authority of any such State or political subdivision regulates or examines such institution.

"(2) REPORTS REQUIRED TO BE FILED WITH FEDERAL AGENCY.—Any report required under this subchapter or regulations prescribed by the Secretary of the Treasury pursuant to this subchapter shall be filed by the person required to make the report with the Secretary of the Treasury or an officer or agency of the United States designated by the Secretary to receive such report.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 5318(a) of title 31, United States Code, is amended—

(1) in paragraph (1), by inserting "or (i)" after "subsection (b)(2)"; and

(2) in paragraph (5), by inserting "except as provided in subsection (i)," before "prescribe an appropriate exemption".

(c) REVOCATION OF PRIOR EXEMPTION.—Any exemption granted under subchapter II of chapter 53 of title 31, United States Code, by the Secretary of the Treasury before the date of the enactment of the Money Laundering Suppression Act of 1994 to any State or local government on behalf of any financial institution (as defined in such subchapter) is hereby revoked as of the end of the 30-day period beginning on the date of the enactment of this Act.

SEC. 11. CRIMINAL AND CIVIL PENALTY FOR STRUCTURING DOMESTIC AND INTERNATIONAL TRANSACTIONS.

(a) CRIMINAL PENALTY.—Section 5324 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(c) CRIMINAL PENALTY.—

"(1) IN GENERAL.—Whoever violates this section shall be fined in accordance with title 18, United States Code, imprisoned for not more than 5 years, or both.

"(2) ENHANCED PENALTY FOR AGGRAVATED CASES.—Whoever violates this section while violating another law of the United States or as part of a pattern of any illegal activity involving more than $100,000 in a 12-month period shall be fined twice the amount provided in subsection (b)(3) or (c)(3) (as the case may be) of section 3571 of title 18, United States Code, imprisoned for not more than 10 years, or both.".

(b) AMENDMENT RELATING TO CIVIL PENALTY.—Section 5321(a)(4)(A) of title 31, United States Code, is amended by striking "willfully".

(c) TECHNICAL AND CONFORMING AMENDMENT.—Subsections (a) and (b) of section 5322 of title 31, United States Code, are amended by inserting "or 5324" after "section 5315" each place such term appears.

SEC. 12. GAO STUDY OF CASHIERS' CHECKS.

(a) STUDY REQUIRED.—The Comptroller General of the United States shall conduct a study to—

(1) determine the extent to which the practice of issuing of cashiers' checks by financial institutions is vulnerable to money laundering schemes;

(2) determine the extent to which additional recordkeeping requirements should be imposed on financial institutions which issue cashiers' checks; and

(3) analyze such other factors relating to the use and regulation of cashiers' checks as the Comptroller General determines to be appropriate.

(b) REPORT REQUIRED.—Before the end of the 6-month period beginning on the date of the enactment of this Act, the Comptroller General shall submit a report to the Congress containing—

(1) the findings and conclusions of the Comptroller General in connection with the

study conducted pursuant to subsection (a); and

(2) such recommendations for legislative and administrative action as the Comptroller General may determine to be appropriate.

SEC. 13. TECHNICAL CORRECTIONS.

(a) TITLE 31, U.S.C., AMENDMENTS.—

(1) Section 5321(a)(5)(A) of title 31, United States Code, is amended by inserting "any violation of" after "causing".

(2) Section 5324(a) of title 31, United States Code, is amended—

(A) by striking "section 5313(a), section 5325, or the regulations issued thereunder or section 5325 or regulations prescribed under such section 5325" each place such term appears and inserting "section 5313(a) or 5325 or any regulation prescribed under any such section"; and

(B) by striking "with respect to such transaction".

(b) AMENDMENT RELATING TO TITLE 31, U.S.C.—

(1) Effective as of the date of the enactment of the Annunzio-Wylie Anti-Money Laundering Act, section 1517(b) of such Act is amended by striking "5314" and inserting "5318".

(2) Section 5239 of the Revised Statutes of the United States is amended by redesignating the 2d subsection (c) (as added by section 1502(a) of the Annunzio-Wylie Anti-Money Laundering Act) as subsection (d).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. GONZALEZ] will be recognized for 20 minutes, and the gentleman from Iowa [Mr. LEACH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. GONZALEZ].

Mr. GONZALEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, actually, H.R. 3235 is the working product of the Subcommittee on Financial Institutions Supervision, Regulation and Deposit Insurance of the Committee on Banking, Finance and Urban Affairs, which subcommittee is chaired by the very able and most valued member of the committee, the gentleman from North Carolina [Mr. NEAL].

Mr. Speaker, I would like to speak in favor of H.R. 3235, the Money Laundering Suppression Act of 1994. I introduced this legislation last fall because its provisions both enhance the Government's ability to combat money laundering and reduce unnecessary reporting burdens on banks. The bill is based on 18 months of exhaustive study, careful analysis and thorough work on every detail.

A key provision of the bill requires the Secretary of the Treasury to substantially reduce the number of currency transaction reports, known as CTRs, filed by depository institutions. The 10 million CTR's filed every year entail huge costs for filers and the Treasury Department, which must process the data. In addition, this mountain of reports actually has made it more difficult for law enforcement agencies to sort through the database during an investigation. The Secretary will accomplish this reduction by exempting banks from filing CTR's on customers whose transactions have little or no law enforcement value. IRS officials estimate that CTR filings could be reduced by 30 to 40 percent if these routine deposits and withdrawals were not included, thereby making the filing burden lower but law enforcement better.

The bill also addresses the problem of money laundering at so-called nonbank financial institutions. As banks have improved their compliance with currency reporting requirements, money-laundering activity has shifted to these businesses. It is difficult for the Government to monitor them because they do not receive the same attention from regulators that banks do. The bill requires nonbank money transmitters to register with the Treasury Department, and expresses the sense of the Congress that money transmitters should be licensed at the State level.

Finally, the bill addresses a recent Supreme Court decision that has made it much more difficult for the Government to convict persons of evading the currency reporting requirements. This ruling jeopardizes several hundred money-laundering cases currently pending in our judicial system. It is therefore urgent that Congress make clear its intent that the practice of structuring cash transactions to evade reporting requirements is not to be tolerated, which the bill does.

I urge adoption of the bill and thank Mr. NEAL for his contributions to it, as well as my Republican colleagues who cooperated in moving the legislation forward.

Mr. Speaker, I yield the balance of our time to the gentleman from North Carolina [Mr. NEAL] and ask unanimous consent that he be permitted to allocate the time under the rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. The Chair recognizes the gentleman from North Carolina [Mr. NEAL] for the balance of the time allotted.

Mr. NEAL of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. NEAL of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. NEAL of North Carolina. Mr. Speaker, H.R. 3235 is an important legislative step forward in fighting the crime of money laundering.

I am pleased to have cosponsored this legislation with the distinguished chairman of the Banking Committee [Mr. GONZALEZ], who has played a leading role in addressing the threat that money laundering poses to financial institutions.

One of the unique aspects of this legislation is that it combats money laundering by seeking to eliminate 30 percent of the 10 million currency transaction reports now being filed annually. Elimination of these reports, which law enforcement officials inform us have no value, will also reduce the paperwork burden on financial institutions.

Eliminating these unnecessary reports will enhance law enforcement efforts. Reports on legitimate transactions are the chaff in which the kernels of illegitimate transactions hide. By eliminating those reports, it should be easier for law officials to identify those reports which have a high degree of usefulness in combating money laundering.

The Banking Committee added an important amendment to the legislation. The amendment, which is contained in section 11 of the bill, clarifies that the offense of structuring transactions to evade currency reporting requirements does not require the Government to prove that a defendant knew that structuring is illegal. This clarification was necessary because of a January Supreme Court decision, Ratzlaf versus United States, in which the Court held, by a 5 to 4 margin, that such a showing is necessary. Justice Blackmun, in his dissent, pointed out that "ignorance of the law * * * is no defense to criminal prosecution" and that Congress intended "that a willful violation of the antistructuring provisions requires knowledge of the bank's reporting requirements and an intent to evade them, [not] knowledge of the illegality of structuring." Section 11 makes it completely clear that structuring violations require only intent to evade the reporting requirements. Under the amendment, the Government will not have to prove that the defendant knew structuring was illegal. The Government will need only prove that the defendant structured transactions with the intent to evade the reporting requirements.

Several other provisions of the bill are also worth noting.

Sections 7 and 8 address the role of money transmitters and check cashers in money laundering. As financial institutions have become more efficient in filing currency transactions reports and detecting and reporting money-laundering schemes, money launderers have increasingly turned to nondepository institutions as a vehicle for money laundering.

Section 7 contains a sense of the Congress that the States should work together to develop uniform laws regulating money transmitters and check cashers, and should provide for adequate enforcement of those laws. As a consumer protection matter, the States are also urged to consider regulation of check cashing fees, to prevent abuse of low-income consumers who have little or no other sources of having checks cashed.

Section 8 provides that money transmitters must register with the Treasury. This will assure that the Treasury is aware of who is engaged in the busi-

ness, so that it can better monitor their compliance with currency transaction reporting requirements. The legislation requires that the Secretary establish a minimum threshold below which registration is not required, so as to eliminate unnecessary burdens on small businesses. At the same time, large money transmitting businesses are required to make the lists of their agents available to law enforcement agencies upon request. This will enable law enforcement officials to check on the status of particular money transmitting agents if that becomes necessary.

Mr. Speaker, this is an important piece of legislation that is supported by both the law enforcement and the financial institutions communities. I commend the chairman of the Banking Committee, the gentleman from Texas [Mr. GONZALEZ], for introducing it and the gentleman from Florida [Mr. MCCOLLUM] for working to perfect it. I urge the House to pass it.

Mr. Speaker, I reserve the balance of my time.

Mr. LEACH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3235.

The Money Laundering Suppression Act of 1994, crafted under the leadership of Chairman NEAL, Chairman GONZALEZ, and the ranking member of the Financial Institutions Subcommittee, BILL MCCOLLUM, strikes an appropriate balance between reducing the regulatory burden on our financial institutions and improving detection of money laundering.

The Treasury Department has estimated that $110 billion is laundered through our financial system each year. Some think the number may be as high as $300 billion. Whatever the figure, it is an extraordinary problem, representing the lifeblood of the drug trade.

However, since enactment of the Bank Secrecy Act in 1970, which requires that a currency transaction report [CTR] be filed for each monetary transaction over $10,000, nearly 54 million reports have been filed with the Federal Government. Well intended as the 1970 law may be, such a large data base has not proven conducive to effectively using many reports.

H.R. 3235 represents an attempt to weed out those CTR's that are not of much value in law enforcement, with a goal of allowing more attention to be directed to those with a higher degree of law enforcement usefulness.

The legislation will also: centralize the reporting of suspicious transactions; subject foreign bank drafts to reporting for the first time; require the banking agencies to improve training for bank examiners to detect money-laundering schemes; and finally, the bill will require all money transmitting businesses to register with the Treasury Department.

Again, I thank Chairmen GONZALEZ and NEAL, and urge support for the bill.

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Mr. Speaker, I reserve the balance of my time.

Mr. NEAL of North Carolina. Mr. Speaker, I yield 5 minutes to the gentleman from Nevada [Mr. BILBRAY].

Mr. BILBRAY. Mr. Speaker, I rise to express my serious concerns over two sections of H.R. 3235.

Let me first commend the chairman for his efforts to combat money laundering. The legislation before us today will reduce the number of currency transaction reports banks are required to file, while making the process more effective at identifying suspicious customer transactions. However, I have serious reservations regarding sections 9 and 10 of the legislation.

One effect of sections 9 and 10 will be to eliminate the Treasury Secretary's discretion to provide exemptions from Federal currency transaction reporting regulations, even in cases where existing State law already meet Federal standards. Since the revision of Federal laws in the 1980's, Nevada has had State laws matching or surprising the Federal reporting requirements. The Treasury Department has agreed that this is the case and, as a result, has provided Nevada with an exception from Federal reporting regulations.

Eliminating the Treasury Secretary's discretion to grant an exemption will require creation of a new currency transaction reporting system that parallels the existing State reporting system in Nevada. This will result in significant new costs to my State's most important industry. It will not improve currency transaction reporting to the Federal Government.

There is no need to force Nevada to change the way it meets the requirements of title 31 of the Federal code. I am not aware of anyone who claims that Nevada's currency transaction reports are less stringent than those compiled under Federal regulations. In fact, forcing Nevada to adopt a new reporting structure would run contrary to one of the main goals under H.R. 3235.

I understand that one of the main purposes of the changes in H.R. 3235 is to reduce the drain on Federal resources related to reporting areas of marginal significance when it comes to criminal money laundering, and to focus those resources instead on improved enforcement in those areas more likely to experience significant currency transaction violations. Requiring a new Federal reporting structure to replace the existing State structure in Nevada will result in requiring additional Federal resources to be committed in an area where no substantial problems now exist.

Just last week, the Senate passed a companion bill to H.R. 3235 without sections 9 and 10. When we go to conference, I urge you to seriously consider leaving the Treasury Secretary's discretion to grant exemptions from Federal reporting regulations in place, at least as it applies to existing reporting systems. It is working well in Nevada. Nevada has worked closely with the Treasury Department over the years to ensure that Federal reporting requirements are met, and I am confident they will continue to do so.

Mr. Speaker, I support the bill, but I urge my colleagues in conference to go along with the Senate and take out sections 9 and 10.

Mr. NEAL of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just want to respond to the comments by the gentleman from Nevada [Mr. BILBRAY] and thank him for his concern. He is a very dedicated Member of Congress, always looking out for the interest of his State, and I appreciate his thoughts on the subject.

Mr. Speaker, a the gentleman said, the other body has passed a similar money laundering bill, but without section 10. I anticipate that this matter will be resolved in conference in a manner which retains the section's authority to grant exemptions as appropriate, especially to States which have effective laws and enforcement to combat money laundering. I am a firm believer in Federal-State cooperation and want to assure the gentleman that I will work to resolve the differences between the two bills in a manner that balances the needs of Federal law enforcement with minimizing regulatory burdens.

The gentleman from Nevada [Mr. BILBRAY] is probably aware that the Treasury Department has not requested this change. They think that they have adequate enforcement capability with their discretionary authority, so we will certainly keep that in mind as we go to the conference.

Mr. BILBRAY. Mr. Speaker, I thank the gentleman from North Carolina [Mr. NEAL] for that statement.

Mr. PICKLE. Mr. Speaker, I rise in support of H.R. 3235, the Money Laundering Suppression Act of 1994. H.R. 3235 will greatly improve the Federal Government's ability to deal effectively with money laundering issues. The bill improves the usefulness of currency transaction reports, addresses the difficulties posed by the recent Supreme Court decision related to the crime of structuring, and reduces the reporting burdens placed on legitimate businesses without adversely affecting Federal law enforcement. The bill will also tighten up on the so-called shadow banking system of check cashers and money transmitters. For the first time, we are asking these outfits to help their Government combat money laundering.

The Subcommittee on Oversight of the Committee on Ways and Means, which I chair, had continuously reviewed the effectiveness of Treasury and IRS programs to address money laundering and related tax evasion. I have

shared the findings of the subcommittee with the Committee on Banking. The legislation before the House today effectively deals with a number of issues initially identified by the subcommittee on Oversight.

Specifically, my subcommittee found a backlog of Bank Secrecy Act [BSA] civil penalty cases at Treasury's Office of Financial Enforcement [OFE], which frustrated the regulators, and ultimately resulted in fewer penalty referrals to OFE. This legislation will address the backlog of penalty cases at OFE by delegating authority to assess penalties under BSA to IRS and bank examiners who actually conduct the investigations and detect the violations. Also, my subcommittee found that money laundering has shifted to wire-transmitters, check cashers, and other non-regulated financial institutions and that the Federal Government knows very little about the magnitude of their activities because these operations are largely unregulated at the Federal level. This legislation will require these transmitters, check cashers, and others to register with the Treasury. Further, my subcommittee found that the BSA data base contained incomplete and unnecessary currency transaction report [CTR] data. This legislation will clean up the BSA data base and improve the ability of law-enforcement agencies to access reliable data.

H.R. 3235 will also require all casinos and gaming establishments, including Indian gaming operations and the Nevada casinos, to comply with the BSA and file CTR's with IRS. We know from our oversight hearings that money laundering is taking place in casinos, and that more effective enforcement is needed. H.R. 3235 brings all casinos under the BSA umbrella. This is a sound, smart policy.

Money-laundering enforcement is more than identifying drug traffickers and confiscating their ill-gotten gains. Money laundering threatens the integrity of our voluntary tax system and, as we have learned lately, even our national security. It has been reported in the press that a CIA spy, Aldrich Hazel Ames, made numerous large cash purchases which were reported to IRS as suspicious. I have asked IRS to provide my subcommittee with a report on what actions, if any, the agency has taken in response to the Ameses' spending habits and their deposits of large cash sums.

The fight against money laundering and tax evasion is a never-ending battle as drug traffickers, tax cheats, and even spies, devise new and ingenious ways to disguise the source of their money. It seems that as soon as we act to close loopholes in our Federal laws and enforcement strategies, money launderers develop new schemes to circumvent the law. Therefore, the Congress, working with law enforcement agencies and the business and financial communities, must continue to be vigilant in this fight and prepared to meet new challenges. H.R. 3235 helps meet these challenges.

Last, I want to commend Chairmen GONZALEZ and NEAL, and the Committee on Banking, for developing a strong, responsible, and important piece of legislation. The art of money laundering is a continual state of change. We need this legislation now to give law enforcement a fighting chance. I urge my colleagues to support H.R. 3235.

Mr. LEACH. Mr. Speaker, I yield back the balance of my time.

Mr. NEAL of North Carolina. Mr. Speaker, I, too, yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Texas [Mr. GONZALEZ] that the House suspend the rules and pass the bill, H.R. 3235, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON S. 1284, DEVELOPMENTAL DISABILITIES ASSISTANCE AND BILL OF RIGHTS ACT AMENDMENTS OF 1994

Mr. WAXMAN submitted the following conference report and statement on the Senate bill (S. 1284) to amend the Developmental Disabilities Assistance and Bill of Rights Act to expand or modify certain provisions relating to programs for individuals with developmental disabilities, Federal assistance for priority area activities for individuals with developmental disabilities, protection and advocacy of individual rights, university affiliated programs, and projects of national significance, and for other purposes:

CONFERENCE REPORT (H. REPT. 103-442)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1284), to amend the Developmental Disabilities Assistance and Bill of Rights Act to expand or modify certain provisions relating to programs for individuals with developmental disabilities, Federal assistance for priority area activities for individuals with developmental disabilities, protection and advocacy of individual rights, university affiliated programs, and projects of national significance, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1994".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References.

TITLE I—GENERAL PROVISIONS

Sec. 101. Headings and short title.
Sec. 102. Findings and purposes.
Sec. 103. Definitions.
Sec. 104. Federal share.
Sec. 105. Records and audits.
Sec. 106. Recovery.
Sec. 107. State control of operations.
Sec. 108. Reports.
Sec. 109. Responsibilities of the Secretary.
Sec. 110. Employment of handicapped individuals.
Sec. 111. Rights of the developmentally disabled.

TITLE II—FEDERAL ASSISTANCE FOR PRIORITY AREA ACTIVITIES FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES

Sec. 201. Part heading.
Sec. 202. Purpose.
Sec. 203. State plans.
Sec. 204. Habilitation plans.
Sec. 205. Councils.
Sec. 206. State allotments.
Sec. 207. Federal share and non-Federal share.
Sec. 208. Payments to the States for planning, administration, and services.
Sec. 209. Withholding of payments for planning, administration, and services.
Sec. 210. Nonduplication.
Sec. 211. Appeals by States.
Sec. 212. Authorization of appropriations.
Sec. 213. Review, analysis, and report.

TITLE III—PROTECTION AND ADVOCACY OF THE RIGHTS OF INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES

Sec. 301. Part heading.
Sec. 302. Purpose.
Sec. 303. System required.
Sec. 304. Authorization of appropriations.

TITLE IV—UNIVERSITY AFFILIATED PROGRAMS

Sec. 401. Part heading.
Sec. 402. Purpose.
Sec. 403. Grant authority.
Sec. 404. Applications.
Sec. 405. Grant awards.
Sec. 406. Authorization of appropriations and definition.

TITLE V—PROJECTS OF NATIONAL SIGNIFICANCE

Sec. 501. Part heading.
Sec. 502. Purpose.
Sec. 503. Grant authority.
Sec. 504. Authorization of appropriations.

SEC. 2. REFERENCES.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.).

TITLE I—GENERAL PROVISIONS

SEC. 101. HEADINGS AND SHORT TITLE.

(a) TITLE.—The heading of title I of the Act is amended to read as follows:

"TITLE I—PROGRAMS FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES".

(b) PART.—The heading of part A of title I of the Act is amended to read as follows:

"PART A—GENERAL PROVISIONS".

(c) SHORT TITLE.—Section 100 (42 U.S.C. 6000 note) is amended—

(1) by striking "SEC. 100"; and

(2) in the section heading, by striking "SHORT TITLE" and inserting the following new section heading:

"SEC. 100. SHORT TITLE.".

SEC. 102. FINDINGS AND PURPOSES.

Section 101 (42 U.S.C. 6000) is amended to read as follows:

"SEC. 101. FINDINGS, PURPOSES, AND POLICY.

"(a) FINDINGS.—The Congress finds that—

"(1) in 1993 there are more than 3,000,000 individuals with developmental disabilities in the United States;

"(2) disability is a natural part of the human experience that does not diminish the right of

individuals with developmental disabilities to enjoy the opportunity to live independently, enjoy self-determination, make choices, contribute to society, and experience full integration and inclusion in the economic, political, social, cultural, and educational mainstream of American society;

"(3) individuals with developmental disabilities continually encounter various forms of discrimination in critical areas;

"(4) there is a lack of public awareness of the capabilities and competencies of individuals with developmental disabilities;

"(5) individuals whose disabilities occur during their developmental period frequently have severe disabilities that are likely to continue indefinitely;

"(6) individuals with developmental disabilities often require lifelong specialized services and assistance, provided in a coordinated and culturally competent manner by many agencies, professionals, advocates, community representatives, and others to eliminate barriers and to meet the needs of such individuals and their families;

"(7) a substantial portion of individuals with developmental disabilities and their families do not have access to appropriate support and services from generic and specialized service systems and remain unserved or underserved;

"(8) family members, friends, and members of the community can play an important role in enhancing the lives of individuals with developmental disabilities, especially when the family and community are provided with the necessary services and supports;

"(9) there is a need to ensure that services, supports, and other assistance are provided in a culturally competent manner, that individuals from racial and ethnic minority backgrounds are fully included in all activities under this Act, and that greater efforts are made to recruit individuals from minority backgrounds into the field of developmental disabilities; and

"(10) the goals of the Nation properly include the goal of providing individuals with developmental disabilities with the opportunities and support to—

"(A) make informed choices and decisions;

"(B) live in homes and communities in which such individuals can exercise their full rights and responsibilities as citizens;

"(C) pursue meaningful and productive lives;

"(D) contribute to their family, community, State, and Nation;

"(E) have interdependent friendships and relationships with others; and

"(F) achieve full integration and inclusion in society, in an individualized manner, consistent with unique strengths, resources, priorities, concerns, abilities, and capabilities of each individual.

"(b) PURPOSE.—The purpose of this Act is to assure that individuals with developmental disabilities and their families participate in the design of and have access to culturally competent services, supports, and other assistance and opportunities that promote independence, productivity, and integration and inclusion into the community, through—

"(1) support to State Developmental Disabilities Councils in each State to promote, through systemic change, capacity building, and advocacy activities that are consistent with the policy under subsection (c)(2), a consumer and family-centered, comprehensive system, and a coordinated array of services, supports, and other assistance for individuals with developmental disabilities and their families;

"(2) support to protection and advocacy systems in each State to protect the legal and human rights of individuals with developmental disabilities;

"(3) support to university affiliated programs to provide interdisciplinary preservice preparation of students and fellows, community service activities, and the dissemination of information and research findings; and

"(4) support to national initiatives to collect necessary data, provide technical assistance to State Developmental Disabilities Councils, protection and advocacy systems and university affiliated programs, and support other nationally significant activities.

"(c) POLICY.—It is the policy of the United States that all programs, projects, and activities receiving assistance under this Act shall be carried out in a manner consistent with the principles that—

"(1) individuals with developmental disabilities, including those with the most severe developmental disabilities, are capable of achieving independence, productivity, and integration and inclusion into the community, and often require the provision of services, supports and other assistance to achieve independence, productivity, and integration and inclusion;

"(2) individuals with developmental disabilities and their families have competencies, capabilities and personal goals that should be recognized, supported, and encouraged, and any assistance to such individuals should be provided in an individualized manner, consistent with the unique strengths, resources, priorities, concerns, abilities, and capabilities of the such individuals;

"(3) individuals with developmental disabilities and their families are the primary decisionmakers regarding the services and supports such individuals and their families receive and play decisionmaking roles in policies and programs that affect the lives of such individuals and their families;

"(4) services, supports, and other assistance are provided in a manner that demonstrates respect for individual dignity, personal preferences, and cultural differences;

"(5) specific efforts must be made to ensure that individuals from racial and ethnic minority backgrounds enjoy effective and meaningful opportunities for full participation in the developmental disabilities service system;

"(6) recruitment efforts within developmental disabilities at the level of preservice training, community training, practice, administration and policymaking must focus on bringing larger numbers of racial and ethnic minorities into the field in order to provide appropriate skills, knowledge, role models, and sufficient manpower to address the growing needs of an increasingly diverse population;

"(7) with education and support, communities can be responsive to the needs of individuals with developmental disabilities and their families and are enriched by the full and active participation and the contributions by individuals with developmental disabilities and their families; and

"(8) individuals with developmental disabilities should have access to opportunities and the necessary support to be included in community life, have interdependent relationships, live in homes and communities, and make contributions to their families, community, State, and Nation.".

SEC. 103. DEFINITIONS.

Section 102 (42 U.S.C. 6001) is amended to read as follows:

"SEC. 102. DEFINITIONS.

"For purposes of this title:

"(1) AMERICAN INDIAN CONSORTIUM.—The term 'American Indian Consortium' means any confederation of two or more recognized American Indian tribes, created through the official action of each participating tribe, that has a combined total resident population of 150,000 enrolled tribal members and a contiguous territory of Indian lands in two or more States.

"(2) ASSISTIVE TECHNOLOGY DEVICE.—The term 'assistive technology device' means any item, piece of equipment, or product system, whether acquired commercially, modified or customized, that is used to increase, maintain, or improve functional capabilities of individuals with developmental disabilities.

"(3) ASSISTIVE TECHNOLOGY SERVICE.—The term 'assistive technology service' means any service that directly assists an individual with a developmental disability in the selection, acquisition, or use, of an assistive technology device. Such term includes—

"(A) the evaluation of the needs of an individual with a developmental disability, including a functional evaluation of the individual in the individual's customary environment;

"(B) purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by an individual with a developmental disability;

"(C) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing or replacing assistive technology devices;

"(D) coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

"(E) training or technical assistance for an individual with a developmental disability, or, where appropriate, a family member, guardian, advocate, or authorized representative of an individual with a developmental disability; and

"(F) training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of, an individual with developmental disabilities.

"(4) CHILD DEVELOPMENT ACTIVITIES.—The term 'child development activities' means such priority area activities as will assist in the prevention, identification, and alleviation of developmental disabilities in children, including early intervention services.

"(5) COMMUNITY LIVING ACTIVITIES.—The term 'community living activities' means such priority area activities as will assist individuals with developmental disabilities to obtain and receive the supports needed to live in their family home or a home of their own with individuals of their choice and to develop supports in the community.

"(6) COMMUNITY SUPPORTS.—The term 'community supports' means activities, services, supports, and other assistance designed to—

"(A) assist neighborhoods and communities to be more responsive to the needs of individuals with developmental disabilities and their families;

"(B) develop local networks that can provide informal support; and

"(C) make communities accessible and enable communities to offer their resources and opportunities to individuals with developmental disabilities and their families.

Such term includes community education, personal assistance services, vehicular and home modifications, support at work, and transportation.

"(7) CULTURALLY COMPETENT.—The term 'culturally competent' means services, supports or other assistance that are conducted or provided in a manner that is responsive to the beliefs, interpersonal styles, attitudes, language and behaviors of individuals who are receiving services, and in a manner that has the greatest likelihood of ensuring their maximum participation in the program.

"(8) DEVELOPMENTAL DISABILITY.—The term 'developmental disability' means a severe, chronic disability of an individual 5 years of age or older that—

"(A) is attributable to a mental or physical impairment or combination of mental and physical impairments;

"(B) is manifested before the individual attains age 22;

"(C) is likely to continue indefinitely;

"(D) results in substantial functional limitations in three or more of the following areas of major life activity—

"(i) self-care;

"(ii) receptive and expressive language;

"(iii) learning;

"(iv) mobility;

"(v) self-direction;

"(vi) capacity for independent living; and

"(vii) economic self-sufficiency; and

"(E) reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic services, supports, or other assistance that is of lifelong or extended duration and is individually planned and coordinated,

except that such term, when applied to infants and young children means individuals from birth to age 5, inclusive, who have substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in developmental disabilities if services are not provided.

"(9) EARLY INTERVENTION SERVICES.—The term 'early intervention services' means services provided to infants, toddlers, young children, and their families to—

"(A) enhance the development of infants, toddlers, and young children with disabilities and to minimize their potential for developmental delay; and

"(B) enhance the capacity of families to meet the special needs of their infants, toddlers, and young children.

"(10) EMPLOYMENT ACTIVITIES.—The term 'employment activities' means such priority area activities as will increase the independence, productivity, and integration and inclusion into the community of individuals with developmental disabilities in work settings.

"(11) FAMILY SUPPORT SERVICE.—The term 'family support service' means services, supports, and other assistance provided to families with members with developmental disabilities that are designed to—

"(A) strengthen the family's role as primary caregiver;

"(B) prevent inappropriate out-of-the-home placement and maintain family unity; and

"(C) reunite families with members who have been placed out of the home, whenever possible. Such term includes respite care, rehabilitation technology, personal assistance services, parent training and counseling, support for elderly parents, vehicular and home modifications, and assistance with extraordinary expenses associated with the needs of individuals with developmental disabilities.

"(12) FEDERAL PRIORITY AREAS.—The term 'Federal priority areas' means community living activities, employment activities, child development activities, and system coordination and community education activities.

"(13) INDEPENDENCE.—The term 'independence' means the extent to which individuals with developmental disabilities exert control and choice over their own lives.

"(14) INDIVIDUAL SUPPORTS.—The term 'individual supports' means services, supports, and other assistance that enable an individual with a developmental disability to be independent, productive, integrated, and included into such individual's community, and that are designed to—

"(A) enable such individual to control such individual's environment, permitting the most independent life possible;

"(B) prevent placement into a more restrictive living arrangement than is necessary; and

"(C) enable such individual to live, learn, work, and enjoy life in the community.

Such term includes personal assistance services, rehabilitation technology, vehicular and home modifications, support at work, and transportation.

"(15) INTEGRATION AND INCLUSION.—The term 'integration and inclusion', with respect to individuals with developmental disabilities, means—

"(A) the use by individuals with developmental disabilities of the same community resources that are used by and available to other citizens;

"(B) living in homes close to community resources, with regular contact with citizens without disabilities in their communities;

"(C) the full and active participation by individuals with developmental disabilities in the same community activities and types of employment as citizens without disabilities, and utilization of the same community resources as citizens without disabilities, living, learning, working, and enjoying life in regular contact with citizens without disabilities; and

"(D) having friendships and relationships with individuals and families of their own choosing.

"(16) NONPROFIT.—The term 'nonprofit' means an agency, institution, or organization that is owned or operated by one or more corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"(17) OTHER ORGANIZATIONS.—The term 'other organizations' means those organizations that are not State agencies or nonprofit agencies, except such organizations may be consulting firms, independent proprietary businesses and providers, and local community groups not organizationally incorporated, and that are interested in supporting individuals with developmental disabilities.

"(18) PERSONAL ASSISTANCE SERVICES.—The term 'personal assistance services' means a range of services, provided by one or more individuals, designed to assist an individual with a disability to perform daily living activities on or off a job that such individual would typically perform if such individual did not have a disability. Such services shall be designed to increase such individual's control in life and ability to perform everyday activities on or off such job.

"(19) PREVENTION.—The term 'prevention' means activities that address the causes of developmental disabilities and the exacerbation of functional limitations, such as activities that—

"(A) eliminate or reduce the factors that cause or predispose individuals to developmental disabilities or that increase the prevalence of developmental disabilities;

"(B) increase the early identification of existing problems to eliminate circumstances that create or increase functional limitations; and

"(C) mitigate against the effects of developmental disabilities throughout the individual's lifespan.

"(20) PRODUCTIVITY.—The term 'productivity' means—

"(A) engagement in income-producing work that is measured by increased income, improved employment status, or job advancement; or

"(B) engagement in work that contributes to a household or community.

"(21) PROTECTION AND ADVOCACY SYSTEM.—The term 'protection and advocacy system' means a protection and advocacy system established in accordance with section 142.

"(22) REHABILITATION TECHNOLOGY.—The term 'rehabilitation technology' means the systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of, and address the barriers confronted by, individuals with developmental disabilities in areas that include education, rehabilitation, employment, transportation, independent living, and recreation. Such term includes rehabilitation engineering, assistive technology devices, and assistive technology services.

"(23) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

"(24) SERVICE COORDINATION ACTIVITIES.—The term 'service coordination activities' (also referred to as 'case management activities') means activities that assist and enable individuals with developmental disabilities and their families to access services, supports and other assistance, and includes—

"(A) the provision of information to individuals with developmental disabilities and their families about the availability of services, supports, and other assistance;

"(B) assistance in obtaining appropriate services, supports, and other assistance, which may include facilitating and organizing such assistance;

"(C) coordination and monitoring of services, supports, and other assistance provided singly or in combination to individuals with developmental disabilities and their families to ensure accessibility, continuity, and accountability of such assistance; and

"(D) follow-along services that ensure, through a continuing relationship, that the changing needs of individuals with developmental disabilities and their families are recognized and appropriately met.

"(25) STATE.—The term 'State', except as provided in section 155, includes, in addition to each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau (until the Compact of Free Association with Palau takes effect).

"(26) STATE DEVELOPMENTAL DISABILITIES COUNCIL.—The term 'State Developmental Disabilities Council' means a Council established under section 124.

"(27) STATE PRIORITY AREA.—The term 'State priority area' means priority area activities in an area considered essential by the State Developmental Disabilities Council.

"(28) SUPPORTED EMPLOYMENT.—The term 'supported employment' means competitive work in integrated work settings for individuals with developmental disabilities—

"(A)(i) for whom competitive employment has not traditionally occurred; or

"(ii) for whom competitive employment has been interrupted or intermittent as a result of a severe disability; and

"(B) who, because of the nature and severity of their disability, need intensive supported employment services or extended services in order to perform such work.

"(29) SYSTEM COORDINATION AND COMMUNITY EDUCATION ACTIVITIES.—The term 'system coordination and community education activities' means activities that—

"(A) eliminate barriers to access and eligibility for services, supports, and other assistance;

"(B) enhance systems design, redesign, and integration, including the encouragement of the creation of local service coordination and information and referral statewide systems;

"(C) enhance individual, family, and citizen participation and involvement; and

"(D) develop and support coalitions and individuals through training in self-advocacy, educating policymakers, and citizen leadership skills.

"(30) UNIVERSITY AFFILIATED PROGRAM.—The term 'university affiliated program' means a university affiliated program established under section 152.

"(31) UNSERVED AND UNDERSERVED.—The term 'unserved and underserved' includes populations such as individuals from racial and eth-

nic minority backgrounds, disadvantaged individuals, individuals with limited-English proficiency, individuals from underserved geographic areas (rural or urban), and specific groups of individuals within the population of individuals with developmental disabilities, including individuals with developmental disabilities attributable to physical impairment, mental impairment, or a combination of physical and mental impairments.".

SEC. 104. FEDERAL SHARE.

Section 103 (42 U.S.C. 6002) is repealed.

SEC. 105. RECORDS AND AUDITS.

(a) SECTION HEADING.—Section 104 (42 U.S.C. 6003) is amended—

(1) by striking "SEC. 104."; and

(2) in the section heading, by striking "RECORDS AND AUDIT" and inserting the following new section heading:

"SEC. 104. RECORDS AND AUDITS.".

(b) RECORDS AND AUDITS.—Section 104 (42 U.S.C. 6003) is amended—

(1) in subsection (a)—

(A) by striking "Each" and inserting "RECORDS.—Each";

(B) by striking "including" and inserting "including—";

(C) by realigning the margins of subparagraphs (A), (B), and (C) of paragraph (1) so as to align with the margins of subparagraphs (A) and (B) of paragraph (28) of section 102;

(D) by realigning the margins of paragraphs (1) and (2) so as to align with the margin of paragraph (30) of section 102;

(E) in paragraph (1), by striking "disclose" and inserting "disclose—"; and

(F) by striking the comma each place such appears and inserting a semicolon; and

(2) in subsection (b), by striking "The Secretary" and inserting "ACCESS.—The Secretary".

SEC. 106. RECOVERY.

Section 105 (42 U.S.C. 6004) is repealed.

SEC. 107. STATE CONTROL OF OPERATIONS.

Section 106 (42 U.S.C. 6005) is amended—

(1) by striking "SEC. 106.";

(2) in the section heading, by striking "STATE CONTROL OF OPERATIONS" and inserting the following new section heading:

"SEC. 106. STATE CONTROL OF OPERATIONS.";

and

(3) by striking "facility for persons" and inserting "programs, services, and supports for individuals".

SEC. 108. REPORTS.

(a) SECTION HEADING.—Section 107 (42 U.S.C. 6006) is amended—

(1) by striking "SEC. 107."; and

(2) in the section heading, by striking "REPORTS" and inserting the following new section heading:

"SEC. 107. REPORTS.".

(b) REPORTS.—Section 107 (42 U.S.C. 6006) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by striking, "By January" and inserting "DEVELOPMENTAL DISABILITIES COUNCIL REPORTS.—By January";

(ii) by striking "the State Planning Council of each State" and inserting "each State Developmental Disabilities Council";

(iii) by striking "a report concerning" and inserting "a report of"; and

(iv) by striking "such report" and inserting "report";

(B) in paragraph (1), by striking "of such activities" and all that follows through "from such activities" and inserting "of activities and accomplishments";

(C) in paragraph (2)—

(i) by striking "such accomplishments" and inserting "accomplishments"; and

(ii) by striking "by the State";

(D) in paragraph (4)—

(i) by striking "Planning" and inserting "Developmental Disabilities";

(ii) by striking "each" each place such term appears;

(iii) by striking "report" and inserting "reports";

(iv) by striking "1902(a)(31)(C)" and inserting "1902(a)(31)";

(v) by striking "plan" and inserting "plans"; and

(vi) by striking "; and" and inserting a semicolon;

(E) by striking paragraph (5); and

(F) by adding at the end the following new paragraphs:

"(5) a description of—

"(A) the trends and progress made in the State concerning systemic change (including policy reform), capacity building, advocacy, and other actions on behalf of individuals with developmental disabilities, with attention to individuals who are traditionally unserved and underserved, particularly individuals who are members of ethnic and racial minority groups, and individuals from underserved geographic areas;

"(B) systemic change, capacity building, and advocacy activities that affect individuals with disabilities other than developmental disabilities; and

"(C) a summary of actions taken to improve access and services for unserved and underserved groups;

"(6) a description of resources leveraged by activities directly attributable to State Developmental Disabilities Council actions; and

"(7) a description of the method by which the State Developmental Disabilities Council shall widely disseminate the annual report to affected constituencies as well as the general public and to assure that the report is available in accessible formats.";

(2) in subsection (b)—

(A) by striking "By January" and inserting "PROTECTION AND ADVOCACY SYSTEM REPORTS.—By January"; and

(B) by inserting before the period ", including a description of the system's priorities for such fiscal year, the process used to obtain public input, the nature of such input, and how such input was used"; and

(3) in subsection (c)—

(A) by realigning the margins of subparagraphs (A) and (B) of paragraph (1) so as to align with the margins of subparagraph (C) of such paragraph;

(B) by realigning the margins of paragraphs (1) and (2) so as to align with the margin of paragraph (1) of subsection (a);

(C) by striking the subsection designation and inserting "(c) SECRETARY REPORTS.—";

(D) by striking "(1) By" and inserting the following:

"(1) IN GENERAL.—By";

(E) in paragraph (1)—

(i) in subparagraph (B)—

(I) by striking "integration" each place such term appears and inserting "integration and inclusion"; and

(II) by striking "persons" and inserting "individuals";

(ii) by striking subparagraph (C) and inserting the following new subparagraph:

"(C)(i) the trends and progress made in the States concerning systemic change (including policy reform), capacity building, advocacy, and other actions on behalf of individuals with developmental disabilities, with attention to individuals who are traditionally unserved and underserved, particularly individuals who are members of ethnic and racial minority groups, and individuals from underserved geographic areas;

"(ii) systemic change, capacity building, and advocacy activities that affect individuals with disabilities other than developmental disabilities; and

"(iii) a summary of actions taken to improve access and services for unserved and underserved groups;"; and

(iii) in subparagraph (D), by striking "persons" and inserting "individuals"; and

(F) in paragraph (2)—

(i) by striking "use and include" and inserting "include and analyze";

(ii) by striking "to the Secretary"; and

(iii) by striking "In preparing" and inserting "INCLUSION OF COUNCIL AND SYSTEM INFORMATION.—In preparing".

SEC. 109. RESPONSIBILITIES OF THE SECRETARY.

(a) SECTION HEADING.—Section 108 (42 U.S.C. 6007) is amended—

(1) by striking "SEC. 108."; and

(2) in the section heading, by striking "RESPONSIBILITIES OF THE SECRETARY" and inserting the following new section heading:

"SEC. 108. RESPONSIBILITIES OF THE SECRETARY.".

(b) RESPONSIBILITIES.—Section 108 (42 U.S.C. 6007) is amended—

(1) in subsection (a), by striking "The Secretary" and inserting "REGULATIONS.—The Secretary"; and

(2) in subsection (b)—

(A) by striking "Within ninety" and inserting "INTERAGENCY COMMITTEE.—Within 90"; and

(B) by striking "Administration for Developmental Disabilities" and inserting "Administration on Developmental Disabilities,".

SEC. 110. EMPLOYMENT OF HANDICAPPED INDIVIDUALS.

(a) SECTION HEADING.—Section 109 (42 U.S.C. 6008) is amended—

(1) by striking "SEC. 109."; and

(2) in the section heading, by striking "EMPLOYMENT OF HANDICAPPED INDIVIDUALS" and inserting the following new section heading:

"SEC. 109. EMPLOYMENT OF INDIVIDUALS WITH DISABILITIES.".

(b) EMPLOYMENT.—Section 109 (42 U.S.C. 6008) is amended—

(1) by striking "handicapped individuals" and inserting "individuals with disabilities";

(2) by striking "Act of" and inserting "Act of 1973"; and

(3) by striking "which govern" and all that follows through "subcontracts." and inserting the following: "that govern employment—

"(1) by State rehabilitation agencies and community rehabilitation programs; and

"(2) under Federal contracts and subcontracts.".

SEC. 111. RIGHTS OF THE DEVELOPMENTALLY DISABLED.

(a) SECTION HEADING.—Section 110 (42 U.S.C. 6009) is amended—

(1) by striking "SEC. 110."; and

(2) in the section heading, by striking "RIGHTS OF THE DEVELOPMENTALLY DISABLED" and inserting the following new section heading:

"SEC. 110. RIGHTS OF INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES.".

(b) RIGHTS.—Section 110 (42 U.S.C. 6009) is amended—

(1) in the matter preceding paragraph (1) by striking "persons" and inserting "individuals";

(2) in paragraph (1), by striking "Persons" and inserting "Individuals";

(3) in paragraph (2)—

(A) by striking "a person" and inserting "an individual";

(B) by striking "the person" and inserting "the individual"; and

(C) by striking "the person's" and inserting "the individual's";

(4) in paragraph (3), by striking "persons" each place such term appears and inserting "individuals";

(5) in paragraph (4), by striking "persons" each place such term appears and inserting "individuals"; and

(6) in the matter following subparagraph (C) of paragraph (4), by striking "persons" each place such term appears and inserting "individuals".

TITLE II—FEDERAL ASSISTANCE FOR PRIORITY AREA ACTIVITIES FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES

SEC. 201. PART HEADING.

The heading of Part B of title I of the Act is amended to read as follows:

"PART B—FEDERAL ASSISTANCE TO STATE DEVELOPMENTAL DISABILITIES COUNCILS".

SEC. 202. PURPOSE.

Section 121 (42 U.S.C. 6021) is amended to read as follows:

"SEC. 121. PURPOSE.

"The purpose of this part is to provide for allotments to support State Developmental Disabilities Councils in each State to promote, through systemic change, capacity building, and advocacy activities that are consistent with the policy under section 101(c)(2), the development of a consumer and family-centered, comprehensive system and a coordinated array of culturally competent services, supports, and other assistance designed to achieve independence, productivity, and integration and inclusion into the community for individuals with developmental disabilities.".

SEC. 203. STATE PLANS.

Section 122 (42 U.S.C. 6022) is amended to read as follows:

"SEC. 122. STATE PLAN.

"(a) IN GENERAL.—Any State desiring to take advantage of this part shall have a State plan submitted to, and approved by, the Secretary under this section.

"(b) PLANNING CYCLE.—The plan under subsection (a) shall be reviewed annually and revised at least once every 3 years.

"(c) STATE PLAN REQUIREMENTS.—In order to be approved by the Secretary under this section, a State plan shall meet the requirements in paragraphs (1) through (5).

"(1) STATE COUNCIL.—The plan shall provide for the establishment and maintenance of a State Developmental Disabilities Council in accordance with section 124 and describe the membership of such Council.

"(2) DESIGNATED STATE AGENCY.—The plan shall identify the agency or office within the State designated to support the State Developmental Disabilities Council in accordance with this section and section 124(d).

"(3) COMPREHENSIVE REVIEW AND ANALYSIS.—The plan shall contain a comprehensive review and analysis of the extent to which services and supports are available to, and the need for services and supports for, individuals with developmental disabilities and their families. Such review and analysis shall include—

"(A) a description of the services, supports and other assistance being provided to, or to be provided to, individuals with developmental disabilities and their families under other federally assisted State programs, plans, and policies that the State conducts and in which individuals with developmental disabilities are or may be eligible to participate, including programs relating to education, job training, vocational rehabilitation, public assistance, medical assistance, social services, child welfare, maternal and child health, aging, programs for children with special health care needs, children's mental health, housing, transportation, technology, comprehensive health and mental health, and such other programs as the Secretary may specify;

"(B) a description of the extent to which agencies operating such other federally assisted State programs pursue interagency initiatives to improve and enhance services, supports, and other assistance for individuals with developmental disabilities; and

"(C) an examination of the provision, and the need for the provision, in the State of the four Federal priority areas and an optional State priority area, including—

"(i) an analysis of such Federal and State priority areas in relation to the degree of support for individuals with developmental disabilities attributable to either physical impairment, mental impairment, or a combination of physical and mental impairments;

"(ii) an analysis of criteria for eligibility for services, including specialized services and special adaptation of generic services provided by agencies within the State, that may exclude individuals with developmental disabilities from receiving such services;

"(iii) an analysis of the barriers that impede full participation of members of unserved and underserved groups;

"(iv) consideration of the report conducted pursuant to section 124(e);

"(v) consideration of the data collected by the State educational agency under section 618 of the Individuals with Disabilities Education Act;

"(vi) an analysis of services, assistive technology, or knowledge that may be unavailable to assist individuals with developmental disabilities;

"(vii) an analysis of existing and projected fiscal resources;

"(viii) an analysis of any other issues identified by the State Developmental Disabilities Council; and

"(ix) the formulation of objectives in systemic change, capacity building, and advocacy to address the issues described in clauses (i) through (vi) for all subpopulations of individuals with developmental disabilities that may be identified by the State Developmental Disabilities Council.

"(4) PLAN OBJECTIVES.—The plan shall—

"(A) specify employment, and at the discretion of the State, any or all of the three other Federal priority areas and an optional State priority area that are selected by the State Developmental Disabilities Council for such Council's major systemic change, capacity building, and advocacy activities to be addressed during the plan period and describe the extent and scope of the Federal and State priority areas that will be addressed under the plan in the fiscal year;

"(B) describe the specific 1-year and 3-year objectives to be achieved and include a listing of the programs, activities, and resources by which the State Developmental Disabilities Council will implement its systemic change, capacity building, and advocacy activities in selected priority areas, and set forth the non-Federal share required to carry out each objective; and

"(C) establish a method for the periodic evaluation of the plan's effectiveness in meeting the objectives described in subparagraph (B).

"(5) ASSURANCES.—The plan shall contain or be supported by the assurances described in subparagraphs (A) through (N), which are satisfactory to the Secretary.

"(A) USE OF FUNDS.—With respect to the funds paid to the State under section 125, the plan shall provide assurances that—

"(i) such funds will be used to make a significant contribution toward enhancing the independence, productivity, and integration and inclusion into the community of individuals with developmental disabilities in various political subdivisions of the State;

"(ii) such funds will be used to supplement and to increase the level of funds that would otherwise be made available for the purposes for which Federal funds are provided and not to supplant non-Federal funds;

"(iii) such funds will be used to complement and augment rather than duplicate or replace services for individuals with developmental disabilities and their families who are eligible for Federal assistance under other State programs;

"(iv) part of such funds will be made available by the State to public or private entities;

"(v) not more than 25 percent of such funds will be allocated to the agency designated under section 124(d) for service demonstration by such agency and that such funds and demonstration services have been explicitly authorized by the State Developmental Disabilities Council;

"(vi) not less than 65 percent of the amount available to the State under section 125 shall be expended for activities in the Federal priority area of employment activities, and, at the discretion of the State, activities in any or all of the three other Federal priority areas and an optional State priority area; and

"(vii) the remainder of the amount available to the State from allotments under section 125 (after making expenditures required by clause (vi)) shall be used for the planning, coordination, administration, and implementation of priority area activities, and other activities relating to systemic change, capacity building, and advocacy to implement the responsibilities of the State Developmental Disabilities Council pursuant to section 124(c).

"(B) STATE FINANCIAL PARTICIPATION.—The plan shall provide assurances that there will be reasonable State financial participation in the cost of carrying out the State plan.

"(C) CONFLICT OF INTEREST.—The plan shall provide assurances that the State Developmental Disabilities Council has approved conflict of interest policies as of October 1, 1994, to ensure that no member of such Council shall cast a vote on any matter that would provide direct financial benefit to the member or otherwise give the appearance of a conflict of interest.

"(D) URBAN AND RURAL POVERTY AREAS.—The plan shall provide assurances that special financial and technical assistance shall be given to organizations that provide services, supports, and other assistance to individuals with developmental disabilities who live in areas designated as urban or rural poverty areas.

"(E) PROGRAM STANDARDS.—The plan shall provide assurances that programs, projects, and activities assisted under the plan, and the buildings in which such programs, projects, and activities are operated, will meet standards prescribed by the Secretary in regulation and all applicable Federal and State accessibility standards.

"(F) INDIVIDUALIZED SERVICES.—The plan shall provide assurances that any direct services provided to individuals with developmental disabilities and funded under this plan will be provided in an individualized manner, consistent with unique strengths, resources, priorities, concerns, abilities, and capabilities of an individual.

"(G) HUMAN RIGHTS.—The plan shall provide assurances that the human rights of all individuals with developmental disabilities (especially those individuals without familial protection) who are receiving services under programs assisted under this part will be protected consistent with section 110 (relating to rights of individuals with developmental disabilities).

"(H) MINORITY PARTICIPATION.—The plan shall provide assurances that the State has taken affirmative steps to assure that participation in programs under this part is geographically representative of the State, and reflects the diversity of the State with respect to race and ethnicity.

"(I) INTERMEDIATE CARE FACILITY FOR THE MENTALLY RETARDED SURVEY REPORTS.—The plan shall provide assurances that the State will provide the State Developmental Disabilities

Council with a copy of each annual survey report and plan of corrections for cited deficiencies prepared pursuant to section 1902(a)(31) of the Social Security Act with respect to any intermediate care facility for the mentally retarded in such State not less than 30 days after the completion of each such report or plan.

"(J) VOLUNTEERS.—The plan shall provide assurances that the maximum utilization of all available community resources including volunteers serving under the Domestic Volunteer Service Act of 1973 and other appropriate voluntary organizations will be provided for, except that such volunteer services shall supplement, and shall not be in lieu of, services of paid employees.

"(K) EMPLOYEE PROTECTIONS.—The plan shall provide assurances that fair and equitable arrangements (as determined by the Secretary after consultation with the Secretary of Labor) will be provided to protect the interests of employees affected by actions under the plan to provide community living activities, including arrangements designed to preserve employee rights and benefits and to provide training and retraining of such employees where necessary and arrangements under which maximum efforts will be made to guarantee the employment of such employees.

"(L) STAFF ASSIGNMENTS.—The plan shall provide assurances that the staff and other personnel of the State Developmental Disabilities Council, while working for the Council, are responsible solely for assisting the Council in carrying out its duties under this part and are not assigned duties by the designated State agency or any other agency or office of the State.

"(M) NONINTERFERENCE.—The plan shall provide assurances that the designated State agency or other office of the State will not interfere with systemic change, capacity building, and advocacy activities, budget, personnel, State plan development, or plan implementation of the State Developmental Disabilities Council, except that the designated State agency shall have the authority necessary to carry out the responsibilities described in section 124(d)(3).

"(N) OTHER ASSURANCES.—The plan shall contain such additional information and assurances as the Secretary may find necessary to carry out the provisions and purposes of this part.

"(d) PUBLIC REVIEW, SUBMISSION, AND APPROVAL.—

"(1) PUBLIC REVIEW.—The plan shall be made available for public review and comment with appropriate and sufficient notice in accessible formats and take into account and respond to significant suggestions, as prescribed by the Secretary in regulation.

"(2) CONSULTATION WITH THE DESIGNATED STATE AGENCY.—Before the plan is submitted to the Secretary, the State Developmental Disabilities Council shall consult with the designated State agency to ensure that the State plan is consistent with State law and to obtain appropriate State plan assurances.

"(3) PLAN APPROVAL.—The Secretary shall approve any State plan and annual updates of such plan that comply with the provisions of subsections (a), (b), and (c). The Secretary may not finally disapprove a State plan except after providing reasonable notice and an opportunity for a hearing to the State.".

SEC. 204. HABILITATION PLANS.

Section 123 (42 U.S.C. 6023) is repealed.

SEC. 205. COUNCILS.

Section 124 (42 U.S.C. 6024) is amended to read as follows:

"SEC. 124. STATE DEVELOPMENTAL DISABILITIES COUNCILS AND DESIGNATED STATE AGENCIES.

"(a) IN GENERAL.—Each State that receives assistance under this part shall establish and maintain a State Developmental Disabilities Council (hereafter in this section referred to as the 'Council') to promote, through systemic change, capacity building, and advocacy activities (consistent with section 101(c)(2)), the development of a consumer and family-centered comprehensive system and a coordinated array of culturally competent services, supports and other assistance designed to achieve independence, productivity, and integration and inclusion into the community for individuals with developmental disabilities. The Council shall have the authority to fulfill its responsibilities described in subsection (c).

"(b) COUNCIL MEMBERSHIP.—

"(1) COUNCIL APPOINTMENTS.—The members of the Council of a State shall be appointed by the Governor of the State from among the residents of that State. The Governor shall select members of the Council, at his or her discretion, after soliciting recommendations from organizations representing a broad range of individuals with developmental disabilities and individuals interested in individuals with developmental disabilities, including the non-State agency members of the Council. The Council may, at the request of the Governor, coordinate Council and public input to the Governor regarding all recommendations. To the extent feasible, the membership of the Council shall be geographically representative of the State and reflect the diversity of the State with respect to race and ethnicity.

"(2) MEMBERSHIP ROTATION.—The Governor shall make appropriate provisions to rotate the membership of the Council. Such provisions shall allow members to continue to serve on the Council until such members' successors are appointed. The Council shall notify the Governor regarding membership requirements, when vacancies remain unfilled for a significant period of time.

"(3) REPRESENTATION OF AGENCIES AND ORGANIZATIONS.—Each Council shall at all times include representatives of the principal State agencies (including the State agencies that administer funds provided under the Rehabilitation Act of 1973, the Individuals with Disabilities Education Act, the Older Americans Act, and title XIX of the Social Security Act), institutions of higher education, each university affiliated program in the State established under part D, the State protection and advocacy system established under part C, and local agencies, nongovernmental agencies, and private nonprofit groups concerned with services for individuals with developmental disabilities in the State in which such agencies and groups are located. Such representatives shall—

"(A) have sufficient authority to engage in policy planning and implementation on behalf of the department, agency, or program such representatives represent; and

"(B) recuse themselves from any discussion of grants or contracts for which such representatives' departments, agencies, or programs are grantees or applicants and comply with the conflict of interest policies required under section 122(c)(5)(C).

"(4) REPRESENTATION OF INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES.—Not less than 50 percent of the membership of each Council shall consist of individuals who are—

"(A)(i) individuals with developmental disabilities;

"(ii) parents or guardians of children with developmental disabilities; or

"(iii) immediate relatives or guardians of adults with mentally impairing developmental disabilities who cannot advocate for themselves; and

"(B) not employees of a State agency that receives funds or provides services under this part, and who are not managing employees (as defined in section 1126(b) of the Social Security Act) of any other entity that receives funds or provides services under this part.

"(5) COMPOSITION OF MEMBERSHIP WITH DEVELOPMENTAL DISABILITIES.—Of the members of the Council described in paragraph (4)—

"(A) one-third shall be individuals with developmental disabilities as described in paragraph (4)(A)(i);

"(B) one-third shall be parents of children with developmental disabilities as described in paragraph (4)(A)(ii), and immediate relatives or guardians of adults with mentally impairing developmental disabilities as described in paragraph (4)(A)(iii); and

"(C) one-third shall be a combination of individuals described in paragraph (4)(A).

"(6) INSTITUTIONALIZED INDIVIDUALS.—Of the members of the Council described in paragraph (5), at least one shall be an immediate relative or guardian of an institutionalized or previously institutionalized individual with a developmental disability or an individual with a developmental disability who resides or previously resided in an institution. This paragraph shall not apply with respect to a State if such an individual does not reside in that State.

"(c) COUNCIL RESPONSIBILITIES.—A Council, through Council members, staff, consultants, contractors, or subgrantees, shall have the responsibilities described in paragraphs (1) through (11).

"(1) SYSTEMIC CHANGE, CAPACITY BUILDING, AND ADVOCACY ACTIVITIES.—The Council shall serve as an advocate for individuals with developmental disabilities and conduct programs, projects, and activities that carry out the purpose under section 121.

"(2) EXAMINATION OF PRIORITY AREAS.—Not less than once every 3 years, the Council shall examine the provision of and need for the four Federal priority areas and an optional State priority area to address, on a statewide and comprehensive basis, urgent needs for services, supports, and other assistance for individuals with developmental disabilities and their families, pursuant to section 122.

"(3) STATE PLAN DEVELOPMENT.—The Council shall develop and submit to the Secretary the State plan required under section 122 after consultation with the designated State agency under the State plan. Such consultation shall be solely for the purposes of obtaining State assurances and ensuring consistency of the plan with State law.

"(4) STATE PLAN IMPLEMENTATION.—The Council shall implement the State plan by conducting and supporting the Federal priority area of employment, not less than one of the remaining three Federal priority areas, and an optional State priority area as defined in section 102, through systemic change, capacity building, and advocacy activities such as those described in subparagraphs (A) through (K).

"(A) DEMONSTRATION OF NEW APPROACHES.—The Council may conduct, on a time-limited basis, the demonstration of new approaches to enhance the independence, productivity, and integration and inclusion into the community of individuals with developmental disabilities. This may include making successful demonstrations generally available through sources of funding other than funding under this part, and may also include assisting those conducting such successful demonstration activities to develop strategies for securing funding from other sources.

"(B) OUTREACH.—The Council may conduct activities to reach out to assist and enable individuals with developmental disabilities and their families who otherwise might not come to the attention of the Council to obtain services, supports, and other assistance, including access to special adaptation of generic services or specialized services.

"(C) TRAINING.—The Council may conduct training for individuals with developmental disabilities, their families, and personnel (including professionals, paraprofessionals, students, volunteers, and other community members) to enable such individuals to obtain access to, or to provide, services, supports and other assistance, including special adaptation of generic services or specialized services for individuals with developmental disabilities and their families. To the extent that training activities are provided, such activities shall be designed to promote the empowerment of individuals with developmental disabilities and their families.

"(D) SUPPORTING COMMUNITIES.—The Council may assist neighborhoods and communities to respond positively to individuals with developmental disabilities and their families by encouraging local networks to provide informal and formal supports and enabling communities to offer such individuals and their families access, resources, and opportunities.

"(E) INTERAGENCY COLLABORATION AND COORDINATION.—The Council may promote interagency collaboration and coordination to better serve, support, assist, or advocate for individuals with developmental disabilities and their families.

"(F) COORDINATION WITH RELATED COUNCILS, COMMITTEES, AND PROGRAMS.—The Council may conduct activities to enhance coordination with—

"(i) other councils or committees, authorized by Federal or State law, concerning individuals with disabilities (such as the State Interagency Coordinating Council under part H of the Individuals with Disabilities Education Act, the State Rehabilitation Advisory Council and the Statewide Independent Living Council under the Rehabilitation Act of 1973, the State Mental Health Planning Council under part B of title XIX of the Public Health Service Act and other similar councils or committees);

"(ii) parent training and information centers under part D of the Individuals with Disabilities Education Act and other federally funded projects that assist parents of children with disabilities; and

"(iii) other groups interested in systemic change, capacity building, and advocacy for individuals with disabilities.

"(G) BARRIER ELIMINATION, SYSTEMS DESIGN, AND CITIZEN PARTICIPATION.—The Council may conduct activities to eliminate barriers, enhance systems design and redesign, and enhance citizen participation to address issues identified in the State plan.

"(H) PUBLIC EDUCATION AND COALITION DEVELOPMENT.—The Council may conduct activities to educate the public about the capabilities, preferences, and needs of individuals with developmental disabilities and their families and to develop and support coalitions that support the policy agenda of the Council, including training in self-advocacy, educating policymakers, and citizen leadership skills.

"(I) INFORMING POLICYMAKERS.—The Council may provide information to Federal, State, and local policymakers, including the Congress, the Federal executive branch, the Governor, State legislature, and State agencies, in order to increase the ability of such policymakers to offer opportunities and to enhance or adapt generic services or provide specialized services to individuals with developmental disabilities and their families by conducting studies and analyses, gathering information, and developing and disseminating model policies and procedures, information, approaches, strategies, findings, conclusions, and recommendations.

"(J) PREVENTION.—The Council may conduct prevention activities as defined in section 102.

"(K) OTHER ACTIVITIES.—The Council may conduct other systemic change, capacity building, and advocacy activities to promote the development of a consumer and family-centered comprehensive system and a coordinated array of culturally competent services, supports and other assistance designed to achieve independence, productivity, and integration and inclusion into the community of individuals with developmental disabilities throughout the State on a comprehensive basis.

"(5) STATE PLAN MONITORING.—Not less than once each year, the Council shall monitor, review, and evaluate the implementation and effectiveness of the State plan in meeting such plan's objectives.

"(6) REVIEW OF DESIGNATED STATE AGENCY.—The Council shall periodically review the designated State agency with respect to the activities carried out under this Act and make any recommendations for change to the Governor.

"(7) REPORTS.—The Council shall submit to the Secretary, through the Governor, periodic reports on its activities as the Secretary may reasonably request, and keep such records and afford such access thereto as the Secretary finds necessary to verify such reports.

"(8) BUDGET.—Each Council shall prepare, approve, and implement a budget using amounts paid to the State under this part to fund and implement all programs, projects, and activities under this part including—

"(A) conducting such hearings and forums as the Council may determine to be necessary to carry out the duties of the Council, reimbursing Council members of the Council for reasonable and necessary expenses for attending Council meetings and performing Council duties (including child care and personal assistance services), paying compensation to a member of the Council, if such member is not employed or must forfeit wages from other employment, for each day such member is engaged in performing the duties of the Council, supporting Council member and staff travel to authorized training and technical assistance activities including inservice training and leadership development, and appropriate subcontracting activities;

"(B) hiring and maintaining sufficient numbers and types of staff (qualified by training and experience) and obtaining the services of such professional, consulting, technical, and clerical personnel (qualified by training and experience), consistent with State law, as the Council determines to be necessary to carry out its functions under this part, except that such State shall not apply hiring freezes, reductions in force, prohibitions on staff travel, or other policies, to the extent that such policies would impact staff or functions funded with Federal funds and would prevent the Council from carrying out its functions under this Act; and

"(C) directing the expenditure of funds for grants, contracts, interagency agreements that are binding contracts, and other activities authorized by the approved State plan.

"(9) STAFF HIRING AND SUPERVISION.—A Council shall, consistent with State law, recruit and hire a Director of the Council, should the position of Director become vacant, and supervise and annually evaluate the Director. The Director shall hire, supervise, and annually evaluate the staff of the Council. Council recruitment and hiring of staff shall be consistent with Federal and State nondiscrimination laws. Dismissal of personnel shall be consistent with State law and personnel policies.

"(10) STAFF ASSIGNMENTS.—The staff and other personnel, while working for the Council, shall be responsible solely for assisting the Council in carrying out its duties under this part and shall not be assigned duties by the designated State agency or any other agency or office of the State.

"(11) CONSTRUCTION.—

"(A) ACTIVITIES OF THE COUNCIL.—Nothing in this part shall be construed to preclude a Council from engaging in systemic change, capacity building, and advocacy activities for individuals with disabilities other than developmental disabilities, where appropriate.

"(B) AUTHORITY OF THE COUNCIL.—Nothing in this Act shall be construed to authorize a Council to direct, control, or exercise any policy making authority or administrative authority over any program assisted under the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.) and the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

"(d) DESIGNATED STATE AGENCY.—

"(1) IN GENERAL.—Each State that receives assistance under this part shall designate the State agency that shall, on behalf of the State, provide support to the Council. After the date of enactment of the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1994, any designation of a State agency shall be made in accordance with the requirements of this subsection.

"(2) DESIGNATION.—

"(A) TYPE OF AGENCY.—Except as provided in this subsection, the designated State agency shall be—

"(i) the Council if such Council may be the designated State agency under the laws of the State;

"(ii) a State agency that does not provide or pay for services made available to individuals with developmental disabilities; or

"(iii) a State office, including the immediate office of the Governor of the State or a State planning office.

"(B) CONDITIONS FOR CONTINUATION OF STATE SERVICE AGENCY DESIGNATION.—

"(i) DESIGNATION BEFORE ENACTMENT.—If a State agency that provides or pays for services for individuals with developmental disabilities was a designated State agency for purposes of this part on the date of enactment of the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1994, and the Governor of the State (or legislature, where appropriate and in accordance with State law) determines prior to June 30, 1994, not to change the designation of such agency, such agency may continue to be a designated State agency for purposes of this part.

"(ii) CRITERIA FOR CONTINUED DESIGNATION.—The determination at the discretion of the Governor (or legislature as the case may be) shall be made after the Governor has considered the comments and recommendations of the general public and a majority of the non-State agency members of the Council with respect to the designation of such State agency, and after the Governor (or legislature as the case may be) has made an independent assessment that the designation of such agency shall not interfere with the budget, personnel, priorities, or other action of the Council, and the ability of the Council to serve as an advocate for individuals with developmental disabilities.

"(C) REVIEW OF DESIGNATION.—After April 1, 1994, the Council may request a review of the designation of the designated State agency by the Governor (or legislature as the case may be). The Council shall provide documentation concerning the reason the Council desires a change to be made and make a recommendation to the Governor (or legislature as the case may be) regarding a preferred designated State agency.

"(D) APPEAL OF DESIGNATION.—After the review is completed under subparagraph (C), a majority of the non-State agency members of the Council may appeal to the Secretary for a review of the designation of the designated State agency if Council independence as an advocate is not assured because of the actions or inactions of the designated State agency.

"(3) RESPONSIBILITIES.—The designated State agency shall, on behalf of the State, have the

responsibilities described in subparagraphs (A) through (F).

"(A) SUPPORT SERVICES.—The designated State agency shall provide required assurances and support services as requested by and negotiated with the Council.

"(B) FISCAL RESPONSIBILITIES.—The designated State agency shall—

"(i) receive, account for, and disperse funds under this part based on the State plan required in section 122; and

"(ii) provide for such fiscal control and fund accounting procedures as may be necessary to assure the proper dispersement of, and accounting for, funds paid to the State under this part.

"(C) RECORDS, ACCESS, AND FINANCIAL REPORTS.—The designated State agency shall keep such records and afford access thereto as the Secretary and the Council determine necessary. The designated State agency, if other than the Council, shall provide timely financial reports at the request of the Council regarding the status of expenditures, obligations, liquidation, and the Federal and non-Federal share.

"(D) NON-FEDERAL SHARE.—The designated State agency, if other than the Council, shall provide the required non-Federal share defined in section 125A(c).

"(E) ASSURANCES.—The designated State agency shall assist the Council in obtaining the appropriate State plan assurances and in ensuring that the plan is consistent with State law.

"(F) MEMORANDUM OF UNDERSTANDING.—On the request of the Council, the designated State agency shall enter into a memorandum of understanding with the Council delineating the roles and responsibilities of the designated State agency.

"(4) USE OF FUNDS FOR DESIGNATED STATE AGENCY RESPONSIBILITIES.—

"(A) NECESSARY EXPENDITURES OF STATE DESIGNATED AGENCY.—At the request of any State, a portion of any allotment or allotments of such State under this part for any fiscal year shall be available to pay up to one-half (or the entire amount if the Council is the designated State agency) of the expenditures found necessary by the Secretary for the proper and efficient exercise of the functions of the State designated agency, except that not more than 5 percent of the total of the allotments of such State for any fiscal year, or $50,000, whichever is less, shall be made available for the total expenditure for such purpose by the State agency designated under this subsection.

"(B) CONDITION FOR FEDERAL FUNDING.—Amounts shall be provided under subparagraph (A) to a State for a fiscal year only on condition that there shall be expended from State sources for carrying out the responsibilities of the designated State agency under paragraph (3) not less than the total amount expended for carrying out such responsibilities from such sources during the previous fiscal year, except in such year as the Council may become the designated State agency.

"(C) SUPPORT SERVICES PROVIDED BY OTHER AGENCIES.—With the agreement of the designated State agency, the Council may use or contract with agencies other than the designated State agency to perform the functions of the designated State agency.

"(e) 1990 REPORT.—Not later than January 1, 1990, each Council shall complete the reviews, analyses, and final report described in this section.

"(1) COMPREHENSIVE REVIEW AND ANALYSIS.—Each Council shall conduct a comprehensive review and analysis of the eligibility for services provided, and the extent, scope, and effectiveness of, services provided and functions performed by, all State agencies (including agencies that provide public assistance) that affect or that potentially affect the ability of individuals with developmental disabilities to achieve the goals of independence, productivity, and integration and inclusion into the community, including individuals with developmental disabilities attributable to physical impairment, mental impairment, or a combination of physical and mental impairments.

"(2) CONSUMER SATISFACTION.—Each Council shall conduct a review and analysis of the effectiveness of, and consumer satisfaction with, the functions performed by, and services provided or paid for from Federal and State funds by, each of the State agencies (including agencies that provide public assistance) responsible for performing functions for, and providing services to, all individuals with developmental disabilities in the State. Such review and analysis shall be based upon a survey of a representative sample of individuals with developmental disabilities receiving services from each such agency, and if appropriate, shall include such individuals' families.

"(3) PUBLIC REVIEW AND COMMENT.—Each Council shall convene public forums, after the provision of notice within the State, in order to—

"(A) present the findings of the reviews and analyses prepared under paragraphs (1) and (2);

"(B) obtain comments from all interested individuals in the State regarding the unserved and underserved populations of individuals with developmental disabilities that result from physical impairment, mental impairment, or a combination of physical and mental impairments; and

"(C) obtain comments on any proposed recommendations concerning the removal of barriers to services for individuals with developmental disabilities and to connect such services to existing State agencies by recommending the designation of one or more State agencies, as appropriate, to be responsible for the provision and coordination of such services.

"(4) BASIS FOR STATE PLAN.—Each Council shall utilize the information developed pursuant to paragraphs (1), (2), and (3) in developing the State plan.".

SEC. 206. STATE ALLOTMENTS.

(a) SECTION HEADING.—Section 125 (42 U.S.C. 6025) is amended—

(1) by striking "SEC. 125."; and

(2) in the section heading, by striking "STATE ALLOTMENTS" and inserting the following new section heading:

"SEC. 125. STATE ALLOTMENTS.".

(b) ALLOTMENTS.—Section 125 (42 U.S.C. 6025) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by realigning the margins of subparagraphs (A), (B), and (C) so as to align with the margin of subparagraph (A) of paragraph (4); and

(ii) by realigning the margin of the matter following subparagraph (C) so as to align with the margin of paragraph (3);

(B) by striking "(a)(1) For" and inserting the following:

"(a) ALLOTMENTS.—

"(1) IN GENERAL.—For";

(C) in paragraph (2)—

(i) by striking "(2) Adjustments" and inserting the following:

"(2) ADJUSTMENTS.—Adjustments";

(ii) by striking "may be" and inserting "shall be"; and

(iii) by striking "not less" and inserting "and the percentage of the total appropriation for each State not less";

(D) in paragraph (3)—

(i) by striking "(3)(A) Except" and all that follows through "September 30, 1990." and inserting the following:

"(3) MINIMUM ALLOTMENT FOR APPROPRIATIONS LESS THAN OR EQUAL TO $75,000,000.—

"(A) IN GENERAL.—Except as provided in paragraph (4), for any fiscal year the allotment under this section—

"(i) to each of American Samoa, Guam, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, or the Republic of Palau (until the Compact of Free Association with Palau takes effect) may not be less than the greater of—

"(I) $210,000; or

"(II) the greater of the allotment received by such State for fiscal year 1992, or the allotment received by such State for fiscal year 1993, under this section (determined without regard to subsection (d)); and

"(ii) to any State not described in clause (i), may not be less than the greater of—

"(I) $400,000; or

"(II) the greater of the allotment received by such State for fiscal year 1992, or the allotment received by such State for fiscal year 1993, under this section (determined without regard to subsection (d)).'"; and

(ii) by striking "(B) Notwithstanding" and inserting the following:

"(B) REDUCTION OF ALLOTMENT.—Notwithstanding";

(E) in paragraph (4), to read as follows:

"(4) MINIMUM ALLOTMENT FOR APPROPRIATIONS IN EXCESS OF $75,000,000.—

"(A) IN GENERAL.—In any case in which amounts appropriated under section 130 for a fiscal year exceeds $75,000,000, the allotment under this section for such fiscal year—

"(i) to each of American Samoa, Guam, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands or the Republic of Palau (until the Compact of Free Association with Palau takes effect) may not be less than the greater of—

"(I) $220,000; or

"(II) the greater of the allotment received by such State for fiscal year 1992, or the allotment received by such State for fiscal year 1993, under this section (determined without regard to subsection (d)); and

"(ii) to any State not described in clause (i) may not be less than the greater of—

"(I) $450,000; or

"(II) the greater of the allotment received by such State for fiscal year 1992, or the allotment received by such State for fiscal year 1993, under this section (determined without regard to subsection (d)).

"(B) REDUCTION OF ALLOTMENT.—The requirements of paragraph (3)(B) shall apply with respect to amounts to be allotted to States under subparagraph (A), in the same manner and to the same extent as such requirements apply with respect to amounts to be allotted to States under paragraph (3)(A).";

(F) in paragraph (5)—

(i) by striking "In determining" and inserting "STATE SUPPORTS, SERVICES, AND OTHER ACTIVITIES.—In determining"; and

(ii) by striking, "section 122(b)(2)(C)" and inserting "section 122(c)(3)(A)"; and

(G) in paragraph (6), by striking "In any case" and inserting "INCREASE IN ALLOTMENTS.—In any case";

(2) in subsection (b), by striking "Any amount" and inserting "UNOBLIGATED FUNDS.—Any amount";

(3) by redesignating subsections (c) and (d) as subsection (d) and (e), respectively;

(4) by inserting after subsection (b) the following new subsection:

"(c) OBLIGATION OF FUNDS.—For the purposes of this part, State Interagency Agreements are considered valid obligations for the purpose of obligating Federal funds allotted to the State under this part.";

(5) in subsection (d) (as redesignated by paragraph (3)), by striking "Whenever" and insert-

ing "COOPERATIVE EFFORTS BETWEEN STATES.—Whenever"; and

(6) in subsection (e) (as redesignated by paragraph (3)), by striking "The amount" and inserting "REALLOTMENTS.—The amount".

SEC. 207. FEDERAL SHARE AND NON-FEDERAL SHARE.

Part B of title I of the Act is amended by inserting after section 125 (42 U.S.C. 6025) the following new section:

"SEC. 125A. FEDERAL AND NON-FEDERAL SHARE.

"(a) AGGREGATE COSTS.—The Federal share of all projects in a State supported by an allotment to the State under this part may not exceed 75 percent of the aggregate necessary costs of all such projects as determined by the Secretary, except that—

"(1) in the case of projects whose activities or products target individuals with developmental disabilities who live in urban or rural poverty areas, the Federal share of all such projects may not exceed 90 percent of the aggregate necessary costs of such projects or activities, as determined by the Secretary; and

"(2) in the case of projects or activities undertaken by the Council or Council staff to implement State plan priority activities, the Federal share of all such activities may be up to 100 percent of the aggregate necessary costs of such activities.

"(b) NONDUPLICATION.—In determining the amount of any State's Federal share of the expenditures incurred by such State under a State plan approved under section 122, the Secretary shall not consider—

"(1) any portion of such expenditures that are financed by Federal funds provided under any provision of law other than section 125; and

"(2) the amount of any non-Federal funds required to be expended as a condition of receipt of such Federal funds.

"(c) NON-FEDERAL SHARE.—

"(1) IN KIND CONTRIBUTIONS.—The non-Federal share of the cost of any project assisted by a grant or an allotment under this part may be provided in kind.

"(2) CONTRIBUTIONS OF POLITICAL SUBDIVISIONS, PUBLIC, OR PRIVATE ENTITIES.—

"(A) IN GENERAL.—Expenditures on projects or activities by a political subdivision of a State or by a public or private entity shall, subject to such limitations and conditions as the Secretary may by regulation prescribe, be considered to be expenditures by such State in the case of a project under this part.

"(B) STATE CONTRIBUTIONS.—State contributions, including contributions by the designated State agency to provide support services to the Council pursuant to section 124(d)(4), may be counted as part of such State's non-Federal share of allotments under this part.

"(3) VARIATIONS OF THE NON-FEDERAL SHARE.—The non-Federal share required on a grant-by-grant basis may vary.".

SEC. 208. PAYMENTS TO THE STATES FOR PLANNING, ADMINISTRATION, AND SERVICES.

Section 126 (42 U.S.C. 6026) is amended—

(1) by striking "SEC. 126." and inserting "(a) STATE PLAN EXPENDITURES.—";

(2) in the section heading, by striking "PAYMENTS TO THE STATES FOR PLANNING, ADMINISTRATION AND SERVICES" and inserting the following new section heading:

"SEC. 126. PAYMENTS TO THE STATES FOR PLANNING, ADMINISTRATION, AND SERVICES.";

and

(3) by adding at the end the following new subsection:

"(b) SUPPORT SERVICES.—Payments to States for support services provided by the designated State agency pursuant to section 124(d)(4) may be made in advance or by way of reimbursement, and in such installments as the Secretary may determine.".

SEC. 209. WITHHOLDING OF PAYMENTS FOR PLANNING, ADMINISTRATION, AND SERVICES.

Section 127 (42 U.S.C. 6027) is amended—

(1) in the matter preceding paragraph (1), by striking "SEC. 127.";

(2) in the section heading by striking "WITHHOLDING OF PAYMENTS FOR PLANNING, ADMINISTRATION AND SERVICES" and inserting the following new section heading:

"SEC. 127. WITHHOLDING OF PAYMENTS FOR PLANNING, ADMINISTRATION, AND SERVICES.";

and

(3) in paragraph (1), by striking "sections" and inserting "section".

SEC. 210. NONDUPLICATION.

Section 128 (42 U.S.C. 6028) is repealed.

SEC. 211. APPEALS BY STATES.

Section 129 (42 U.S.C. 6029) is amended—

(1) by striking "SEC. 129."; and

(2) in the section heading, by striking "APPEALS BY STATES" and inserting the following new section heading:

"SEC. 129. APPEALS BY STATES.".

SEC. 212. AUTHORIZATION OF APPROPRIATIONS.

Section 130 (42 U.S.C. 6030) is amended by striking "$77,400,000" and all that follows and inserting the following: "$70,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.".

SEC. 213. REVIEW, ANALYSIS, AND REPORT.

(a) REVIEW AND ANALYSIS.—The Secretary of Health and Human Services shall review and analyze the allotment formula in effect under parts B and C of title I of the Developmental Disabilities Assistance and Bill of Rights Act prior to the date of enactment of this Act, including the factors described in such parts, and the data elements and measures used by the Secretary, to determine whether such formula is consistent with the purpose of the Act.

(b) ALTERNATIVE FORMULAS.—The Secretary of Health and Human Services shall identify alternative formulas for allocating funds, consistent with the purpose of this Act.

(c) REPORT.—Not later than October 1, 1995, the Secretary of Health and Human Services shall submit a report on the review conducted under subsection (a) and a copy of the alternative formulas identified under subsection (b) to the Committee on Labor and Human Resources of the Senate and to the Committee on Energy and Commerce of the House of Representatives.

TITLE III—PROTECTION AND ADVOCACY OF THE RIGHTS OF INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES

SEC. 301. PART HEADING.

The heading of part C of title I of the Act is amended to read as follows:

"PART C—PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS".

SEC. 302. PURPOSE.

Section 141 (42 U.S.C. 6041) is amended—

(1) by striking "SEC. 141.";

(2) in the section heading, by striking "PURPOSE" and inserting the following new section heading:

"SEC. 141. PURPOSE.";

(3) by striking "system" and inserting "Protection and Advocacy system (hereafter referred to in this part as the 'system')"; and

(4) by striking "persons" and inserting "individuals".

SEC. 303. SYSTEM REQUIRED.

(a) SECTION HEADING.—Section 142 (42 U.S.C. 6042) is amended—

(1) by striking "SEC. 142."; and

(2) in the section heading, by striking "SYSTEM REQUIRED" and inserting the following new section heading:

"SEC. 142. SYSTEM REQUIRED.".

(b) SYSTEM.—Section 142 (42 U.S.C. 6042) is amended—

(1) in subsection (a)—

(A) by striking "In order" and inserting "SYSTEM REQUIRED.—In order";

(B) in paragraph (1), by striking "persons" and inserting "individuals";

(C) in paragraph (2)—

(i) by striking "persons" each place such term appears and inserting "individuals";

(ii) in subparagraph (A), by striking "minority" and inserting "ethnic and racial minority";

(iii) by striking subparagraph (C);

(iv) in subparagraph (E), by striking "Planning Council" and inserting "Developmental Disabilities Council authorized under part B";

(v) in subparagraph (F), by striking "and" at the end thereof; and

(vi) in subparagraph (G)—

(I) in clause (i), by striking "person" each place such term appears and inserting "individual";

(II) in the matter preceding subclause (I) of clause (ii), by striking "person" and inserting "individual";

(III) in clause (ii)(I), by striking "by reason of the mental or physical condition of such person" and inserting "by reason of such individual's mental or physical condition";

(IV) in clause (ii)(III), by striking "person" and inserting "individual";

(V) in clause (iii), by realigning the margins of subclauses (I), (II), and (III) so as to align with the margins of subclauses (I), (II), and (III) of clause (ii);

(VI) in clause (iii), by striking "(iii) any" and inserting the following:

"(iii) any"; and

(VII) in clause (iii)(III), by striking "person" and inserting "individual";

(vii) by redesignating subparagraphs (D), (E), (F), and (G) as subparagraphs (E), (F), (G), and (I), respectively;

(viii) by inserting after subparagraph (B) the following new subparagraphs:

"(C) on an annual basis, develop a statement of objectives and priorities for the system's activities; and

"(D) on an annual basis, provide to the public, including individuals with developmental disabilities attributable to either physical impairment, mental impairment, or a combination of physical or mental impairments, and their representatives, as appropriate, non-State agency representatives of the State Developmental Disabilities Council, and the university affiliated program (if applicable within a State), an opportunity to comment on—

"(i) the objectives and priorities established by the system and the rationale for the establishment of such objectives; and

"(ii) the activities of the system, including the coordination with the advocacy programs under the Rehabilitation Act of 1973, the Older Americans Act of 1965, and the Protection and Advocacy for Mentally Ill Individuals Act of 1986, and with other related programs, including the parent training and information centers, education ombudsman programs and assistive technology projects;";

(ix) by inserting after subparagraph (G), as so redesignated in clause (vii), the following new subparagraph:

"(H) have access at reasonable times and locations to any resident who is an individual with a developmental disability in a facility that is providing services, supports, and other assistance to such a resident;";

(x) by adding at the end the following new subparagraphs:

"(J) hire and maintain sufficient numbers and types of staff, qualified by training and experience, to carry out such system's function except

that such State shall not apply hiring freezes, reductions in force, prohibitions on staff travel, or other policies, to the extent that such policies would impact staff or functions funded with Federal funds and would prevent the system from carrying out its functions under this Act;

"(K) have the authority to educate policymakers; and

"(L) provide assurances to the Secretary that funds allotted to the State under this section will be used to supplement and increase the level of funds that would otherwise be made available for the purposes for which Federal funds are provided and not to supplant such non-Federal funds;";

(D) by striking paragraphs (3) and (5);

(E) in paragraph (4)—

(i) by striking "the State" and all that follows through "provided with" and inserting "the State must provide to the system";

(ii) by striking "1902(a)(31)(B)" and inserting "1902(a)(31)"; and

(iii) by redesignating such paragraph as paragraph (3); and

(F) by adding at the end the following new paragraph:

"(4) the agency implementing the system will not be redesignated unless there is good cause for the redesignation and unless—

"(A) notice has been given of the intention to make such redesignation to the agency that is serving as the system including the good cause for such redesignation and the agency has been given an opportunity to respond to the assertion that good cause has been shown;

"(B) timely notice and opportunity for public comment in an accessible format has been given to individuals with developmental disabilities or their representatives; and

"(C) the system has the opportunity to appeal to the Secretary that the redesignation was not for good cause.";

(2) in subsection (b)—

(A) by striking "(b)(1) To" and inserting the following:

"(b) ALLOTMENTS.—

"(1) IN GENERAL.—To";

(B) in paragraph (1)—

"(i) in subparagraph (A), to read as follows:

"(A) the total amount appropriated under section 143 for a fiscal year is at least $20,000,000—

"(i) the allotment of each of American Samoa, Guam, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau (until the Compact of Free Association with Palau takes effect) for such fiscal year may not be less than the greater of—

"(I) $107,000; or

"(II) the greater of the allotment received by such State for fiscal year 1992, or the allotment received by such State for fiscal year 1993, under this section (determined without regard to subsection (d)); and

"(ii) the allotment of any State not described in clause (i) for such fiscal year may not be less than the greater of—

"(I) $200,000; or

"(II) the greater of the allotments received by such State for fiscal year 1992, or the allotment received by such State for fiscal year 1993, under this section (determined without regard to subsection (d)).'"; and

(ii) in subparagraph (B), to read as follows:

"(B) the total amount appropriated under section 143 for a fiscal year is less than $20,000,000—

"(i) the allotment of each of American Samoa, Guam, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau (until the Compact of Free Association with Palau takes effect) for such fiscal year may not be less than the greater of—

"(I) $80,000; or

"(II) the greater of the allotment received by such State for fiscal year 1992, or the allotment received by such State for fiscal year 1993, under this section (determined without regard to subsection (d)); and

"(ii) the allotment of any State not described in clause (i) for such fiscal year may not be less than the greater of—

"(I) $150,000; or

"(II) the greater of the allotment received by such State for fiscal year 1992, or the allotment received by such State for fiscal year 1993, under this section (determined without regard to subsection (d)).";

(C) by realigning the margins of subparagraphs (A) and (B) of paragraph (2) so as to align with subparagraphs (A) through (C) of subsection (a)(4);

(D) by realigning the margins of paragraphs (2) through (4) so as to align with paragraph (4) of subsection (a);

(E) in paragraph (2), by striking "In any case" and inserting "INCREASE IN ALLOTMENTS.—In any case";

(F) in paragraph (3), by striking "A State" and inserting "MONITORING THE ADMINISTRATION OF THE SYSTEM.—A State";

(G) in paragraph (4), by striking "Notwithstanding" and inserting "REDUCTION OF ALLOTMENT.—Notwithstanding"; and

(H) by inserting at the end the following new paragraph:

"(5) TECHNICAL ASSISTANCE AND AMERICAN INDIAN CONSORTIUM.—In any case in which amounts appropriated under section 143 for a fiscal year exceeds $24,500,000, the Secretary shall—

"(A) use not more than 2 percent of the amounts appropriated to provide technical assistance (consistent with requests by such systems for such assistance in the year that appropriations reach $24,500,000) to eligible systems with respect to activities carried out under this title; and

"(B) provide grants in accordance with paragraph (1)(A)(i) to American Indian Consortiums to provide protection and advocacy services.";

(3) in subsection (c), by striking "Any amount" and inserting "UNOBLIGATED FUNDS.—Any amount";

(4) in subsection (d)—

(A) in the matter preceding paragraph (1), by striking "In States" and inserting "GOVERNING BOARD.—In States";

(B) in paragraph (1), by inserting before the semicolon "and include individuals with developmental disabilities who are eligible for services, or have received or are receiving services, or parents, family members, guardians, advocates, or authorized representatives of such individuals";

(C) in paragraph (2), by striking "and" at the end thereof;

(D) in paragraph (3), by striking the period and inserting "; and"; and

(E) by adding at the end the following new paragraph:

"(4) in States in which the system is organized as a public system without a multimember governing or advisory board, the system shall establish an advisory council that shall—

"(A) advise the system on policies and priorities to be carried out in protecting and advocating the rights of individuals with developmental disabilities; and

"(B) consist of a majority of individuals with developmental disabilities who are eligible for services, or have received or are receiving services, or parents, family members, guardians, advocates, or authorized representatives of such individuals.";

(5) in subsection (e), by striking "As used" and inserting "RECORDS.—As used";

(6) in subsection (f)—

(A) by striking "If the" and inserting "ACCESS TO RECORDS.—If the"; and

(B) in the matter preceding paragraph (1) by striking "persons" and inserting "individuals";

(7) in subsection (g)—

(A) by striking "(g)(1) Nothing" and inserting the following:

"(g) LEGAL ACTION.—

"(1) IN GENERAL.—Nothing";

(B) in paragraph (1), by striking "persons" and inserting "individuals"; and

(C) in paragraph (2), by striking "(2) Amounts" and inserting the following:

"(2) USE OF AMOUNTS FROM JUDGMENT.—Amounts";

(8) in subsection (h), by striking "Notwithstanding" and inserting "PAYMENT TO SYSTEMS.—Notwithstanding";

(9) by redesignating subsections (b) through (h) as subsections (c) through (i), respectively;

(10) by inserting after subsection (a) the following new subsection:

"(b) AMERICAN INDIAN CONSORTIUM.—Upon application to the Secretary, an American Indian consortium, as defined in section 102, established to provide protection and advocacy services under this part, shall receive funding pursuant to subsection (c)(5). Such consortium shall coordinate activities with existing systems."; and

(11) by adding at the end the following new subsections:

"(j) DISCLOSURE OF INFORMATION.—For purposes of any periodic audit, report, or evaluation required under this Act, the Secretary shall not require a program to disclose the identity of, or any other personally identifiable information related to, any individual requesting assistance under such program.

"(k) PUBLIC NOTICE OF FEDERAL ONSITE REVIEW.—The Secretary shall provide advance public notice of any Federal programmatic and administrative review and solicit public comment on the system funded under this part through such notice. The findings of the public comment solicitation notice shall be included in the onsite visit report. The results of such review shall be distributed to the Governor of the State and to other interested public and private parties.".

SEC. 304. AUTHORIZATION OF APPROPRIATIONS.

Section 143 (42 U.S.C. 6043) is amended—

(1) by striking "SEC. 143.";

(2) in the section heading, by striking "AUTHORIZATION OF APPROPRIATIONS" and inserting the following new section heading:

"SEC. 143. AUTHORIZATION OF APPROPRIATIONS.";

(3) by striking "$24,200,000 for fiscal year 1991" and inserting "$24,000,000 for fiscal year 1994"; and

(4) by striking "fiscal years 1992 and 1993" and inserting "fiscal years 1995 and 1996".

TITLE IV—UNIVERSITY AFFILIATED PROGRAMS

SEC. 401. PART HEADING.

The heading of part D of title I of the Act is amended to read as follows:

"PART D—UNIVERSITY AFFILIATED PROGRAMS".

SEC. 402. PURPOSE.

Section 151 (42 U.S.C. 6061) is amended to read as follows:

"SEC. 151. PURPOSE AND SCOPE OF ACTIVITIES.

"The purpose of this part is to provide for grants to university affiliated programs that are interdisciplinary programs operated by universities, or by public or nonprofit entities associated with a college or university, to provide a leadership role in the promotion of independence, productivity, and integration and inclusion into the community of individuals with de-

velopmental disabilities through the provision of the following activities, which are conducted in a culturally competent manner:

"(1) Interdisciplinary preservice preparation of students and fellows, including the preparation of leadership personnel.

"(2) Community service activities that shall include community training and technical assistance for or with individuals with developmental disabilities, family members of individuals with developmental disabilities, professionals, paraprofessionals, students, and volunteers. Such activities may include state-of-the-art direct services including family support, individual support, personal assistance services, educational, vocational, clinical, health, prevention, or other direct services.

"(3) Dissemination of information and research findings, which may include the empirical validation of activities relevant to the purposes described in paragraphs (1) and (2) and contributions to the development of new knowledge in the field of developmental disabilities.".

SEC. 403. GRANT AUTHORITY.

(a) SECTION HEADING.—Section 152 (42 U.S.C. 6062) is amended—

(1) by striking "SEC. 152."; and

(2) in the section heading, by striking "GRANT AUTHORITY" and inserting the following new section heading:

"SEC. 152. GRANT AUTHORITY.".

(b) AUTHORITY.—Section 152 (42 U.S.C. 6062) is amended—

(1) in subsection (a)—

(A) by striking "From appropriations" and inserting "ADMINISTRATION AND OPERATION.—From appropriations"; and

(B) by striking "102(18)." and inserting "151. Grants may be awarded for a period not to exceed 5 years.";

(2) in subsection (b), to read as follows:

"(b) TRAINING PROJECTS.—

"(1) IN GENERAL.—From amounts appropriated under section 156(a), the Secretary shall make grants to university affiliated programs receiving grants under subsection (a) to support training projects to train personnel to address the needs of individuals with developmental disabilities in areas of emerging national significance, as described in paragraph (3). Grants awarded under this subsection shall be awarded on a competitive basis and may be awarded for a period not to exceed 5 years.

"(2) ELIGIBILITY LIMITATIONS.—A university affiliated program shall not be eligible to receive funds for training projects under this subsection unless—

"(A) such program has operated for at least 1 year; or

"(B) the Secretary determines that such program has demonstrated the capacity to develop an effective training project during the first year such program is operated.

"(3) AREAS OF FOCUS.—Training projects under this subsection shall train personnel to address the needs of individuals with developmental disabilities in the areas of emerging national significance described in subparagraphs (A) through (H).

"(A) EARLY INTERVENTION.—Grants under this subsection for training projects with respect to early intervention services shall be for the purpose of assisting university affiliated programs in providing training to family members of children with developmental disabilities and personnel from all disciplines involved with interdisciplinary intervention to infants, toddlers, and preschool age children with developmental disabilities. Such training projects shall include instruction on family-centered, community-based, coordinated care for infants, toddlers, and preschool age children with developmental disabilities and their families.

"(B) AGING.—Grants under this subsection for training projects with respect to aging and developmental disabilities shall be for the purpose of supporting the planning, design, and implementation of coordinated interdisciplinary training programs between existing aging or gerontological programs and university affiliated programs in order to prepare professional staff to provide services for aging individuals with developmental disabilities and their families.

"(C) COMMUNITY SERVICES.—Grants under this subsection for training projects with respect to community services shall be for the purpose of providing training that enhances direct supports and services for individuals with developmental disabilities, including training to community members, families, individuals with developmental disabilities, and community-based direct service providers. The Secretary shall ensure that all grants under this subparagraph are made only to university affiliated programs that involve community-level direct support services in the preparation of the application for such grant and that assure that any training under the university affiliated program will be coordinated with local community services and support systems and with State, local, and regional governmental or private agencies responsible for the planning or delivery of services to individuals with developmental disabilities.

"(D) POSITIVE BEHAVIORAL SUPPORTS.—Grants awarded under this subsection for training projects with respect to positive behavioral supports shall be for the purpose of assisting university affiliated programs in providing training to family members of individuals with developmental disabilities and personnel in methods of developing individual supports that maximize opportunities for independence, productivity, and integration and inclusion into the community for individuals with developmental disabilities and severe behavior problems. Such training projects shall provide training to—

"(i) address ethical and legal principles and standards, including the role of personal and cultural values in designing assessments and interventions;

"(ii) address appropriate assessment approaches that examine the range of factors that contribute to problem behavior;

"(iii) address the development of a comprehensive plan that considers the needs and preferences of an individual with a developmental disability;

"(iv) address the competence in the types of skills training, environmental modification, and incentive procedures that encourage alternative behaviors;

"(v) familiarize training participants with crisis intervention approaches and the separate role of such approaches as short-term emergency procedures;

"(vi) familiarize training participants with medical interventions and how to evaluate the effect of such interventions on behavior; and

"(vii) address techniques for evaluating the outcomes of interventions.

"(E) ASSISTIVE TECHNOLOGY SERVICES.—Grants under this subsection for training projects with respect to assistive technology services shall be for the purpose of assisting university affiliated programs in providing training to personnel who provide, or will provide, assistive technology services and devices to individuals with developmental disabilities and their families. Such projects may provide training and technical assistance to improve access to assistive technology services for individuals with developmental disabilities and may include stipends and tuition assistance for training project participants. Such projects shall be coordinated with State technology coordinating councils wherever such councils exist.

"(F) AMERICANS WITH DISABILITIES ACT.—Grants under this subsection for training projects with respect to the provisions of the Americans with Disabilities Act of 1990 shall be for the purpose of assisting university affiliated programs in providing training to personnel who provide, or will provide, services to individuals with developmental disabilities, and to others concerned with individuals with developmental disabilities.

"(G) COMMUNITY TRANSITION.—Grants under this subsection for training projects with respect to transition from school to adult life shall be for the purpose of assisting university affiliated programs in providing training to individuals with developmental disabilities and their families, generic community agencies, advocacy organizations, and others in order to stimulate the development and improvement of policies, procedures, systems, and other mechanisms that prepare youth with developmental disabilities to enter adult life. Such projects shall be coordinated with State transition projects funded under section 626(e) of the Individuals with Disabilities Education Act, where such State transition projects exist.

"(H) OTHER AREAS.—Grants under this subsection for training projects with respect to programs in other areas of national significance shall be for the purpose of training personnel in an area of special concern to the university affiliated program, and shall be developed in consultation with the State Developmental Disabilities Council.

"(4) COURSES, TRAINEESHIPS AND FELLOWSHIPS.—Grants under this subsection may be used by university affiliated programs to—

"(A) assist in paying the costs of courses of training or study for personnel to provide services for individuals with developmental disabilities and their families; and

"(B) establish fellowships or traineeships providing such stipends and allowances as may be determined by the Secretary.

"(5) PROHIBITED ACTIVITIES.—Grants awarded under this subsection shall not be used for administrative expenses for the university affiliated program under subsection (a).

"(6) CRITERIA.—Grants awarded under this subsection shall meet the criteria described in subparagraphs (A) and (B).

"(A) APPLICATION.—An application that is submitted for a grant under this subsection shall present evidence that training projects assisted by funds awarded under this section are—

"(i) competency and value based;

"(ii) designed to facilitate independence, productivity, and integration and inclusion for individuals with developmental disabilities; and

"(iii) evaluated utilizing state-of-the-art evaluation techniques in the programmatic areas selected.

"(B) GENERAL PROJECT REQUIREMENTS.—Training projects under this subsection shall—

"(i) represent state-of-the-art techniques in areas of critical shortage of personnel that are identified through consultation with the consumer advisory committee described in section 153(d) and the State Developmental Disabilities Council;

"(ii) be conducted in consultation with the consumer advisory committee described in section 153(d) and the State Developmental Disabilities Council;

"(iii) be integrated into the appropriate university affiliated program and university curriculum;

"(iv) be integrated with relevant State agencies in order to achieve an impact on statewide personnel and service needs;

"(v) to the extent practical, be conducted in environments where services are actually delivered;

"(vi) to the extent possible, be interdisciplinary in nature;

"(vii) utilize strategies to recruit and train members from racial and ethnic minority backgrounds and individuals with disabilities; and

"(viii) address the issue of cultural competence in the training provided.";

(3) in subsection (c)—

(A) by striking "From amounts appropriated under section 154(b)" and inserting "SUPPLEMENTAL AWARDS.—From amounts appropriated under section 156(a)";

(B) in paragraph (1)—

(i) by striking "service-related training to persons" and inserting "interdisciplinary training, community training and technical assistance, community services, or dissemination of information to individuals";

(ii) by striking "integration into the community of persons with developmental disabilities" and inserting "integration and inclusion into the community of individuals with developmental disabilities and not otherwise specified in subsection (b)"; and

(iii) by striking "persons" each place such term appears and inserting "individuals";

(C) in paragraph (2)—

(i) by striking "(A) the" and inserting "the";

(ii) by striking "persons" and inserting "individuals";

(iii) by striking "(B) the" and inserting "the"; and

(iv) by striking "parents" and inserting "family members";

(4) by striking subsection (d);

(5) in subsection (e)—

(A) by striking "(e) From amounts appropriated under section 154(a)" and inserting "(d) FEASIBILITY STUDIES.—From amounts appropriated under section 156(a)"; and

(B) by striking—

(i) "or a satellite center"; and

(ii) "or satellite center"; and

(6) by striking subsections (f) and (g).

SEC. 404. APPLICATIONS.

(a) SECTION HEADING.—Section 153 (42 U.S.C. 6063) is amended—

(1) by striking "SEC. 153."; and

(2) in the section heading, by striking "APPLICATIONS" and inserting the following new section heading:

"SEC. 153. APPLICATIONS.".

(b) APPLICATIONS.—Section 153 (42 U.S.C. 6063) is amended—

(1) in subsection (a)—

(A) by striking "Not later than six" and inserting: "STANDARDS.—Not later than 12";

(B) by striking "Act of 1984" and inserting "Assistance and Bill of Rights Act Amendments of 1994";

(C) by striking "persons" and inserting "individuals"; and

(D) by striking "section 102(18)" and inserting "section 151";

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking "No grants" and all that follows through "Such an application" and inserting "ASSURANCES.—The application under subsection (a)";

(B) in paragraph (1), by striking "grant will" and all that follows through "level of such funds;" and inserting the following: "grant will—

"(A) not result in any decrease in the use of State, local, and other non-Federal funds for services for individuals with developmental disabilities and for training of individuals to provide such services, which funds would (except for such grant) be made available to the applicant; and

"(B) be used to supplement and, to the extent practicable, increase the level of such funds;";

(C) in paragraph (2), by striking "subsection (a)" each place such term appears and inserting "subsection (b)";

(D) in paragraph (3)—

(i) by striking "persons" each place such term appears and inserting "individuals";

(ii) by striking "treatment, services, or habilitation" and inserting "services"; and

(iii) by striking "the developmentally disabled" and inserting "individuals with developmental disabilities"; and

(E) in paragraph (5)—

(i) by striking "Planning" and inserting "Developmental Disabilities"; and

(ii) by striking "or the satellite center is or will be located";

(3) by striking subsections (c) and (d);

(4) by redesignating subsections (a), (b), and (e) as subsections (b), (c), and (f), respectively;

(5) by inserting after the section heading the following new subsection:

"(a) IN GENERAL.—No grants may be made under section 152(a) unless an application therefor is submitted to, and approved by, the Secretary. Such an application shall be submitted in such form and manner, and contain such information, as the Secretary may require.";

(6) by inserting after subsection (c), as so redesignated by paragraph (4), the following new subsections:

"(d) CONSUMER ADVISORY COMMITTEE.—The Secretary shall only make grants under section 152(a) to university affiliated programs that establish a consumer advisory committee comprised of individuals with developmental disabilities, family members of individuals with developmental disabilities, representatives of State protection and advocacy systems, State developmental disabilities councils (including State service agency directors), local agencies, and private nonprofit groups concerned with providing services for individuals with developmental disabilities, which may include representatives from parent training and information centers. The consumer advisory committee shall reflect the racial and ethnic diversity of the geographic area served by the university affiliated program.

"(e) FEDERAL SHARE.—

"(1) IN GENERAL.—The Federal share of any project to be provided through grants under this part may not exceed 75 percent of the necessary cost of such project, as determined by the Secretary, except that if the project activities or products target individuals with developmental disabilities who live in an urban or rural poverty area, the Federal share may not exceed 90 percent of the project's necessary costs as so determined by the Secretary.

"(2) PROJECT EXPENDITURES.—For the purpose of determining the Federal share with respect to any project, expenditures on that project by a political subdivision of the State or by a public or private entity shall, subject to such limitations and conditions as the Secretary may by regulation prescribe, be considered to be expenditures made by a university affiliated program under this part.";

(7) in subsection (f), as so redesignated by paragraph (4)—

(A) by striking "(f)(1) The Secretary" and inserting the following:

"(f) PEER REVIEW.—

"(1) IN GENERAL.—The Secretary";

(B) in paragraph (1), by striking "Such peer review" and all that follows through "152(b)(1)(D).";

(C) in paragraph (2)—

(i) by striking "(2) Regulations" and inserting the following:

"(2) REGULATIONS.—Regulations"; and

(ii) by striking "experience or training" and inserting "experience and training";

(D) in paragraph (3), to read as follows:

"(3) APPROVAL.—

"(A) IN GENERAL.—The Secretary may approve an application under this part only if such application has been recommended by a peer review group that has conducted the peer review required under paragraph (1).

"(B) APPLICABILITY.—This paragraph shall apply to the approval of grant applications received for fiscal year 1990 and succeeding fiscal years.";

(E) in paragraph (4)—

(i) by striking "(4) The Secretary" and inserting the following:

"(4) ESTABLISHMENT OF PEER REVIEW GROUPS.—The Secretary"; and

(ii) by realigning the margins of subparagraphs (A) and (B) so as to align with the margin of subparagraph (A) of paragraph (3); and

(F) in paragraph (5), by striking "(5) The Secretary" and inserting the following:

"(5) WAIVERS OF APPROVAL.—The Secretary"; and

(8) by adding at the end the following new subsection:

"(g) REVIEW BY OTHER FEDERAL AGENCIES.—The Secretary shall establish such a process for the review of applications for grants under section 152(a) as will ensure, to the maximum extent feasible, that each Federal agency that provides funds for the direct support of the applicant's program reviews the application.".

SEC. 405. GRANT AWARDS.

Section 154 (42 U.S.C. 6064) is amended to read as follows:

"SEC. 154. PRIORITY FOR GRANT AWARDS.

"(a) IN GENERAL.—In awarding and distributing grant funds under this part, the Secretary, subject to the availability of appropriations, shall award and distribute grant funds in accordance with the following order of priorities:

"(1) EXISTING STATE UNIVERSITY AFFILIATED PROGRAMS.—First priority shall be given, with respect to the provision of grant awards under section 152(a) in the amount of $200,000, to an existing State university affiliated program that meets the requirements under section 153.

"(2) UNSERVED STATES.—Second priority shall be given, with respect to the provision of grant awards under section 152(a) in the amount of $200,000, to a university or public or nonprofit entity associated with a college or university that desires to establish a university affiliated program in a State that is unserved by a university affiliated program as of the date of enactment of the Developmental Assistance and Bill of Rights Act Amendments of 1994.

"(3) TRAINING PROJECTS IN ALL UNIVERSITY AFFILIATED PROGRAMS.—Third priority shall be given, with respect to the provision of grant awards, to each university affiliated program that receives funding under section 152(a) and that meets the eligibility limitations under section 152(b) to the establishment of training projects under section 152(b) in the amount of $90,000 in each such program.

"(4) INCREASED FUNDING FOR TRAINING PROJECTS.—Fourth priority shall be given, with respect to the provision of grant awards, to the provision of an increase in the amount of a training project grant award under section 152(b) to $100,000.

"(5) INCREASED FUNDING FOR UNIVERSITY AFFILIATED PROGRAMS.—Fifth priority shall be given, with respect to the provision of grant awards, to the provision of an increase in the amount of a university affiliated program grant award under section 152(a) to $250,000.

"(6) ADDITIONAL TRAINING.—Sixth priority shall be given, with respect to the provision of grant awards, to an existing university affiliated program in a State that is served by such program under section 152(a) to provide additional training under subsection (b) or (c) of section 152 within such State or other geographic regions, or to a university or public or nonprofit entity associated with a college or university that desires to establish another university affiliated program within such State under section 152(a). All applications submitted to the Secretary for such grant awards shall document plans for coordinating activities with an existing university affiliated program in the State (if

applicable) and in consultation with the State Developmental Disabilities Council.

"(b) ADDITIONAL PROGRAMS.—For purposes of making grants under subsection (a)(6), the Secretary shall consider applications for grants for university affiliated programs—

"(1) for States that are currently underserved by a university affiliated program; and

"(2) that are in addition to the total number of university affiliated programs receiving grants under this subsection for the preceding fiscal year.

"(c) SINGLE APPLICATION.—When every State is served by a university affiliated program under section 152(a) in the amount of $200,000 and every such program has been awarded a training grant under section 152(b) in the amount of $90,000, the Secretary may accept applications under such sections in a single application.".

SEC. 406. AUTHORIZATION OF APPROPRIATIONS AND DEFINITION.

Part D of title I (42 U.S.C. 151 et seq.) is amended by adding at the end the following new sections:

"SEC. 155. DEFINITION.

"For purposes of this part, the term 'State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, and Guam.

"SEC. 156. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—For the purpose of making grants under subsections (a), (b), (c), and (d) of section 152, there are authorized to be appropriated $19,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.

"(b) LIMITATION.—With respect to peer review or other activities directly related to peer review, the Secretary may not use—

"(1) for fiscal year 1994, more than $300,000 of the funds made available under subsection (a) for such review or such other activities; and

"(2) for any succeeding fiscal year, more than the amount of the funds made available under paragraph (1) adjusted to take into account the increase in the Consumer Price Index for such fiscal year for such review or such other activities.".

TITLE V—PROJECTS OF NATIONAL SIGNIFICANCE

SEC. 501. PART HEADING.

The heading of part E of title I of the Act is amended to read as follows:

"PART E—PROJECTS OF NATIONAL SIGNIFICANCE".

SEC. 502. PURPOSE.

Section 161 (42 U.S.C. 6081) is amended to read as follows:

"SEC. 161. PURPOSE.

"The purpose of this part is to provide for grants and contracts for projects of national significance that support the development of national and State policy to enhance the independence, productivity, and integration and inclusion of individuals with developmental disabilities through—

"(1) data collection and analysis;

"(2) technical assistance to enhance the quality of State Developmental Disabilities Councils, protection and advocacy systems, and university affiliated programs; and

"(3) other projects of sufficient size and scope that hold promise to expand or improve opportunities for individuals with developmental disabilities, including—

"(A) technical assistance for the development of information and referral systems;

"(B) educating policymakers;

"(C) Federal interagency initiatives;

"(D) the enhancement of participation of racial and ethnic minorities in public and private sector initiatives in developmental disabilities;

"(E) transition of youth with developmental disabilities from school to adult life; and

"(F) special pilots and evaluation studies to explore the expansion of programs under part B to individuals with severe disabilities other than developmental disabilities.".

SEC. 503. GRANT AUTHORITY.

(a) SECTION HEADING.—Section 162 (42 U.S.C. 6082) is amended—

(1) by striking "SEC. 162."; and

(2) in the section heading, by striking "GRANT AUTHORITY" and inserting the following new section heading:

"SEC. 162. GRANT AUTHORITY.".

(b) AUTHORITY.—Section 162 (42 U.S.C. 6082) is amended—

(1) in subsection (a), to read as follows:

"(a) IN GENERAL.—The Secretary—

"(1) shall make grants to and enter into contracts with public or nonprofit private entities for projects of national significance relating to individuals with developmental disabilities to—

"(A) support ongoing data collection on expenditures, residential services and employment, and develop an ongoing data collection system, including data collection on the accomplishments of State Developmental Disabilities Councils, protection and advocacy systems, and university affiliated programs that includes data on the participation of individuals from racial and ethnic minority backgrounds; and

"(B) provide technical assistance (including research, training, and evaluation) that expands or improves the effectiveness of State Developmental Disabilities Councils under part B, protection and advocacy systems under part C, and university affiliated programs under part D, including the evaluation and assessment of the quality of services provided to individuals with developmental disabilities and other activities performed by programs under parts B, C, and D; and

"(2) may make grants to and enter into contracts with public or nonprofit private entities for projects of national significance relating to individuals with developmental disabilities to conduct other nationally significant initiatives of sufficient size and scope that hold promise of expanding or otherwise improving opportunities for individuals with developmental disabilities, including—

"(A) conducting research and providing technical assistance to assist States to develop statewide, comprehensive information and referral and service coordination systems for individuals with developmental disabilities and their families that are culturally competent and that improve supportive living and quality of life opportunities that enhance recreation, leisure, and fitness;

"(B) educating policymakers, including the training of self-advocates and family members of individuals with developmental disabilities;

"(C) pursuing Federal interagency initiatives that enhance the ability of Federal agencies to address the needs of individuals with developmental disabilities and their families;

"(D) expanding or otherwise improving opportunities for individuals with developmental disabilities who are from racial and ethnic minority backgrounds including projects to encourage members of such groups to participate in the Developmental Disabilities Programs authorized under parts B, C, and D, and increase the involvement of students and professionals of such groups in the provision of services to, supports to, and advocacy for, individuals with developmental disabilities; and

"(E) conducting research and providing technical assistance to policymakers concerning the transition of youth with developmental disabilities from school to work and to adult life.";

(2) in subsection (b), to read as follows:

"(b) APPLICATION AND OTHER GRANT REQUIREMENTS.—No grant may be made under subsection (a) unless—

"(1) an application has been submitted to the Secretary in such form, in such manner, and containing such information as the Secretary shall by regulation prescribe and such application has been approved by the Secretary;

"(2) each State in which the applicant's project will be conducted has a State plan approved under section 122;

"(3) the application provides assurances that the human rights of all individuals with developmental disabilities (especially those individuals without familial protection) who are receiving services under projects assisted under this part will be protected consistent with section 110 (relating to the rights of individuals with developmental disabilities);

"(4) the applicant demonstrates, where appropriate, how the project will address, in whole or part, the needs of individuals with developmental disabilities from racial and ethnic minority backgrounds; and

"(5) the Secretary provides to the State Developmental Disabilities Council in such State an opportunity to review the application for such project and to submit its comments on the application.";

(3) in subsection (c), by striking "Not later" and inserting "PRIORITIES FOR GRANTS.—Not later";

(4) in subsection (d)—

(A) by striking "Payments under" and inserting "GRANT PAYMENTS.—Payments under"; and

(B) by inserting before the period in the second sentence ", except as otherwise provided under section 163";

(5) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively;

(6) by inserting after subsection (a) the following new subsection:

"(b) INVESTIGATIONS.—

"(1) IN GENERAL.—Not later than April 1, 1994, there shall be a special initiative to support grants to investigate the expansion of part B activities to individuals with severe disabilities other than developmental disabilities. Such investigations shall be implemented through the following activities:

"(A) A national study of State Developmental Disabilities Councils that are currently mandated under State law or Executive order to focus on individuals with disabilities other than developmental disabilities. Such study shall be completed not later than June 30, 1995.

"(B) Pilot initiatives by not more than five additional State Developmental Disabilities Councils, in consultation with and with the support of the protection and advocacy system and the university affiliated program in such State, to study the implications of such expansion in States in which such Councils are located and to delineate barriers, opportunities, and critical issues. Such initiatives shall be completed not later than January 1996.

"(C) A national study of the process and outcomes of the pilot studies conducted under subparagraph (B). Such study shall be completed not later than May 30, 1996.

"(2) APPLICATION.—No grant may be made under this subsection unless an applicant submits to the Secretary an application, and meets the additional application requirements, under subsection (c)."; and

(7) by adding at the end thereof the following new subsection:

"(f) LIST OF RECIPIENTS.—Not later than September 1 of each fiscal year, the Secretary shall publish in the Federal Register a list of the recipients of grants and contracts in each of the areas authorized in subsections (a) and (b), including a brief description of the project, and the amount of funds granted to each such project. The amounts for such grants and contracts shall total the amount appropriated under this part for such fiscal year.".

SEC. 504. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 163(a) (42 U.S.C. 6083(a)) is amended—

(1) by striking "$3,650,000" and inserting "$4,000,000";

(2) by striking "fiscal year 1991" and inserting "fiscal year 1994"; and

(3) by striking "fiscal years 1992 and 1993" and inserting "fiscal years 1995 and 1996".

(b) LIMITATIONS.—Section 163(b) (42 U.S.C. 6083(b)) is amended to read as follows:

"(b) LIMITATIONS.—

"(1) PROJECTS OF NATIONAL SIGNIFICANCE.—At least 8 percent, but in no event less than $300,000, of the amounts appropriated pursuant to subsection (a) shall be used to carry out the provisions of section 162(a)(1)(B).

"(2) INVESTIGATIONS.—

"(A) IN GENERAL.—The additional authority to fund projects under section 162(b) shall not be construed as requiring the Secretary to supplant funding for other priorities described in this part.

"(B) TIME LINE FOR FUNDING.—If amounts are available to carry out subparagraphs (A), (B), and (C) of section 162(b)(1), the Administration shall provide funding to carry out such subparagraphs not later than May 1 of the fiscal year in which such funds become available.

"(3) PROGRAMMATIC REVIEWS OR OTHER ADMINISTRATIVE ACTIVITIES.—The Secretary may not use the funds made available under subsection (a) for programmatic reviews as prescribed by regulation or other administrative activities under parts B, C, and D.

"(4) TECHNICAL ASSISTANCE FOR PROTECTION AND ADVOCACY SYSTEMS.—If technical assistance to improve the effectiveness of protection and advocacy systems under part C is provided under section 142(c)(5)—

"(A) no funding for the provision of such technical assistance to protection and advocacy systems shall be provided under this part; and

"(B) the amount set aside for technical assistance under section 162(a)(1)(B) shall be proportionally reduced.".

And the House agree to the same.

JOHN D. DINGELL,
HENRY A. WAXMAN,
SHERROD BROWN,
CARLOS J. MOORHEAD,
TOM BLILEY,
Managers on the Part of the House.

EDWARD M. KENNEDY,
TOM HARKIN,
HOWARD M. METZENBAUM,
NANCY LANDON KASSEBAUM,
DAVE DURENBERGER,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1284) to extend and improve the Developmental Disabilities Assistance and Bill of Rights Act, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the Conferees, and minor drafting and clarifying changes.

PART A—GENERAL PROVISIONS

1. Findings, purpose and policy

(a) FINDINGS.—With slightly different wording, both the Senate bill and the House amendment update the findings of the Act.

The House recedes to the Senate and the Senate recedes to the House with an amendment. The amendment inserts a new finding to read as follows:

"there is a need to ensure that services, supports, and other assistance are provided in a culturally competent manner, that individuals from racial and ethnic minority backgrounds are fully included in all activities under this Act, and that greater efforts are made to recruit individuals from minority backgrounds into the field of developmental disabilities."

The amendment shall include the following findings from the Senate bill: (1), (4), (5), and (7). The amendment shall include the following findings from the House amendment: (2), (3), (6), (8), and (9). The new finding shall be number (9) and number (9) in the House amendment shall be renumbered (10).

(b) PURPOSE.—With slightly different wording, both the Senate bill and the House amendment update the purpose of the Act.

The House recedes to the Senate and the Senate recedes to the House, with an amendment. First, the amendment includes the introductory phrase from the Senate bill and inserts the phrase "participate in the design of and" before the phrase "have access to culturally competent services."

Second, paragraph (1) from the House amendment, shall be included and shall be amended by inserting "activities (that are consistent with the policy under subsection (c)(2))" after advocacy.

Third, the amendment shall include paragraphs (2), (3), and (4) from the Senate bill.

(c) POLICY.—With slightly different wording, the Senate bill and the House amendment add a policy section to the Act.

The House recedes to the Senate and the Senate recedes to the House with an amendment. First, the amendment shall include paragraphs (2) and (3) from the House amendment and paragraphs (1), (4), (5), and (6) from the Senate bill.

Second, paragraph (1) is amended by inserting the phrase "often require" before the phrase "the provisions of services, supports and other assistance" and striking the phrase "can improve such individuals' ability".

Third, paragraph (5) is amended by striking "communities accept and support individuals with developmental disabilities" and inserting "with education and support, communities can be responsive to the needs of individuals with developmental disabilities and their families".

Fourth, paragraph (6) is amended by striking "have opportunities" and inserting "should have access to opportunities".

Fifth, the amendment inserts, after paragraph (4), two additional principles to read as follows:

"(5) specific efforts must be made to ensure that individuals from racial and ethnic minority backgrounds enjoy effective and meaningful opportunities for full participation in the developmental disabilities service system;" and

"(6) recruitment efforts within development disabilities at the level of preservice training, community training, practice, administration and policy-making must focus on bringing larger numbers of racial and ethnic minorities into the field in order to provide appropriate skills, knowledge, role models, and sufficient manpower to address the growing needs of an increasingly diverse population;."

Sixth, paragraph (5) and (6) from the Senate bill are renumbered (7) and (8) respectively.

Questions have been raised regarding the meaning of the language in the first full paragraph on page 8 of the House Committee Report No. 103-378 that accompanies H.R. 3505.

In lieu of such language, the conferees make the following statement of Congressional intent:

First, the goals expressed in this Act to promote the greatest possible integration and independence for individuals with development disabilities may not be read as a Federal policy supporting the closure of residential institutions.

Second, the programs established under Parts B and D of the Act shall use the resources made available under this Act in accordance with the purposes and statement of policy set forth in the Act, including to assist States to create community options for individuals and families who state or demonstrate their desire to such options.

Third, Protection and Advocacy systems established under Part C of the Act shall use the resources made available under this Act in accordance with the purposes and statement of policy set forth in the Act, and are authorized to pursue appropriate remedies to address the violation of rights under other laws in all settings, including community, and ICF/MR institutions. This includes responding to ICF/MR reports and correction plans and complaints concerning community placements.

2. Definitions

The Senate bill, but not the House amendment, updates several definitions, adds new definitions, deletes definitions that are obsolete, and alphabetizes the definitions.

The House recedes with an amendment. First, the section is amended by inserting a definition for the term "Culturally Competent" as follows: "The term 'culturally competent' means services, supports or other assistance that are conducted or provided in a manner that is responsive to the beliefs, interpersonal styles, attitudes, language and behaviors of individuals who are receiving services, and in a manner which has the greatest likelihood of ensuring their maximum participation in the program."

Second, the section is amended by inserting a definition for the term "Unserved and Underserved" as follows: "The term 'unserved and underserved' includes populations such as individuals from racial and ethnic minority backgrounds, disadvantaged individuals, individuals with limited-English proficiency, individuals from underserved geographic areas (rural or urban), and specific groups of individuals within the population of individuals with developmental disabilities, including individuals with developmental disabilities attributable to physical impairment, mental impairment, or a combination of physical and mental impairments."

Third, the section is amended by striking the definition of systemic advocacy.

3. Federal share

The Senate bill, but not the House amendment, repeals section 103 of the Act (Federal Share). These provisions are moved to parts B and parts D.

The House recedes

4. Recovery

The Senate bill, but not the House amendment, repeals section 105 of the Act (Recovery).

The House recedes.

5. State control of operations

The Senate bill, but not the House amendment, strikes "facility for persons" and inserts "programs, services and supports for individuals" in section 106 of the Act (State Control of Operations).

The House recedes. This language conforms to the Rehabilitation Act of 1973, as amended by the Rehabilitation Act Amendments of 1992.

6. Reports

(a) The Senate bill, but not the House amendment, includes provisions that would allow Councils to selectively review the survey reports and correction and reduction plans related to the ICF/MR program, and summary data that may be available. This replaces a provision that requires Councils to review each report and each plan.

The House recedes.

(b) The Senate bill, but not the House amendment, strikes "1902(a)(31)(C)" in section 107(a)(4) of the Act and inserts "1902(a)(31)(C)." This is simply a more general reference and does not change the intent of this provision.

The House recedes.

(c) The Senate bill, but not the House amendment, includes a provision that requires Councils and the Secretary to include in their annual report a description of trends and progress made in the State on behalf of individuals with developmental disabilities.

The House recedes with an amendment that strikes "including individuals" and inserts "particularly individuals" in sections 107(a)(5)(A) and 107(c)(1)(C)(i) of the Act.

(d) The Senate bill, but not the House amendment, includes a provision that requires Councils and the Secretary, in their annual reports, to describe systemic change, capacity building and advocacy activities that affect individuals with disabilities other than developmental disabilities.

The House recedes.

(e) The Senate bill, but not the House amendment, requires that the State Developmental Disabilities Councils include, in their annual report to the Secretary, a description of the resources leveraged as a result of Council activities.

The House recedes.

(f) The Senate bill, but not the House amendment, requires that the annual report of the Council include a description of the council's dissemination plans for the annual report that target affected constituencies and the general public, and a requirement that the report must be available in accessible formats.

The House recedes.

(g) The Senate bill, but not the House amendment, requires the protection and advocacy systems to include in their annual report to the Secretary a description of the system's priorities for the year, the process used to obtain public input, the nature of the input, and how it was used.

The House recedes.

7. Employment of individuals with disabilities

The Senate bill, but not the House amendment, strikes "Handicapped Individuals" in the heading of section 109 of the Act and inserts "Individuals with Disabilities," and strikes "rehabilitation facilities" and inserts "community rehabilitation programs."

The House recedes.

PART B—FEDERAL ASSISTANCE TO STATE DEVELOPMENTAL DISABILITIES COUNCILS

1. Purpose

The Senate bill, but not the House amendment, updates the purpose of this part by including the concepts of systemic change, capacity building, and advocacy activities for Developmental Disabilities Councils to reflect the overall role of the Council. Also the concepts of consumer and family-centered are added by the bill to reflect the principles that services, supports and other assistance should be provided in a manner that demonstrates respect for individual dignity, personal preferences, and cultural differences, and that individuals with developmental disabilities and their families are the primary decisionmakers regarding the services, supports and other assistance they receive.

The House recedes with an amendment that inserts "activities that are consistent with the policy under section 101(c)(2)" after "advocacy" and inserts "culturally competent" before "services, supports and other assistance."

2. State plan

The Senate bill, but not the House amendment, makes several modifications and additions to the State plan, and significantly reorganizes the section by grouping related provisions together.

The House recedes with an amendment. First, the amendment inserts a new provision after section 122(c)(3)(C)(ii) as amended by the Senate bill, specifying that the examination of the priority areas required in the comprehensive review and analysis, include "an analysis of the barriers which impede full participation by members of unserved and underserved groups". The new provision shall be numbered (iii) and provisions (iii) through (viii) in the Senate bill shall be renumbered (iv) through (ix), respectively.

Second, section 122(c)(3)(C)(ix), as renumbered, is amended by striking "(v)" and inserting "(vi)".

Third, section 122(c)(5)(M) as amended by the Senate bill, is amended by inserting the following at the end of the provision: "except that the designated State agency shall have the authority necessary to carry out the responsibilities described in section 124(d)(3)."

3. Habilitation plans

The Senate bill, but not the House amendment, repeals section 123 of the Act.

The House recedes. The conferees note that this section is not relevant for the programs funded under this Act because they do not provide direct treatment or habilitation services to individuals. Instead, a provision is included in the assurances that grantees that provide any direct services funded under part B will be provided in an individualized manner, consistent with unique strengths, resources, priorities, concerns, abilities, and capabilities of an individual.

4. State developmental disabilities councils

The Senate bill, but not the House amendment, significantly reorganizes the section on State Developmental Disabilities Councils.

(a) PURPOSE.—The Senate bill, but not the House amendment, specifies the purpose of the Council.

The House recedes with an amendment that, in section 124(a) as amended by the Senate bill, strikes "conduct" and inserts "promote through", and strikes "on behalf of all individuals with developmental disabilities" and inserts "(consistent with section 101(c)(2)) the development of a consumer and family-centered, comprehensive system and a coordinated array of culturally competent services, supports and other assistance designed to achieve independence, productivity, and integration and inclusion into the community for individuals with developmental disabilities."

(b) COUNCIL MEMBERSHIP.—The Senate bill, but not the House amendment, further specifies procedures for appointments to the Council, rotation of members, and composition of the Council.

The House recedes with an amendment. First, section 124(b)(1) as amended by the Senate bill, is amended by striking "The Council shall coordinate" and inserting "The Council may, at the request of the Governor, coordinate".

Second, section 124(b)(2) as amended by the Senate bill, is amended by striking "and the Secretary, and the Secretary shall contact the Governor".

Third, section 124(b)(5)(B) as amended by the Senate bill, is amended by striking "or immediate relatives" and inserting "and immediate relatives".

(c) COUNCIL RESPONSIBILITIES.—The Senate bill, but not the House amendment, specifies the responsibilities of the Council.

The House recedes with an amendment. First, section 124(c)(1), as amended by the Senate bill, is amended by inserting the "Activities" after "Advocacy" at the end of the heading.

Second, section 124(c)(4)(K) as amended by the Senate bill, is amended by striking "expand and enhance the" and inserting "promote the development of a consumer and family-centered, comprehensive system and a coordinated array of culturally competent services, supports and other assistance designed to achieve.".

Third, section 124(c)(6) as amended by the Senate bill, is amended by striking "appropriateness of the designated State agency" and inserting "designated State agency with respect to activities carried out under this Act".

Fourth, section 124(c)(8)(B) as amended by the Senate bill, is amended by striking "that negatively affect the provision of staff support to the Council" and inserting "to the extent that such policies would impact staff or functions funded with Federal funds and would prevent the Council from carrying out its functions under this Act".

Fifth, section 124(c)(9) as amended by the Senate bill, is amended by striking "for case only, based on documented performance evaluations and" and striking "Council directors and staff who are exempt from State personnel policies may be dismissed based only on documented performance criteria."

Sixth, section 124(c) is amended by inserting a new paragraph at the end to read "(12) Nothing in this Act shall be construed to authorize a Council to direct, control, or exercise any policymaking authority or administrative authority over any program assisted under the Rehabilitation Act of 1973 or the Individuals with Disabilities Education Act."

5. Designated state agencies

The Senate bill, but to the House amendment, incorporates provisions related to the designated State agency into a single subsection, adds a reference to the role of the State legislature in the redesignation process, replaces the phrase "administrative support services" with the phrase "support services" to describe the type of services that are provided to the Council by the designated State agency, clarifies procedures for redesignation and clarifies the responsibilities of the State agency.

The House recedes.

6. 1990 report

The Senate bill, but not the House amendment, groups all provisions related to the report required on January 1, 1990 in one section.

The House recedes. The conferees note that the reviews, analyses and final reports from the 1990 Report continue to be used as an important source of information for Council planning efforts.

7. State allotments

The Senate bill, but not the House amendment, adds a provision that holds each State harmless at the higher of the fiscal year 1992 or fiscal year 1993 levels, with a ratable reduction if funds are not adequate. The bill sets minimum funding levels of $210,000 for American Samoa, Guam, the Virgin Islands, Northern Mariana Islands and Palau, and $400,000 for other States if the appropriation is less than $75,000,000. For appropriations greater than $75,000,000, the minimum funding levels are set at $220,000 and $450,000, respectively.

The House recedes with an amendment that inserts a new subsection after section 125(b) of the Act that reads as follows:

(c) OBLIGATION OF FUNDS.—For the purposes of this Part, State Interagency Agreements are considered valid obligations for the purpose of obligating Federal funds allotted to the State under this Part." The conferees intend to remove any barriers that discourage State Developmental Disabilities Councils from entering into Interagency Agreements that accomplish the purposes of the Council. Sections 125 (c) and (d) of the Act shall be relettered (d) and (e) respectively.

8. Federal and non-Federal share

The Senate bill, but not the House amendment, adds a new section on Federal and non-Federal share. This section groups together related provisions from the Act, including the provision on non-duplication The bill adds two new provisions—a waiver of the non-Federal share requirement when Council members and staff are the implementing agents of State plan priority activities and a clarification that Councils may vary the non-Federal share required on a grant-by-grant basis, as long as the total non-Federal share meets the statutory requirements.

The House recedes.

9. Review, analysis and report

The Senate bill, but not the House amendment, directs the Secretary to (1) review and analyze the current allotment formula under parts B and C, including the factors, data elements and measures, to determine whether the formula used is consistent with the purpose of the Act, (2) identify alternative funding formulas, consistent with the purpose of the Act, and (3) report back to the relevant Committees in the Senate and the House no later than October 1, 1995.

The House recedes.

10. Authorization of appropriations

The Senate bill authorizes $77,400,000 for fiscal year 1994, and such sums for 1995 and 1996. The House amendment authorizes $70,000,000 for 1994, and such sums for 1995 and 1996.

The Senate recedes.

PART C—PROTECTION AND ADVOCACY OF THE RIGHTS OF INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES

1. Title of part

The House amendment, but not the Senate bill, changes the title of this part from "Protection and Advocacy of Individual Rights" to "Protection and Advocacy of the Rights of Individuals with Developmental Disabilities."

The Senate recedes.

2. System requirements

The Senate bill adds or modifies several of the requirements of the Protection and Advocacy systems, including the addition of a provision regarding public notice of Federal onsite reviews. The House amendment adds a provision regarding public notice of Federal onsite reviews, which includes a requirement that the results of such reviews shall be distributed to the Governor of the State and to other interested parties.

The House recedes to the Senate and the Senate recedes to the House, with an amendment. First, section 142(a)(2)(A) as amended by the Senate bill, is amended by striking "underserved geographical areas and."

Second, section 142(a)(2)(J) as amended by the Senate bill, is amended by striking all that appears after "reductions in force" and inserting "prohibitions on staff travel, or other policies to the extent that such policies would impact staff or functions funded with Federal funds and would prevent the system from carrying out its functions under this Act;"

Third, the amendment shall include section 142(i) as amended by the House amendment, and such section shall be relettered 142 (k).

3. Authorization of appropriations

The Senate bill authorizes $29,000,000 for fiscal year 1994, and such sums for 1995 and 1996. The House amendment authorizes $24,000,000 for 1994, and such sums for 1995 and 1996.

PART D—UNIVERSITY AFFILIATED PROGRAMS

1. Purpose and scope of activities

The Senate bill, but not the House amendment, revises the description of the purpose and scope of university affiliated programs (UAPs) to incorporate updated concepts about these university-based programs. The description of UAPs recognizes the fact that UAPs are located in, or affiliated with universities and, as such, provide an important foundation for higher education's response to the needs of individuals with developmental disabilities and their families. UAPs contribute to and reflect the overall mission of their host universities, and seek to ensure that the activities, resources, and expertise of the university are responsive to individuals with developmental disabilities and their families, advocacy organizations, and service systems and providers.

The House recedes with an amendment that inserts the phrase "which are conducted in a culturally competent manner" after "the following activities."

2. Grant authority

(a) ADMINISTRATION AND OPERATION.—The Senate bill, but not the House amendment, provides for grant periods of up to 5 years.

The House recedes.

(b) TRAINING PROJECTS.—The Senate bill, but not the House amendment, provides for grant periods of up to 5 years for training projects, updates the descriptions of the training project areas, and adds a new training project area—training in the Americans with Disabilities Act (ADA).

The House recedes with an amendment. First, section 152(b)(3)(D)(i) is amended by inserting "and cultural" after "personal".

Second, an additional area of focus for training projects is inserted, to read as follows:

"(G) COMMUNITY TRANSITION.—Grants under this subsection for training projects with respect to transition from school to adult life shall be for the purpose of assisting university affiliated programs in providing training to individuals with developmental disabilities and their families, generic community agencies, advocacy organizations, and others in order to stimulate the development and improvement of policies, procedures, systems, and other mechanisms that prepare youth with developmental disabilities to enter adult life. Such projects shall be coordinated with State transition projects funded under section 626(e) of the Individuals with Disabilities Education Act, where such State transition projects exist." Section 152(b)(3)(G) as amended by the Senate bill shall be relettered 152(b)(3)(H).

(c) CRITERIA FOR TRAINING PROJECTS.—The Senate bill, but not the House amendment, specifies criteria for training projects and adds a requirement that, to the extent possible, training projects shall address the unique needs of individuals with developmental disabilities from ethnic, cultural, and linguistic minority backgrounds.

The House recedes with an amendment that strikes section 152(b)(6)(B)(vii) and inserts the following:

"(vii) utilize strategies to recruit and train individuals from racial and ethnic minority backgrounds and individuals with disabilities; and

"(viii) address the issue of cultural competence in the training provided."

(d) SUPPLEMENTAL AWARDS.—The Senate bill, but not the House amendment, expands the authority for supplemental awards to include interdisciplinary training, community training, technical assistance, community services, and/or dissemination of information.

The House recedes.

(e) SATELLITE CENTERS.—The Senate bill, but not the House amendment, strikes provisions related to satellite centers.

The House recedes. The Conferees note that significant progress has been made in reaching the goal of establishing a university affiliated program in every State, making new satellite centers unnecessary. The conferees intend that this provision does not affect the status of the university affiliated program activities being conducted in the Pacific Rim (American Samoa, Guam, and the Northern Mariana Islands) through supplemental funding to the Hawaii university affiliated program. It is not the intent of the conferees that the Pacific Rim become an independent university affiliated program as a result of the removal of the authority for satellite centers.

3. Applications

(a) STANDARDS.—The Senate bill, but not the House amendment, directs the Secretary to establish by regulation, standards for university affiliated programs, within 12 months of the enactment of this Act.

The House recedes.

(b) CONSUMER ADVISORY COMMITTEE.—The Senate bill, but not the House amendment, specifies that representatives from Parent Training and Information Centers may be included in the membership of the Consumer Advisory Committee.

The House recedes with an amendment that inserts at the end of section 153(d) the following: "The consumer advisory committee shall reflect the racial and ethnic diversity of the geographic area served by the university affiliated program."

(c) FEDERAL SHARE.—The Senate bill, but not the House amendment, incorporates pro-

visions related to the Federal share from part A of the current law.

The House recedes.

(d) PEER REVIEW.—The Senate bill, but not the House amendment, requires that members of peer review groups be qualified by both experience and training. Current law specifies experience or training.

The House recedes.

4. Grant awards

(a) PRIORITY FOR GRANT AWARDS.—The Senate bill, but not the House amendment, specifies priorities for awarding funds under this part.

The House recedes.

(b) SINGLE APPLICATION.—The Senate bill, but not the House amendment, includes a new provision that allows the Secretary to accept applications under sections 152(a) (administration and operation) and 152(b) (training projects) in the same application when every State has a university affiliated program and every university affiliated program has a training project.

The House recedes.

5. Definition of State

The Senate bill, but not the House amendment, specifies that for the purposes of this part, the term State is defined as the States of the United States, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands.

The House recedes with an amendment that includes Guam in the definition of State for this part.

6. Authorization of appropriations

(a) The Senate bill, but not the House amendment, authorizes the Secretary to use not more than $300,000 for peer review and related activities.

The House recedes. Conferees encourage the Secretary to use Departmental general operation funds to support these activities to the greatest extent possible and to use funds appropriated under this section for programmatic activities.

(b) The Senate bill authorizes $21,000,000 for fiscal year 1994, and such sums for 1995 and 1996. The House amendment authorizes $19,000,000 for 1994, and such sums for 1995 and 1996.

The Senate recedes.

PART E—PROJECTS OF NATIONAL SIGNIFICANCE

1. Purpose

The Senate bill, but not the House amendment, expands the purpose of this part to provide for grants and contracts to support special pilot projects to explore the expansion of part B programs (State Developmental Disabilities Councils) to individuals with severe disabilities other than developmental disabilities.

The House recedes with an amendment. First, section 161(3)(D) as amended by the Senate bill, is amended by striking "minority participation" and inserting "participation of racial and ethnic minorities" after "enhancement of".

Second, the section is amended by adding "transition of youth with developmental disabilities from school to adult life" to the list of projects that hold promise to expand or improve opportunities for individuals with developmental disabilities.

2. Grant authority

(a) DATA COLLECTION.—The Senate bill, but not the House amendment, directs the Secretary to fund projects to support on-going data collection on expenditures, residential services and employment and to development and ongoing data collection system, including data on the accomplishments of State Developmental Disabilities Councils, protection and advocacy systems, and university affiliated programs.

The House recedes with an amendment that inserts at the end of section 162(a)(1)(A) the following: "that includes data on the participation of individuals from racial and ethnic minority backgrounds."

(b) TECHNICAL ASSISTANCE.—The Senate bill, but not the House amendment, directs the Secretary to fund projects to provide technical assistance that expands or improves the effectiveness of State Developmental Disabilities Councils, protection and advocacy systems, and university affiliated programs.

The House recedes.

(c) OTHER PROJECTS.—The Senate bill, but not the House amendment, specifies other areas for projects of national significance that the Secretary may support through grants and contracts.

The House recedes with an amendment. First, section 162(a)(2)(A) as amended by the Senate bill, is amended by inserting "that are culturally competent and that" after "and their families".

Second, section 162(a)(2)(D) as amended by the Senate bill, is amended by striking "traditionally unserved or underserved (including individuals of ethnic and racial minority groups, and individuals from underserved geographical areas)" and inserting "from racial and ethnic minority backgrounds".

Third, the amendment inserts after section 162(a)(2)(D) as amended by the Senate bill, the following: "(E) conducting research and providing technical assistance to policymakers concerning the transition of youth with developmental disabilities from school to work and to adult life."

(d) SPECIAL INITIATIVES.—The Senate bill, but not the House amendment, directs the Secretary to support grants to conduct an investigation on the expansion of part B programs (Developmental Disabilities Councils) to individuals with severe disabilities other than developmental disabilities.

The House recedes.

(e) GRANT REQUIREMENTS.—The Senate bill, but not the House amendment, specifies the requirements for grants under this part.

The House recedes with an amendment that inserts after section 163(b)(3) as amended by the Senate bill, the following:

"(4) the applicant demonstrates, where appropriate, how the project will address, in whole or part, the needs of individuals with developmental disabilities from racial and ethnic minority backgrounds; and".

(f) LIST OF PROJECT RECIPIENTS.—The Senate bill, but not the House amendment, directs the Secretary to publish, on an annual basis, the recipients, project descriptions and funding levels for all projects funded under this part, and includes the requirement that the amounts for such grants and contracts shall total the amount appropriated under this part for such fiscal year.

The House recedes.

3. Authorizations of appropriations

(a) LIMITATIONS.—The Senate bill, but not the House amendment, specifies that the provision to fund special initiatives on the expansion of part B activities to individuals with disabilities other than developmental disabilities shall not be construed as requiring the Secretary to supplant funding for other priorities described in this part.

The House recedes.

(b) TIME LINE FOR FUNDING.—The Senate bill, but not the House amendment, specifies that funding to carry out the special initiatives shall be provided no later than May 1 of the fiscal year in which such funds become available.

The House recedes.

(c) PROGRAM REVIEWS AND ADMINISTRATIVE ACTIVITIES.—The Senate bill, but not the House amendment, states that the Secretary may not use funds made available under this part for program reviews required by regulation or other administrative activities.

The House recedes.

(d) TECHNICAL ASSISTANCE.—The Senate bill, but not the House amendment, includes the provision that if technical assistance to protection and advocacy systems is funded under part C, then no funding for such activity will be provided under part E.

The House recedes.

JOHN D. DINGELL,
HENRY A. WAXMAN,
SHERROD BROWN,
CARLOS J. MOORHEAD,
TOM BLILEY,
Managers on the Part of the House.
EDWARD M. KENNEDY,
TOM HARKIN,
HOWARD M. METZENBAUM,
NANCY LANDON KASSEBAUM,
DAVE DURENBERGER,
Managers on the Part of the Senate.

MULTIFAMILY HOUSING PROPERTY DISPOSITION REFORM ACT OF 1994

Mr. GONZALEZ. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4067) to amend section 203 of the Housing and Community Development Amendments of 1978 to provide for the disposition of multifamily properties owned by the Secretary of Housing and Urban Development, to provide for other reforms in programs administered by the Secretary, and to make certain technical amendments, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4067

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Multifamily Housing Property Disposition Reform Act of 1994".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.

TITLE I—MULTIFAMILY PROPERTY DISPOSITION REFORM

Sec. 101. Multifamily property disposition.
Sec. 102. Repeal of State agency multifamily property disposition demonstration.
Sec. 103. Preventing mortgage defaults on multifamily housing projects.
Sec. 104. Interest rates on assigned mortgages.
Sec. 105. Authorization of appropriations.

TITLE II—OTHER PROGRAM REFORMS

Subtitle A—Home Investment Partnerships Program

Sec. 201. Participation by State agencies or instrumentalities.
Sec. 202. Simplification of program-wide income targeting for rental housing.
Sec. 203. Homeownership units.
Sec. 204. Simplification of matching requirements.
Sec. 205. Repeal of separate audit requirement.

Sec. 206. Environmental review requirements.
Sec. 207. Use of CDBG funds for HOME program expenses.
Sec. 208. Flexibility of HOME program for disaster areas.
Sec. 209. Applicability and regulations.
Subtitle B—HOPE Homeownership Program
Sec. 221. Matching requirement under HOPE for homeownership of single family homes program.
Subtitle C—Community Development Block Grants
Sec. 231. Section 108 eligible activities.
Sec. 232. Economic development grants.
Sec. 233. Guarantee of obligations backed by section 108 loans.
Sec. 234. Flexibility of CDBG program for disaster areas.
TITLE III—TECHNICAL AMENDMENTS
Sec. 301. Definition of "families".
Sec. 302. Elimination of requirement to identify CIAP replacement needs.
Sec. 303. Project-based accounting.
Sec. 304. Operating subsidy adjustments for anticipated fraud recoveries.
Sec. 305. Environmental review provisions.
Sec. 306. Correction of FHA multifamily mortgage limits.
Sec. 307. Amendments to FHA multifamily risk-sharing and housing finance agency pilot programs.
Sec. 308. Subsidy layering review.

TITLE I—MULTIFAMILY PROPERTY DISPOSITION REFORM

SEC. 101. MULTIFAMILY PROPERTY DISPOSITION.

(a) FINDINGS.—The Congress finds that—

(1) 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;

(2) the inventory of multifamily housing projects owned by the Secretary has more than quadrupled since 1989, and, by the end of 1994, may exceed 69,000 units;

(3) the cost to the Federal Government of owning and maintaining multifamily housing projects escalated to $288,000,000 in fiscal year 1993;

(4) 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 approximately 219,000 units, are delinquent;

(5) the inventory of insured and formerly insured multifamily housing projects is deteriorating, potentially endangering tenants and neighborhoods; and

(6) 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.

(b) 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 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, address the goals of—

"(A) preserving certain 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;

"(F) minimizing the need to demolish multifamily housing projects;

"(G) supporting local fair housing strategies; and

"(H) disposing of such projects in a manner consistent with local housing market conditions.

In determining the manner in which a project is to be managed or disposed of, the Secretary 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:

"(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 that, immediately prior to the assignment of the mortgage on such project to, or the acquisition of such mortgage by, the Secretary, was receiving any of the following types of assistance:

"(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) additional assistance payments under section 236(f)(2) of the National Housing Act,

"(iii) housing assistance payments made under section 23 of the United States Housing Act of 1937 (as in effect before January 1, 1975), or

"(iv) 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.

"(5) AFFORDABLE.—A unit shall be considered affordable if—

"(A) for units occupied—

"(i) by very low-income families, the rent does not exceed 30 percent of 50 percent of the area median income, as determined by the Secretary, with adjustments for smaller and larger families; and

"(ii) by low-income families other than very low-income families, the rent does not exceed 30 percent of 80 percent of the area median income, as determined by the Secretary, with adjustments for smaller and larger families; or

"(B) the unit, or the family residing in the unit, is receiving assistance under section 8 of the United States Housing Act of 1937.

"(6) LOW-INCOME FAMILIES AND VERY LOW-INCOME FAMILIES.—The terms 'low-income families' and 'very low-income families' shall have the meanings given the terms in section 3(b) of the United States Housing Act of 1937.

"(7) PREEXISTING TENANT.—The term 'preexisting tenant' means, with respect to a multifamily housing project acquired pursuant to this section by a purchaser other than the Secretary at foreclosure or after sale by the Secretary, a family that resides in a unit in the project immediately before the acquisition of the project by the purchaser.

"(8) MARKET AREA.—The term 'market area' means a market area determined by the Secretary.

"(9) SECRETARY.—The term 'Secretary' means the Secretary of Housing and Urban Development.

"(c) DISPOSITION OF PROPERTY.—

"(1) DISPOSITION TO PURCHASERS.—In carrying out this section, the Secretary may 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 consistent with the goals in subsection (a), only to a purchaser determined by the Secretary to be capable of—

"(A) satisfying the conditions of the disposition plan developed under paragraph (2) for the project;

"(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 and in compliance with any standards under applicable State or local laws, rules, ordinances, or regulations relating to the physical condition of the housing and any such standards established by the Secretary;

"(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) DISPOSITION PLAN.—

"(A) IN GENERAL.—Prior to the sale of a multifamily housing project that is owned by the Secretary, the Secretary shall develop an initial 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.

"(B) MARKET-WIDE PLANS.—In developing the initial disposition plan under this sub-

section for a multifamily housing project located in a market area in which at least 1 other multifamily housing project owned by the Secretary is located, the Secretary may coordinate the disposition of all such multifamily housing projects located within the same market area to the extent and in such manner as the Secretary determines appropriate to carry out the goals under subsection (a).

"(C) SALES PRICE.—The initial sales price shall be reasonably related to the intended use of the project after sale, any rehabilitation requirements for the project, the rents for units in the project that can be supported by the market, the amount of rental assistance available for the project under section 8 of the United States Housing Act of 1937, the occupancy profile of the project (including family size and income levels for tenant families), and any other factors that the Secretary considers appropriate.

"(D) COMMUNITY AND TENANT INPUT.—In carrying out this section, the Secretary shall develop procedures—

"(i) 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; and

"(ii) to facilitate, where feasible and appropriate, the sale of multifamily housing projects to existing tenant organizations with demonstrated capacity, to public or nonprofit entities that represent or are affiliated with existing tenant organizations, or to other public or nonprofit entities.

"(E) TECHNICAL ASSISTANCE.—To carry out the procedures developed under subparagraph (D), the Secretary may provide technical assistance, directly or indirectly, and may use amounts available for technical assistance under the Emergency Low Income Housing Preservation Act of 1987, subtitle C of 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 this section, for the provision of technical assistance under this paragraph. Recipients of technical assistance funding under the provisions referred to in this subparagraph shall be permitted to provide technical assistance to the extent of such funding under any of such provisions or under this subparagraph, notwithstanding the source of the funding.

"(3) FORECLOSURE SALE.—In carrying out this section, the Secretary shall—

"(A) prior to foreclosing on any mortgage held by the Secretary on any multifamily housing project, notify both the unit of general local government in which the property is located and the tenants of the property of the proposed foreclosure sale; and

"(B) dispose of a multifamily housing project through a foreclosure sale only to a purchaser that the Secretary determines is capable of 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 and in compliance with any standards under applicable State or local laws, rules, ordinances, or regulations relating to the physical condition of the housing and any such standards established by the Secretary.

"(d) MANAGEMENT AND MAINTENANCE OF PROPERTIES.—

"(1) CONTRACTING FOR MANAGEMENT SERVICES.—In carrying out this section, the Secretary may—

"(A) contract for management services for a multifamily housing project that is owned by the Secretary (or for which the Secretary is mortgagee in possession) with for-profit and nonprofit entities and public agencies (including public housing authorities) 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 and in compliance with any standards under applicable State or local laws, rules, ordinances, or regulations relating to the physical condition of the project and any such standards established by the Secretary;

"(ii) responding to the needs of the tenants and working cooperatively with tenant organizations;

"(iii) providing adequate organizational, staff, and financial resources to the project; and

"(iv) meeting such other requirements as the Secretary may determine; and

"(B) 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).

"(2) MAINTENANCE OF PROJECTS OWNED BY 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 and in compliance with any standards under applicable State or local laws, rules, ordinances, or regulations relating to the physical condition of the housing and any such standards established by the Secretary;

"(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.

"(3) PROJECTS SUBJECT TO A MORTGAGE HELD BY 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 (2).

"(e) REQUIRED ASSISTANCE.—In disposing of multifamily housing property under this section, consistent with the goals of section 203(a)(3)(A), the Secretary shall take, separately or in combination with other actions under this subsection or subsection (f), one or more of the following actions:

"(1) CONTRACT WITH OWNER FOR PROJECT-BASED ASSISTANCE.—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, the Secretary may enter into contracts under section 8 of the United States Housing Act of 1937 (to the extent budget authority is available) with owners of the projects, subject to the following requirements:

"(A) SUBSIDIZED OR FORMERLY SUBSIDIZED PROJECTS RECEIVING MORTGAGE-RELATED 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 or foreclosure, unless the Secretary acts pursuant to the provisions of subparagraph (C);

"(ii) the contract shall provide that, when a vacancy occurs in any unit in the project requiring project-based rental assistance pursuant to this subparagraph that is occupied by a family who is not eligible for assistance under such section 8, the owner shall lease the available unit to a family eligible for assistance under such section 8; and

"(iii) the Secretary shall take actions to ensure that any unit in any such project that does not otherwise receive project-based assistance under this subparagraph remains available and affordable for the remaining useful life of the project, as defined by the Secretary; to carry out this clause, the Secretary may require purchasers to establish use or rent restrictions maintaining the affordability of such units.

"(B) SUBSIDIZED OR FORMERLY SUBSIDIZED PROJECTS RECEIVING RENTAL ASSISTANCE.—In the case of a subsidized or formerly subsidized project referred to in subsection (b)(2)(D) that is not subject to subparagraph (A)—

"(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 provisions referred to in such subsection, unless the Secretary acts pursuant to provisions of subparagraph (C); and

"(ii) the contract shall provide that, when a vacancy occurs in any unit in the project requiring project-based rental assistance pursuant to this subparagraph that is occupied by a family who is not eligible for assistance under such section 8, the owner shall lease the available unit to a family eligible for assistance under such section 8.

"(C) EXCEPTIONS.—

"(i) AUTHORITY.—In lieu of providing project-based assistance under section 8 of the United States Housing Act of 1937 in accordance with subparagraph (A)(i) or (B)(i) for a project, the Secretary may, for certain units in unsubsidized projects located within the same market area as the project otherwise required to be assisted with such project-based assistance—

"(I) require use and rent restrictions providing that such units shall be available to and affordable by very low-income families for the remaining useful life of the project (as defined by the Secretary), or

"(II) provide project-based assistance under section 8 for such units to be occupied by only very low-income persons,

but only if the requirements under clause (ii) are met.

"(ii) REQUIREMENTS.—The requirements under this clause are that—

"(I) upon the disposition of the project otherwise required to be assisted with project-based assistance under subparagraph (A)(i) or (B)(i), the Secretary shall make available tenant-based assistance under section 8 to low-income families residing in units otherwise required to be assisted with such project-based assistance; and

"(II) the number of units subject to use restrictions or provided assistance under clause (i) shall be at least equivalent to the number of units otherwise required to be assisted with project-based assistance under section 8 in accordance with subparagraph (A)(i) or (B)(i).

"(D) UNSUBSIDIZED PROJECTS.—Notwithstanding actions taken pursuant to subparagraph (C), in the case of unsubsidized

projects, the contract shall 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) the new construction and substantial rehabilitation program under section 8(b)(2) of the United States Housing Act of 1937 (as in effect before October 1, 1983);

"(II) the property disposition program under section 8(b) of such Act;

"(III) the project-based certificate program under section 8 of such Act;

"(IV) the moderate rehabilitation program under section 8(e)(2) of such Act;

"(V) section 23 of such Act (as in effect before January 1, 1975);

"(VI) the rent supplement program under section 101 of the Housing and Urban Development Act of 1965; or

"(VII) section 8 of the United States Housing Act of 1937, following conversion from assistance under 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 families that are preexisting tenants of the project in units that, immediately before foreclosure or acquisition of the project by the Secretary, 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.

"(2) ANNUAL CONTRIBUTION CONTRACTS FOR TENANT-BASED ASSISTANCE.—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, the Secretary may 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 on behalf of all low-income families who are otherwise eligible for assistance in accordance with subparagraph (A), (B), or (D) of paragraph (1) on the date that the project is acquired by the purchaser, subject to the following requirements:

"(A) REQUIREMENT OF SUFFICIENT AFFORDABLE HOUSING IN AREA.—The Secretary may not take action under this paragraph unless the Secretary determines that there is available in the area an adequate supply of habitable, affordable housing for very low-income families and other low-income families using tenant-based assistance.

"(B) LIMITATION FOR SUBSIDIZED AND FORMERLY SUBSIDIZED PROJECTS.—The Secretary may not take actions under this paragraph in connection with units in subsidized or formerly subsidized projects for more than 10 percent of the aggregate number of units in such projects disposed of by the Secretary in any fiscal year.

"(3) OTHER ASSISTANCE.—

"(A) IN GENERAL.—In accordance with the authority provided under the National Housing Act, the Secretary may provide other assistance pursuant to subsection (f) 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 that ensure that—

"(i) at least the units in the project otherwise required to receive project-based 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) VERY LOW-INCOME TENANTS.—If, as a result of actions taken pursuant to this paragraph, the rents charged to any very low-income families residing in the project who are otherwise required (pursuant to subparagraph (A), (B), or (D) of paragraph (1)) to receive project-based assistance under section 8 of the United States Housing Act of 1937 exceed the amount payable as rent under section 3(a) of the United States Housing Act of 1937, the Secretary shall provide tenant-based assistance under section 8 of such Act to such families.

"(f) DISCRETIONARY ASSISTANCE.—In addition to the actions required under subsection (e) for a subsidized, formerly subsidized, or unsubsidized multifamily housing project, the Secretary may, pursuant to the disposition plan and the goals in subsection (a), take one or more of the following actions:

"(1) DISCOUNTED SALES PRICE.—In accordance with the authority provided under the National Housing Act, the Secretary may reduce the selling price of the project. Such reduced sales price shall be reasonably related to the intended use of the property after sale, any rehabilitation requirements for the project, the rents for units in the project that can be supported by the market, the amount of rental assistance available for the project under section 8 of the United States Housing Act of 1937, the occupancy profile of the project (including family size and income levels for tenant families), and any other factors that the Secretary considers appropriate.

"(2) USE AND RENT RESTRICTIONS.—The Secretary may require certain units in a project to be subject to use or rent restrictions providing that such units will be available to and affordable by low- and very low-income persons for the remaining useful life of the property, as defined by the Secretary.

"(3) SHORT-TERM LOANS.—The Secretary may provide short-term loans to facilitate the sale of a multifamily housing project if—

"(A) authority for such loans is provided in advance in an appropriation Act;

"(B) such loan has a term of not more than 5 years;

"(C) the Secretary determines, based upon documentation provided to the Secretary, that the borrower has obtained a commitment of permanent financing to replace the short-term loan from a lender who meets standards established by the Secretary; and

"(D) the terms of such loan are consistent with prevailing practices in the marketplace or the provision of such loan results in no cost to the Government, as defined in section 502 of the Congressional Budget Act of 1974.

"(4) UP-FRONT GRANTS.—If the Secretary determines that action under this paragraph is more cost-effective than establishing rents pursuant to subsection (h)(2), the Secretary may utilize the budget authority provided for contracts issued under this section for project-based assistance under section 8 of the United States Housing Act of 1937 to (in addition to providing project-based section 8 rental assistance) provide up-front grants for the necessary cost of rehabilitation and other related development costs.

"(5) TENANT-BASED ASSISTANCE.—The Secretary may make available tenant-based assistance under section 8 of the United States Housing Act of 1937 to families residing in a multifamily housing project that do not otherwise qualify for project-based assistance.

"(6) ALTERNATIVE USES.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, after providing notice to and an opportunity for comment by preexisting tenants, the Secretary may allow not more than—

"(i) 10 percent of the total number of units in multifamily housing projects that are disposed of by the Secretary during any fiscal year 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 fiscal year 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 may take actions under subparagraph (A) only if—

"(i) tenant-based rental assistance under section 8 of the United States Housing Act of 1937 is made available to each eligible family residing in the project that is displaced as a result of such actions; and

"(ii) the Secretary determines that sufficient habitable, affordable rental housing is available in the market area in which the project is located to ensure use of such assistance.

"(7) TRANSFER FOR USE UNDER OTHER PROGRAMS OF SECRETARY.—

"(A) IN GENERAL.—Notwithstanding the provisions of subsection (e), the Secretary may, pursuant to an agreement under subparagraph (B), transfer a multifamily housing project—

"(i) to a public housing agency for use of the project as public housing; or

"(ii) to an entity eligible to own or operate housing assisted under section 202 of the Housing Act of 1959 or under section 811 of the Cranston-Gonzalez National Affordable Housing Act for use as supportive housing under either of such sections.

"(B) REQUIREMENTS FOR AGREEMENT.—An agreement providing for the transfer of a project described in subparagraph (A) shall—

"(i) contain such terms, conditions, and limitations as the Secretary determines appropriate, including requirements to ensure use of the project as public housing, supportive housing under section 202 of the Housing Act of 1959, or supportive housing under section 811 of the Cranston-Gonzalez National Affordable Housing Act, as applicable; and

"(ii) ensure that no tenant of the project will be displaced as a result of actions taken under this paragraph.

"(8) REBUILDING.—Notwithstanding any provision of section 8 of the United States Housing Act of 1937, the Secretary may provide project-based assistance in accordance with subsection (e) of this section to support the rebuilding of a multifamily housing project rebuilt or to be rebuilt (in whole or in part and on-site, off-site, or in a combination of both) in connection with disposition under this section, if the Secretary determines that—

"(A) the project is not being maintained in a decent, safe, and sanitary condition;

"(B) rebuilding the project would be less expensive than substantial rehabilitation;

"(C) the unit of general local government in which the project is located approves the rebuilding and makes a financial contribution or other commitment to the project; and

"(D) the rebuilding is a part of a local neighborhood revitalization plan approved by the unit of general local government.

The provisions of subsection (j)(2) shall apply to any tenants of the project who are displaced.

"(9) EMERGENCY ASSISTANCE FUNDS.—The Secretary may make arrangements with State agencies and units of general local government of States receiving emergency assistance under part A of title IV of the Social Security Act for the provision of assistance under such Act on behalf of eligible families who would reside in any multifamily housing projects.

"(g) PROTECTION FOR UNASSISTED VERY LOW-INCOME TENANTS.—For each multifamily housing project disposed of under this section, the Secretary shall require that, for any very low-income family who is a preexisting tenant of the project who (upon disposition) would be required to pay rent in an amount in excess of 30 percent of the adjusted income (as such term is defined in section 3(b) of the United States Housing Act of 1937) of the family—

"(1) for a period of 2 years beginning upon the date of the acquisition of the project by the purchaser under such disposition, the rent for the unit occupied by the family may not be increased above the rent charged immediately before acquisition;

"(2) such family shall be considered displaced for purposes of the preferences for assistance under sections 6(c)(4)(A)(i), 8(d)(1)(A)(i), and 8(o)(3)(B) of the United States Housing Act of 1937; and

"(3) notice shall be provided to such family, not later than the date of the acquisition of the project by the purchaser—

"(A) of the requirements under paragraphs (1) and (2); and

"(B) that, after the expiration of the period under paragraph (1), the rent for the unit occupied by the family may be increased.

"(h) CONTRACT REQUIREMENTS.—Contracts for project-based rental assistance under section 8 of the United States Housing Act of 1937 provided pursuant to this section shall be subject to the following requirements:

"(1) CONTRACT TERM.—The contract shall have a term of 15 years, except that the term may be less than 15 years—

"(A) to the extent that the Secretary finds that, based on the rental charges and financing for the multifamily housing project to which the contract relates, the financial viability of the project can be maintained under a contract having such a term; except that the Secretary shall require that the amount of rent payable by tenants of the project for units assisted under such contract shall 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; or

"(B) if such assistance is provided—

"(i) under a contract authorized under section 6 of the HUD Demonstration Act of 1993; and

"(ii) pursuant to a disposition plan under this section for a project that is determined by the Secretary to be otherwise in compliance with this section.

"(2) CONTRACT RENT.—The Secretary shall establish the contract rents under such contracts at levels that, together with other resources available to the purchasers, provide sufficient amounts for the necessary costs of rehabilitating and operating the multifamily housing project and do not exceed the percentage of the existing housing fair market rentals for the market area in which the project assisted under the contract is located as determined by the Secretary under section 8(c) of the United States Housing Act of 1937.

"(i) RIGHT OF FIRST REFUSAL FOR LOCAL AND STATE GOVERNMENT AGENCIES.—

"(1) NOTIFICATION.—Not later than 30 days after the Secretary acquires title to a multifamily housing project, the Secretary shall notify the appropriate unit of general local government (including public housing agencies) and State agency or agencies designated by the chief executive officer of the State in which the project is located of such acquisition of title and that, for a period beginning upon such notification that does not exceed 90 days, such unit of general local government and agency or agencies shall have the exclusive right under this subsection to make bona fide offers to purchase the project.

"(2) RIGHT OF FIRST REFUSAL.—During the 90-day period, the Secretary may not sell or offer to sell the multifamily housing project other than to a party notified under paragraph (1), unless the unit of general local government and the designated State agency or agencies notify the Secretary that they will not make an offer to purchase the project. The Secretary shall accept a bona fide offer to purchase the project made during such period if it complies with the terms and conditions of the disposition plan for the project or is otherwise acceptable to the Secretary.

"(3) PROCEDURE.—The Secretary shall establish any procedures necessary to carry out this subsection.

"(j) DISPLACEMENT OF TENANTS AND RELOCATION ASSISTANCE.—

"(1) IN GENERAL.—Whenever tenants will be displaced as a result of the demolition of, repairs to, or conversion in the use of, 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 that may be available. In the case of a 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 this paragraph, if the Secretary has authorized the demolition of, repairs to, or conversion in the use of such multifamily housing project.

"(2) RIGHTS OF DISPLACED TENANTS.—The Secretary shall ensure for any such tenant (who continues to meet applicable qualification standards) the right—

"(A) to return, whenever possible, to a repaired or rebuilt 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 similar relocation assistance as the Secretary determines to be appropriate.

"(k) 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 the 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 requires competitive sales or bidding, the Secretary may carry out negotiated sales of 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 projects that are not subsidized or formerly subsidized projects on such terms and conditions as the Secretary may prescribe.

"(5) MORTGAGE SALE DEMONSTRATION.—The Secretary may carry out a demonstration to test the feasibility of restructuring and disposing of troubled multifamily mortgages held by the Secretary through the establishment of partnerships with public, private, and nonprofit entities.

"(6) PROJECT SALE DEMONSTRATION.—The Secretary may carry out a demonstration to test the feasibility of disposing of troubled multifamily housing projects that are owned by the Secretary through the establishment of partnerships with public, private, and nonprofit entities.

"(l) REPORT TO CONGRESS.—Not later than June 1 of each year, the Secretary shall submit to the Congress a report describing the status of multifamily housing projects owned by or subject to mortgages held by the Secretary, on an aggregate basis, which highlights the differences, if any, between

the subsidized and the unsubsidized inventory. The report shall include—

"(1) the average and median size of the projects;

"(2) the geographic locations of the projects, by State and region;

"(3) the years during which projects were assigned to the Department, and the average and median length of time that projects remain in the HUD-held inventory;

"(4) the status of HUD-held mortgages;

"(5) the physical condition of the HUD-held and HUD-owned inventory;

"(6) the occupancy profile of the projects, including the income, family size, race, and ethnic origin of current tenants, and the rents paid by such tenants;

"(7) the proportion of units that are vacant;

"(8) the number of projects for which the Secretary is mortgagee in possession;

"(9) the number of projects sold in foreclosure sales;

"(10) the number of HUD-owned projects sold;

"(11) a description of actions undertaken pursuant to this section, including a description of the effectiveness of such actions and any impediments to the disposition or management of multifamily housing projects;

"(12) a description of the extent to which the provisions of this section and actions taken under this section have displaced tenants of multifamily housing projects;

"(13) 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; and

"(14) a description of the activities carried out under subsection (i) during the preceding year.".

(c) CLARIFICATION OF FEDERAL PREFERENCES.—

(1) PUBLIC HOUSING TENANCY.—Section 6(c)(4)(A)(i) of the United States Housing Act of 1937 (42 U.S.C. 1437d(c)(4)(A)(i)) is amended by inserting after "displaced" the following: "(including displacement because of disposition of a multifamily housing project under section 203 of the Housing and Community Development Amendments of 1978)".

(2) SECTION 8 ASSISTANCE.—Section 8(d)(1)(A)(i) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(1)(A)(i)) is amended by inserting after "displaced" the following: "(including displacement because of disposition of a multifamily housing project under section 203 of the Housing and Community Development Amendments of 1978)".

(3) VOUCHER ASSISTANCE.—The first sentence of section 8(o)(3)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(3)(B)) is amended by inserting after "displaced" the following: "(including displacement because of disposition of a multifamily housing project under section 203 of the Housing and Community Development Amendments of 1978)".

(d) DEFINITION OF OWNER.—Section 8(f)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437f(f)(1)) is amended by inserting "an agency of the Federal Government," after "cooperative,".

(e) AMENDMENT TO NATIONAL HOUSING ACT.—Title V of the National Housing Act (12 U.S.C. 1731a et seq.) is amended by adding at the end the following new section:

"PARTIAL PAYMENT OF CLAIMS ON MULTIFAMILY HOUSING PROJECTS

"SEC. 541. (a) AUTHORITY.—Notwithstanding any other provision of law, if the Secretary is requested to accept assignment of a mortgage insured by the Secretary that covers a multifamily housing project (as such term is defined in section 203(b) of the Housing and Community Development Amendments of 1978) and the Secretary determines that partial payment would be less costly to the Federal Government than other reasonable alternatives for maintaining the low-income character of the project, the Secretary may request the mortgagee, in lieu of assignment, to—

"(1) accept partial payment of the claim under the mortgage insurance contract; and

"(2) recast the mortgage, under such terms and conditions as the Secretary may determine.

"(b) REPAYMENT.—As a condition to a partial claim payment under this section, the mortgagor shall agree to repay to the Secretary the amount of such payment and such obligation shall be secured by a second mortgage on the property on such terms and conditions as the Secretary may determine.".

(f) EFFECTIVE DATE.—The Secretary shall issue interim regulations necessary to implement the amendments made by subsections (b) through (d) not later than 90 days after the date of the enactment of this Act. Such interim regulations shall take effect upon issuance and invite public comment on the interim regulations. The Secretary shall issue final regulations to implement such amendments after opportunity for such public comment, but not later than 12 months after the date of issuance of such interim regulations.

SEC. 102. REPEAL OF STATE AGENCY MULTIFAMILY PROPERTY DISPOSITION DEMONSTRATION.

Section 184 of the Housing and Community Development Act of 1987 (12 U.S.C. 1701z-11 note) is hereby repealed.

SEC. 103. PREVENTING MORTGAGE DEFAULTS ON MULTIFAMILY HOUSING PROJECTS.

(a) MULTIFAMILY HOUSING PLANNING AND INVESTMENT STRATEGIES.—

(1) PREPARATION OF ASSESSMENTS FOR INDEPENDENT ENTITIES.—Section 402(a) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715-1a note) is amended by adding at the end the following new sentence: "The assessment shall be prepared by an entity that does not have an identity of interest with the owner.".

(2) TIMING OF SUBMISSION OF NEEDS ASSESSMENTS.—Section 402(b) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z-1a note) is amended to read as follows:

"(b) TIMING.—To ensure that assessments for all covered multifamily housing properties will be submitted on or before the conclusion of fiscal year 1997, the Secretary shall require the owners of such properties, including covered multifamily housing properties for the elderly, to submit the assessments for the properties in accordance with the following schedule:

"(1) For fiscal year 1994, 10 percent of the aggregate number of such properties.

"(2) For each of fiscal years 1995, 1996, and 1997, an additional 30 percent of the aggregate number of such properties.".

(3) REVIEW OF COMPREHENSIVE NEEDS ASSESSMENTS.—Section 404(d) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715-1a note) is amended to read as follows:

"(d) REVIEW.—

"(1) IN GENERAL.—The Secretary shall review each comprehensive needs assessment for completeness and adequacy before the expiration of the 90-day period beginning on the receipt of the assessment and shall notify the owner of the property for which the assessment was submitted of the findings of such review.

"(2) INCOMPLETE OR INADEQUATE ASSESSMENTS.—If the Secretary determines that the assessment is substantially incomplete or inadequate, the Secretary shall—

"(A) notify the owner of the portion or portions of the assessment requiring completion or other revision; and

"(B) require the owner to submit an amended assessment to the Secretary not later than 30 days after such notification.".

(4) REPEAL OF NOTICE PROVISION.—Section 404 of the Housing and Community Development Act of 1992 (12 U.S.C. 1715-1a note) is amended by striking subsection (f).

(5) PUBLICATION.—Section 404 of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z-1a note), as amended by paragraph (4) of this subsection, is further amended by inserting after subsection (e) the following new subsection:

"(f) PUBLICATION OF METHOD FOR RECEIVING CAPITAL NEEDS ASSESSMENT.—The Secretary shall cause to be published in the Federal Register the method by which the Secretary determines which capital needs assessments will be received each year in accordance with section 402(b) and subsection (d) of this section.".

(6) FUNDING.—Title IV of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z-1a note) is amended by adding at the end the following new section:

"SEC. 409. FUNDING.

"(a) ALLOCATION OF ASSISTANCE.—Based upon needs identified in comprehensive needs assessments, and subject to otherwise applicable program requirements, including selection criteria, the Secretary may allocate the following assistance to owners of covered multifamily housing projects and may provide such assistance on a noncompetitive basis:

"(1) Operating assistance and capital improvement assistance for troubled multifamily housing projects pursuant to section 201 of the Housing and Community Development Amendments of 1978, except for assistance set aside under section 201(n)(1).

"(2) Loan management assistance available pursuant to section 8 of the United States Housing Act of 1937.

"(b) OPERATING ASSISTANCE AND CAPITAL IMPROVEMENT ASSISTANCE.—In providing assistance under subsection (a) the Secretary shall use the selection criteria set forth in section 201(n) of the Housing and Community Development Amendments of 1978.

"(c) AMOUNT OF ASSISTANCE.—The Secretary may fund all or only a portion of the needs identified in the capital needs assessment of an owner selected to receive assistance under this section.".

(b) FLEXIBLE SUBSIDY PROGRAM.—

(1) DELETION OF UTILITY COST REQUIREMENTS.—Section 201(i) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z-1a(i)) is hereby repealed.

(2) REPEAL OF MANDATORY CONTRIBUTION FROM OWNER.—Section 201(k)(2) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z-1a(k)(2)) is amended by striking ", except that" and all that follows and inserting a period.

(3) FUNDING.—Section 201(n) of the Housing and Community Development Amendments of 1978 (42 U.S.C. 1715z-1a(n)) is amended to read as follows:

"(n) ALLOCATION OF ASSISTANCE.—

"(1) SET-ASIDE.—In providing, and contracting to provide, assistance for capital improvements under this section, in each fiscal year the Secretary shall set aside an amount, as determined by the Secretary, for projects that are eligible for incentives

under section 224(b) of the Emergency Low Income Housing Preservation Act of 1987, as such section existed before the date of enactment of the Cranston-Gonzalez National Affordable Housing Act. The Secretary may make such assistance available on a noncompetitive basis.

"(2) GENERAL RULES FOR ALLOCATION.—Except as provided in paragraph (3), with respect to assistance under this section not set aside for projects under paragraph (1), the Secretary—

"(A) may award assistance on a noncompetitive basis; and

"(B) shall award assistance to eligible projects on the basis of—

"(i) the extent to which the project is physically or financially troubled, as evidenced by the comprehensive needs assessment submitted in accordance with title IV of the Housing and Community Development Act of 1992; and

"(ii) the extent to which such assistance is necessary and reasonable to prevent the default of federally insured mortgages.

"(3) EXCEPTIONS.—The Secretary may make exceptions to selection criteria set forth in paragraph (2)(B) to permit the provision of assistance to eligible projects based upon—

"(A) the extent to which such assistance is necessary to prevent the imminent foreclosure or default of a project whose owner has not submitted a comprehensive needs assessment pursuant to title IV of the Housing and Community Development Act of 1992;

"(B) the extent to which the project presents an imminent threat to the life, health, and safety of project residents; or

"(C) such other criteria as the Secretary may specify by regulation or by notice printed in the Federal Register.

"(4) CONSIDERATIONS.—In providing assistance under this section, the Secretary shall take into consideration—

"(A) the extent to which there is evidence that there will be significant opportunities for residents (including a resident council or resident management corporation, as appropriate) to be involved in the management of the project (except that this paragraph shall have no application to projects that are owned as cooperatives); and

"(B) the extent to which there is evidence that the project owner has provided competent management and complied with all regulatory and administrative requirements.".

(4) REPEAL.—Section 201 of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z-1a) is amended—

(A) by striking subsection (o); and

(B) by redesignating subsection (p) as subsection (o).

(c) IMPLEMENTATION AND EFFECTIVE DATES FOR SUBSECTIONS (a) AND (b).—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsections (a) and (b) shall apply with respect to amounts made available for fiscal year 1994 and fiscal years thereafter.

(2) EXCEPTION.—Section 201(n)(1) of the Housing and Community Development Amendments of 1978 (as added by the amendment made by subsection (b)(3) of this section) shall take effect on the date of enactment of this Act.

(3) NOTICE.—The Secretary shall, by notice published in the Federal Register, establish any requirements necessary to implement the amendments made by subsections (a) and (b). The notice shall invite public comments and, not later than 12 months after the date on which the notice is published, the Secretary shall issue final regulations based on the initial notice, taking into consideration any public comments received.

(d) STREAMLINED REFINANCING.—As soon as practicable, the Secretary shall implement a streamlined refinancing program under the authority provided in section 223 of the National Housing Act to prevent the default of mortgages insured by the FHA which cover multifamily housing projects, as defined in section 203(b) of the Housing and Community Development Amendments of 1978.

(e) GAO STUDY ON PREVENTION OF DEFAULT.—

(1) IN GENERAL.—Not later than April 1, 1995, the Comptroller General of the United States shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report that evaluates the adequacy of loan loss reserves in the General Insurance and Special Risk Insurance Funds and presents recommendations for the Secretary to prevent losses from occurring.

(2) CONTENTS.—The report submitted under paragraph (1) shall—

(A) evaluate the factors considered in arriving at loss estimates and determine whether other factors should be considered;

(B) determine the relative benefit of creating a new, actuarially sound insurance fund for all new multifamily housing insurance commitments; and

(C) recommend alternatives to the Secretary's current procedures for preventing the future default of multifamily housing project mortgages insured under title II of the National Housing Act.

(f) GAO STUDY ON ACTUARIAL SOUNDNESS OF CERTAIN INSURANCE PROGRAMS.—

(1) IN GENERAL.—Not later than April 1, 1995, the Comptroller General of the United States 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 that evaluates, in connection with the General Insurance Fund, the role and performance of the nursing home, hospital, and retirement service center insurance programs.

(2) CONTENTS.—The reports submitted under paragraph (1) shall—

(A) evaluate the strategic importance of these insurance programs to the mission of the FHA;

(B) evaluate the impact of these insurance programs upon the financial performance of the General Insurance Fund;

(C) assess the potential losses expected under these programs through fiscal year 1999;

(D) evaluate the risk of these programs to the General Insurance Fund in connection with changes in national health care policy;

(E) assess the ability of the FHA to manage these programs; and

(F) make recommendations for any necessary changes.

(g) RISK ASSESSMENT.—

(1) SPECIAL RISK INSURANCE FUND.—Section 238(c) of the National Housing Act (12 U.S.C. 1715z-3(c)) is amended by adding at the end the following new paragraph:

"(3) The Secretary shall undertake an annual assessment of the risks associated with each of the insurance programs comprising the Special Risk Insurance Fund, and shall present findings from such review to the Congress in the FHA Annual Management Report.".

(2) GENERAL INSURANCE FUND.—Section 519 of the National Housing Act (12 U.S.C. 1735c) is amended by adding at the end the following new subsection:

"(g) RISK ASSESSMENT.—The Secretary shall undertake an annual assessment of the risks associated with each of the insurance programs comprising the General Insurance Fund, and shall present findings from such review to the Congress in the FHA Annual Management Report.".

(h) ALTERNATIVE USES FOR PREVENTION OF DEFAULT.—

(1) IN GENERAL.—Subject to notice to and comment by existing tenants, to prevent the imminent default of a multifamily housing project subject to a mortgage insured under title II of the National Housing Act, the Secretary may authorize the mortgagor to use the project for purposes not contemplated by or permitted under the regulatory agreement, if—

(A) such other uses are acceptable to the Secretary;

(B) such other uses would be otherwise insurable under title II of the National Housing Act;

(C) the outstanding principal balance on the mortgage covering such project is not increased;

(D) any financial benefit accruing to the mortgagor shall, subject to the discretion of the Secretary, be applied to project reserves or project rehabilitation; and

(E) such other use serves a public purpose.

(2) DISPLACEMENT PROTECTION.—The Secretary may take actions under paragraph (1) only if—

(A) tenant-based rental assistance under section 8 of the United States Housing Act of 1937 is made available to each eligible family residing in the project that is displaced as a result of such actions; and

(B) the Secretary determines that sufficient habitable, affordable (as such term is defined in section 203(b) of the Housing and Community Development Amendments of 1978) rental housing is available in the market area in which the project is located to ensure use of such assistance.

(3) IMPLEMENTATION.—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, not later than 12 months after the date on which the notice is published, the Secretary shall issue final regulations based on the initial notice, taking into account any public comments received.

SEC. 104. INTEREST RATES ON ASSIGNED MORTGAGES.

Section 7(i)(5) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(i)(5)) is amended by striking the first semicolon, and all that follows through "as determined by the Secretary".

SEC. 105. AUTHORIZATION OF APPROPRIATIONS.

(a) SPECIAL RISK INSURANCE FUND.—Section 238(b) of the National Housing Act (12 U.S.C. 1715z-3(b)) is amended by striking the fifth sentence.

(b) GENERAL INSURANCE FUND.—Section 519 of the National Housing Act (12 U.S.C. 1735c) is amended—

(1) by striking subsection (f); and

(2) by redesignating subsection (g) (as added by section 103(g)(2) of this Act) as subsection (f).

(c) MULTIFAMILY INSURANCE FUND APPROPRIATIONS.—Title V of the National Housing Act (12 U.S.C. 1731a et seq.) is amended by adding after section 541 (as added by section 101(e) of this Act) the following new section:

"SEC. 542. AUTHORIZATION OF APPROPRIATIONS FOR GENERAL AND SPECIAL RISK INSURANCE FUNDS.

"There are authorized to be appropriated such sums as may be necessary for each of fiscal years 1994 and 1995, to be allocated in any manner that the Secretary determines appropriate, for the following costs incurred in conjunction with programs authorized under the General Insurance Fund, as provided by section 519, and the Special Risk Insurance Fund, as provided by section 238:

"(1) The cost to the Government, as defined in section 502 of the Congressional Budget Act, of new insurance commitments.

"(2) The cost to the Government, as defined in section 502 of the Congressional Budget Act, of modifications to existing loans, loan guarantees, or insurance commitments.

"(3) The cost to the Government, as defined in section 502 of the Congressional Budget Act, of loans provided under section 203(f) of the Housing and Community Development Amendments of 1978.

"(4) The costs of the rehabilitation of multifamily housing projects (as defined in section 203(b) of the Housing and Community Development Amendments of 1978) upon disposition by the Secretary.".

TITLE II—OTHER PROGRAM REFORMS

Subtitle A—Home Investment Partnerships Program

SEC. 201. PARTICIPATION BY STATE AGENCIES OR INSTRUMENTALITIES.

Section 104(2) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704(2)) is amended—

(1) by striking "and" after "Columbia,"; and

(2) by inserting before the period at the end the following: ", or any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive officer to act on behalf of the State with regard to the provisions of this Act".

SEC. 202. SIMPLIFICATION OF PROGRAM-WIDE INCOME TARGETING FOR RENTAL HOUSING.

Section 214(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12744(1)) is amended—

(1) in subparagraph (A)—

(A) by striking "such funds are invested with respect to dwelling units that are occupied by" and inserting "(i) the families receiving such rental assistance are"; and

(B) by striking ", and" and inserting ", or (ii) the dwelling units assisted with such funds are occupied by families having such incomes; and"; and

(2) in subparagraph (B)—

(A) by striking "such funds are invested with respect to dwelling units that are occupied by" and inserting "(i) the families receiving such rental assistance are"; and

(B) by inserting before the semicolon at the end the following: ", or (ii) the dwelling units assisted with such funds are occupied by such households".

SEC. 203. HOMEOWNERSHIP UNITS.

(a) REMOVAL OF FIRST-TIME HOMEBUYER REQUIREMENT.—Section 215(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12745(b)) is amended—

(1) by striking paragraph (3); and

(2) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(b) SIMPLIFICATION OF RESALE PROVISIONS.—Section 215(b)(3)(B) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12745(b)(3)(B)), as so redesignated by subsection (a) of this section, is amended by striking "subsection" and inserting "title".

SEC. 204. SIMPLIFICATION OF MATCHING REQUIREMENTS.

Section 220(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12750(a)) is amended to read as follows:

"(a) CONTRIBUTION.—Each participating jurisdiction shall make contributions to housing that qualifies as affordable housing under this title that total, throughout a fiscal year, not less than 25 percent of the funds drawn from the jurisdiction's HOME Investment Trust Fund in such fiscal year. Such contributions shall be in addition to any amounts made available under section 216(3)(A)(ii).".

SEC. 205. REPEAL OF SEPARATE AUDIT REQUIREMENT.

Section 283 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12833) is amended—

(1) by striking the section designation and heading and inserting the following:

"SEC. 283. AUDITS BY COMPTROLLER GENERAL.";

(2) by striking subsection (a);

(3) in subsection (b)—

(A) by striking "(b) AUDITS BY THE COMPTROLLER GENERAL.—";

(B) by redesignating paragraphs (1) and (2) as subsections (a) and (b), respectively; and

(C) by moving subsections (a) and (b), as so redesignated by subparagraph (B), 2 ems to the left so that such subsections are flush with the left margin; and

(4) in subsection (a), as so redesignated by paragraph (3)(B), by striking the second sentence.

SEC. 206. ENVIRONMENTAL REVIEW REQUIREMENTS.

Section 288 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12838) is amended—

(1) in subsection (a)—

(A) in the first sentence, by striking "participating jurisdictions" and inserting "jurisdictions, Indian tribes, or insular areas"; and

(B) by adding at the end the following new sentences: "The regulations shall provide—

"(1) for the monitoring of the environmental reviews performed under this section;

"(2) in the discretion of the Secretary, to facilitate training for the performance of such reviews; and

"(3) for the suspension or termination of the assumption under this section.

The Secretary's duty under the preceding sentence shall not be construed to limit or reduce any responsibility assumed by a State or unit of general local government with respect to any particular release of funds.";

(2) in the first sentence of subsection (b), by striking "participating jurisdiction" and inserting "jurisdiction, Indian tribe, or insular area";

(3) in subsection (c)(4)(B), by striking "participating jurisdiction" and inserting "jurisdiction, Indian tribe, or insular area"; and

(4) in subsection (d), by striking "ASSISTANCE TO A STATE.—In the case of assistance to States" and inserting the following: "ASSISTANCE TO UNITS OF GENERAL LOCAL GOVERNMENT FROM A STATE.—In the case of assistance to units of general local government from a State".

SEC. 207. USE OF CDBG FUNDS FOR HOME PROGRAM EXPENSES.

(a) ADMINISTRATIVE EXPENSES.—Section 105(a)(13) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(13)) is amended by inserting after "charges related to" the following: "(A) administering the HOME program under title II of the Cranston-Gonzalez National Affordable Housing Act; and (B)".

(b) PROJECT DELIVERY COSTS.—Section 105(a)(21) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(21)) is amended—

(1) by inserting "in connection with tenant-based rental assistance and affordable housing projects assisted under title II of the Cranston-Gonzalez National Affordable Housing Act" after "housing counseling"; and

(2) by striking "authorized" and all that follows through "any law" and inserting "assisted under title II of the Cranston-Gonzalez National Affordable Housing Act".

SEC. 208. FLEXIBILITY OF HOME PROGRAM FOR DISASTER AREAS.

Title II of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12721 et seq.) is amended by adding at the end the following new section:

"SEC. 290. SUSPENSION OF REQUIREMENTS FOR DISASTER AREAS.

"For funds designated under this title by a recipient to address the damage in an area for which the President has declared a disaster under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, the Secretary may suspend all statutory requirements for purposes of assistance under this title for that area, except for those related to public notice of funding availability, nondiscrimination, fair housing, labor standards, environmental standards, and low-income housing affordability.".

SEC. 209. APPLICABILITY AND REGULATIONS.

The amendments made by this title shall apply with respect to any amounts made available to carry out title II of the Cranston-Gonzalez National Affordable Housing Act after the date of the enactment of this Act and any amounts made available to carry out such title before such date of enactment that remain uncommitted on such date. The Secretary shall issue any regulations necessary to carry out the amendments made by this title not later than the expiration of the 45-day period beginning on the date of the enactment of this Act.

Subtitle B—HOPE Homeownership Program

SEC. 221. MATCHING REQUIREMENT UNDER HOPE FOR HOMEOWNERSHIP OF SINGLE FAMILY HOMES PROGRAM.

Section 443(c)(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12893(c)(1)) is amended by striking "33 percent" and inserting "25 percent".

Subtitle C—Community Development Block Grants

SEC. 231. SECTION 108 ELIGIBLE ACTIVITIES.

The first sentence of section 108(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(a)) is amended—

(1) by striking "or" after "section 105(a);"; and

(2) by inserting before the period the following: "; (5) the acquisition, construction, reconstruction, or installation of public facilities (except for buildings for the general conduct of government); or (6) in the case of colonias (as such term is defined in section 916 of the Cranston-Gonzalez National Affordable Housing Act), public works and site or other improvements".

SEC. 232. ECONOMIC DEVELOPMENT GRANTS.

(a) GRANTS.—

(1) IN GENERAL.—Section 108 of the Housing and Community Development Act of 1974 (42 U.S.C. 5308) is amended by adding at the end the following new subsection:

"(q) ECONOMIC DEVELOPMENT GRANTS.—

"(1) AUTHORIZATION.—The Secretary may make grants in connection with notes or other obligations guaranteed under this section to eligible public entities for the purpose of enhancing the security of loans guaranteed under this section or improving the viability of projects financed with loans guaranteed under this section.

"(2) ELIGIBLE ACTIVITIES.—Assistance under this subsection may be used only for the purposes of and in conjunction with projects and activities assisted under subsection (a).

"(3) APPLICATIONS.—Applications for assistance under this subsection may be submitted only by eligible public entities, and shall be in the form and in accordance with the procedures established by the Secretary. Eligible public entities may apply for grants only in conjunction with requests for guarantees under subsection (a).

"(4) SELECTION CRITERIA.—The Secretary shall establish criteria for awarding assistance under this subsection. Such criteria shall include—

"(A) the extent of need for such assistance;

"(B) the level of distress in the community to be served and in the jurisdiction applying for assistance;

"(C) the quality of the plan proposed and the capacity or potential capacity of the applicant to successfully carry out the plan; and

"(D) such other factors as the Secretary determines to be appropriate.".

(2) CONFORMING AMENDMENT.—Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) is amended—

(A) in section 101(c) in the second sentence, by inserting "or a grant" after "guarantee"; and

(B) in section 104(b)(3), by inserting "or a grant" after "guarantee".

(b) USE OF UDAG RECAPTURES.—Section 119(o) of the Housing and Community Development Act of 1974 (42 U.S.C. 5318(o)) is amended by inserting before the period the following: ", except that amounts available to the Secretary for use under this subsection as of October 1, 1993, and amounts released to the Secretary pursuant to subsection (t) may be used to provide grants under section 108(q).".

(c) UDAG RETENTION PROGRAM.—

(1) AMENDMENT.—Section 119 of the Housing and Community Development Act of 1974 (42 U.S.C. 5318) is amended by adding at the end the following new subsection:

"(t) UDAG RETENTION PROGRAM.—If a grant or a portion of a grant under this section remains unexpended upon the issuance of a notice implementing this subsection, the grantee may enter into an agreement, as provided under this subsection, with the Secretary to receive a percentage of the grant amount and relinquish all claims to the balance of the grant within 90 days of the issuance of notice implementing this subsection (or such later date as the Secretary may approve). The Secretary shall not recapture any funds obligated pursuant to this section during a period beginning on the date of enactment of the Multifamily Housing Property Disposition Reform Act of 1994 until 90 days after the issuance of a notice implementing this subsection. A grantee may receive as a grant under this subsection—

"(1) 33 percent of such unexpended amounts if—

"(A) the grantee agrees to expend not less than one-half of the amount received for activities authorized pursuant to section 108(q) and to expend such funds in conjunction with a loan guarantee made under section 108 at least equal to twice the amount of the funds received; and

"(B)(i) the remainder of the amount received is used for economic development activities eligible under title I of this Act; and

"(ii) except when waived by the Secretary in the case of a severely distressed jurisdiction, not more than one-half of the costs of activities under subparagraph (B) are derived from such unexpended amounts; or

"(2) 25 percent of such unexpended amounts if—

"(A) the grantee agrees to expend such funds for economic development activities eligible under title I of this Act; and

"(B) except when waived by the Secretary in the case of a severely distressed jurisdiction, not more than one-half of the costs of such activities are derived from such unexpended amount.".

(2) IMPLEMENTATION.—Not later than 10 days after the date of enactment of this Act, 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.

SEC. 233. GUARANTEE OF OBLIGATIONS BACKED BY SECTION 108 LOANS.

Section 108 of the Housing and Community Development Act of 1974 (42 U.S.C. 5308) is amended by adding after subsection (q) (as added by section 232(a)(1) of this Act) the following new subsection:

"(r) GUARANTEE OF OBLIGATIONS BACKED BY LOANS.—

"(1) AUTHORITY.—The Secretary may, upon such terms and conditions as the Secretary considers appropriate, guarantee the timely payment of the principal of and interest on such trust certificates or other obligations as may—

"(A) be offered by the Secretary or by any other offeror approved for purposes of this subsection by the Secretary; and

"(B) be based on and backed by a trust or pool composed of notes or other obligations guaranteed or eligible for guarantee by the Secretary under this section.

"(2) FULL FAITH AND CREDIT.—To the same extent as provided in subsection (f), the full faith and credit of the United States is pledged to the payment of all amounts that may be required to be paid under any guarantee made by the Secretary under this subsection.

"(3) SUBROGATION.—If the Secretary pays a claim under a guarantee made under this section, the Secretary shall be subrogated for all the rights of the holder of the guaranteed certificate or obligation with respect to such certificate or obligation.

"(4) EFFECT OF LAWS.—No State or local law, and no Federal law, shall preclude or limit the exercise by the Secretary of—

"(A) the power to contract with respect to public offerings and other sales of notes, trust certificates, and other obligations guaranteed under this section upon such terms and conditions as the Secretary deems appropriate;

"(B) the right to enforce any such contract by any means deemed appropriate by the Secretary; and

"(C) any ownership rights of the Secretary, as applicable, in notes, certificates, or other obligations guaranteed under this section, or constituting the trust or pool against which trust certificates, or other obligations guaranteed under this section, are offered.".

SEC. 234. FLEXIBILITY OF CDBG PROGRAM FOR DISASTER AREAS.

Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) is amended by adding at the end the following new section:

"SEC. 122. SUSPENSION OF REQUIREMENTS FOR DISASTER AREAS.

"For funds designated under this title by a recipient to address the damage in an area for which the President has declared a disaster under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, the Secretary may suspend all requirements for purposes of assistance under section 106 for that area, except for those related to public notice of funding availability, nondiscrimination, fair housing, labor standards, environmental standards, and requirements that activities benefit persons of low- and moderate-income.".

TITLE III—TECHNICAL AMENDMENTS

SEC. 301. DEFINITION OF "FAMILIES".

The first sentence of section 3(b)(3)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(3)(B)) is amended by striking "means families with children" and inserting "includes families with children and".

SEC. 302. ELIMINATION OF REQUIREMENT TO IDENTIFY CIAP REPLACEMENT NEEDS.

Section 14 of the United States Housing Act of 1937 (42 U.S.C. 1437l) is amended—

(1) in subsection (d)—

(A) by striking paragraph (2);

(B) in paragraph (4), in the matter preceding subparagraph (A)—

(i) by striking "and replacements,"; and

(ii) by striking "(1), (2), and (3)" and inserting "(1) and (2)"; and

(C) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively; and

(2) in subsection (f)(1)—

(A) in subparagraph (A), by striking "(d)(4)(A)" and inserting "(d)(3)(A)";

(B) by striking subparagraph (B);

(C) in subparagraph (C), by striking "(d)(4)" and inserting "(d)(3)";

(D) in subparagraph (D)—

(i) by striking "(1), (2), and (3)" and inserting "(1) and (2)"; and

(ii) by striking "(d)(4)" and inserting "(d)(3)"; and

(E) by redesignating subparagraphs (C) and (D), as so amended, as subparagraphs (B) and (C), respectively;

(3) in subsection (g), by striking "(d)(4)" and inserting "(d)(3)"; and

(4) in subsection (h)(2), by striking "(d)(4)" and inserting "(d)(3)".

SEC. 303. PROJECT-BASED ACCOUNTING.

Section 6(c)(4)(E) of the United States Housing Act of 1937 (42 U.S.C. 1437d(c)(4)(E)) is amended by striking "250" and inserting "500".

SEC. 304. OPERATING SUBSIDY ADJUSTMENTS FOR ANTICIPATED FRAUD RECOVERIES.

Section 9(a) of the United States Housing Act of 1937 (42 U.S.C. 1437g(a)) is amended by adding at the end the following new paragraph:

"(4) Adjustments to a public housing agency's operating subsidy made by the Secretary under this section shall reflect actual changes in rental income collections resulting from the application of section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988.".

SEC. 305. ENVIRONMENTAL REVIEW PROVISIONS.

(a) LEAD-BASED PAINT HAZARD REDUCTION.—Section 1011 of the Housing and Community Development Act of 1992 (42 U.S.C. 4852) is amended—

(1) by redesignating subsection (o) as subsection (p); and

(2) by inserting after subsection (n) the following new subsection:

"(o) ENVIRONMENTAL REVIEW.—

"(1) IN GENERAL.—For purposes of environmental review, decisionmaking, and action pursuant to the National Environmental Policy Act of 1969 and other provisions of law that further the purposes of such Act, a grant under this section shall be treated as assistance under the HOME Investment Partnership Act, established under title II of the Cranston-Gonzalez National Affordable Housing Act, and shall be subject to the regulations promulgated by the Secretary to implement section 288 of such Act.

"(2) APPLICABILITY.—This subsection shall apply to—

"(A) grants awarded under this section; and

"(B) grants awarded to States and units of general local government for the abatement of significant lead-based paint and lead dust hazards in low- and moderate-income owner-occupied units and low-income privately owned rental units pursuant to title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992 (Public Law 102-139, 105 Stat. 736).".

(b) PROGRAMS UNDER UNITED STATES HOUSING ACT OF 1937.—Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding at the end the following new section:

"SEC. 26. ENVIRONMENTAL REVIEWS.

"(a) IN GENERAL.—

"(1) RELEASE OF FUNDS.—In order to assure that the policies of the National Environmental Policy Act of 1969 and other provisions of law which further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with the expenditure of funds under this title, and to assure to the public undiminished protection of the environment, the Secretary may, under such regulations, in lieu of the environmental protection procedures otherwise applicable, provide for the release of funds for projects or activities under this title, as specified by the Secretary upon the request of a public housing agency (including an Indian housing authority) under this section, if the State or unit of general local government, as designated by the Secretary in accordance with regulations, assumes all of the responsibilities for environmental review, decisionmaking, and action pursuant to such Act, and such other provisions of law as the regulations of the Secretary may specify, which would otherwise apply to the Secretary with respect to the release of funds.

"(2) IMPLEMENTATION.—The Secretary, after consultation with the Council on Environmental Quality, shall issue such regulations as may be necessary to carry out this section. Such regulations shall specify the programs to be covered.

"(b) PROCEDURE.—The Secretary shall approve the release of funds subject to the procedures authorized by this section only if, not less than 15 days prior to such approval and prior to any commitment of funds to such projects or activities, the public housing agency (including an Indian housing authority) has submitted to the Secretary a request for such release accompanied by a certification of the State or unit of general local government which meets the requirements of subsection (c). The Secretary's approval of any such certification shall be deemed to satisfy the Secretary's responsibilities under the National Environmental Policy Act of 1969 and such other provisions of law as the regulations of the Secretary specify insofar as those responsibilities relate to the release of funds which are covered by such certification.

"(c) CERTIFICATION.—A certification under the procedures authorized by this section shall—

"(1) be in a form acceptable to the Secretary;

"(2) be executed by the chief executive officer or other officer of the State or unit of general local government who qualifies under regulations of the Secretary;

"(3) specify that the State or unit of general local government under this section has fully carried out its responsibilities as described under subsection (a); and

"(4) specify that the certifying officer—

"(A) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 and each provision of law specified in regulations issued by the Secretary insofar as the provisions of such Act or other such provision of law apply pursuant to subsection (a); and

"(B) is authorized and consents on behalf of the State or unit of general local government and himself or herself to accept the jurisdiction of the Federal courts for the purpose of enforcement of his or her responsibilities as such an official.

"(d) APPROVAL BY STATES.—In cases in which a unit of general local government carries out the responsibilities described in subsection (c), the Secretary may permit the State to perform those actions of the Secretary described in subsection (b) and the performance of such actions by the State, where permitted by the Secretary, shall be deemed to satisfy the Secretary's responsibilities referred to in the second sentence of subsection (b).".

(c) SPECIAL PROJECTS.—

(1) IN GENERAL.—

(A) RELEASE OF FUNDS.—In order to assure that the policies of the National Environmental Policy Act of 1969 and other provisions of law which further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with the expenditure of funds for special projects appropriated under an appropriations Act for the Department of Housing and Urban Development, such as special projects under the head "Annual Contributions for Assisted Housing" in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993, and to assure to the public undiminished protection of the environment, the Secretary of Housing and Urban Development may, under such regulations, in lieu of the environmental protection procedures otherwise applicable, provide for the release of funds for particular special projects upon the request of recipients of special projects assistance, if the State or unit of general local government, as designated by the Secretary in accordance with regulations, assumes all of the responsibilities for environmental review, decisionmaking, and action pursuant to such Act, and such other provisions of law as the regulations of the Secretary specify, that would otherwise apply to the Secretary were the Secretary to undertake such special projects as Federal projects.

(B) IMPLEMENTATION.—The Secretary shall issue regulations to carry out this subsection only after consultation with the Council on Environmental Quality. Such regulations shall—

(i) provide for monitoring of the performance of environmental reviews under this subsection;

(ii) in the discretion of the Secretary, provide for the provision or facilitation of training for such performance; and

(iii) subject to the discretion of the Secretary, provide for suspension or termination by the Secretary of the assumption under subparagraph (A).

(C) RESPONSIBILITIES OF STATE OR UNIT OF GENERAL LOCAL GOVERNMENT.—The Secretary's duty under subparagraph (B) shall not be construed to limit any responsibility assumed by a State or unit of general local government with respect to any particular release of funds under subparagraph (A).

(2) PROCEDURE.—The Secretary shall approve the release of funds for projects subject to the procedures authorized by this subsection only if, not less than 15 days prior to such approval and prior to any commitment of funds to such projects, the recipient submits to the Secretary a request for such release, accompanied by a certification of the State or unit of general local government which meets the requirements of paragraph (3). The Secretary's approval of any such certification shall be deemed to satisfy the Secretary's responsibilities under the National Environmental Policy Act of 1969 and such other provisions of law as the regulations of the Secretary specify insofar as those responsibilities relate to the releases of funds for special projects to be carried out pursuant thereto which are covered by such certification.

(3) CERTIFICATION.—A certification under the procedures authorized by this subsection shall—

(A) be in a form acceptable to the secretary;

(B) be executed by the chief executive officer or other officer of the State or unit of general local government who qualifies under regulations of the Secretary;

(C) specify that the State or unit of general local government under this subsection has fully carried out its responsibilities as described under paragraph (1); and

(D) specify that the certifying officer—

(i) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 and each provision of law specified in regulations issued by the Secretary insofar as the provisions of such Act or other such provision of law apply pursuant to paragraph (1); and

(ii) is authorized and consents on behalf of the State or unit of general local government and himself or herself to accept the jurisdiction of the Federal courts for the purpose of enforcement of the responsibilities as such an official.

(4) APPROVAL BY STATES.—In cases in which a unit of general local government carries out the responsibilities described in paragraph (1), the Secretary may permit the State to perform those actions of the Secretary described in paragraph (2) and the performance of such actions by the State, where permitted by the Secretary, shall be deemed to satisfy the Secretary's responsibilities referred to in the second sentence of paragraph (2).

SEC. 306. CORRECTION OF FHA MULTIFAMILY MORTGAGE LIMITS.

The National Housing Act (12 U.S.C. 1701 et seq.) is amended in sections 207(c)(3), 213(b)(2), 220(d)(3)(B)(iii), and 234(e)(3) by striking "$59,160" each place it appears and inserting "$56,160".

SEC. 307. AMENDMENTS TO FHA MULTIFAMILY RISK-SHARING AND HOUSING FINANCE AGENCY PILOT PROGRAMS.

(a) RISK-SHARING PILOT PROGRAM.—Section 542(b) of the Housing and Community Devel-

opment Act of 1992 (12 U.S.C. 1707 note) is amended—

(1) by striking paragraphs (1) and (2) and inserting the following new paragraphs:

"(1) IN GENERAL.—The Secretary shall carry out a pilot program in conjunction with qualified participating entities to determine the effectiveness of Federal credit enhancement for loans for affordable multifamily housing through a system of risk-sharing agreements with such entities.

"(2) PROGRAM REQUIREMENTS.—

"(A) IN GENERAL.—In carrying out the pilot program under this subsection, the Secretary shall enter into risk-sharing agreements with qualified participating entities.

"(B) MORTGAGE INSURANCE AND REINSURANCE.—Agreements under subparagraph (A) may provide for (i) mortgage insurance through the Federal Housing Administration of loans for affordable multifamily housing originated by or through, or purchased by, qualified participating entities, and (ii) reinsurance, including reinsurance of pools of loans, on affordable multifamily housing. In entering into risk-sharing agreements under this subsection covering mortgages, the Secretary may give preference to mortgages that are not already in the portfolios of qualified participating entities.

"(C) RISK APPORTIONMENT.—Agreements entered into under this subsection between the Secretary and a qualified participating entity shall specify the percentage of loss that each of the parties to the agreement will assume in the event of default of the insured or reinsured multifamily mortgage. Such agreements shall specify that the qualified participating entity and the Secretary shall share any loss in accordance with the risk-sharing agreement.

"(D) REIMBURSEMENT CAPACITY.—Agreements entered into under this subsection between the Secretary and a qualified participating entity shall provide evidence acceptable to the Secretary of the capacity of such entity to fulfill any reimbursement obligations made pursuant to this subsection. Evidence of such capacity which may be considered by the Secretary may include—

"(i) a pledge of the full faith and credit of a qualified participating entity to fulfill any obligations entered into by the entity;

"(ii) reserves pledged or otherwise restricted by the qualified participating entity in an amount equal to an agreed upon percentage of the loss assumed by the entity under subparagraph (C);

"(iii) funds pledged through a State or local guarantee fund; or

"(iv) any other form of evidence mutually agreed upon by the Secretary and the qualified participating entity.

"(E) UNDERWRITING STANDARDS.—The Secretary shall allow any qualified participating entity to use its own underwriting standards and loan terms and conditions for purposes of underwriting loans to be insured under this subsection, except as provided in this section, without further review by the Secretary, except that the Secretary may impose additional underwriting criteria and loan terms and conditions for contractual agreements where the Secretary retains more than 50 percent of the risk of loss. Any financing permitted on property insured under this subsection other than the first mortgage shall be expressly subordinate to the insured mortgage.

"(F) AUTHORITY OF SECRETARY.—The Secretary, upon request of a qualified participating entity, may insure or reinsure and make commitments to insure or reinsure under this section any mortgage, advance, loan, or pool of mortgages otherwise eligible under this section, pursuant to a risk-sharing agreement providing that the qualified participating entity will carry out (under a delegation or otherwise, and with or without compensation, but subject to audit, exception, or review requirements) such credit approval, appraisal, inspection, issuance of commitments, approval of insurance of advances, cost certification, servicing, property disposition, or other functions as the Secretary shall approve as consistent with the purpose of this section. All appraisals of property for mortgage insurance under this section shall be completed by a Certified General Appraiser in accordance with the Uniform Standards of Professional Appraisal Practice.

"(G) DISCLOSURE OF RECORDS.—Qualified participating entities shall make available to the Secretary or the Secretary's designee, at the Secretary's request, such financial and other records as the Secretary deems necessary for purposes of review and monitoring for the program under this section.";

(2) in paragraph (4), by striking "financial institutions and entities to be eligible to enter into reinsurance agreements" and inserting "eligibility under this subsection of qualified participating entities";

(3) by striking paragraph (8) and inserting the following new paragraph:

"(11) IMPLEMENTATION.—The Secretary shall take any administrative actions necessary to initiate the pilot program under this subsection."; and

(4) by inserting after paragraph (7) the following new paragraphs:

"(8) PROHIBITION ON GINNIE MAE SECURITIZATION.—The Government National Mortgage Association shall not securitize any multifamily loans insured or reinsured under this subsection.

"(9) QUALIFICATION AS AFFORDABLE HOUSING.—Multifamily housing securing loans insured or reinsured under this subsection shall qualify as affordable only if the housing is occupied by families and bears rents not greater than the gross rent for rent-restricted residential units as determined under section 42(g) of the Internal Revenue Code of 1986.

"(10) CERTIFICATION OF SUBSIDY LAYERING COMPLIANCE.—The requirements of section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 may be satisfied in connection with a commitment to insure a mortgage under this subsection by a certification by a housing credit agency (including an entity established by a State that provides mortgage insurance) to the Secretary that the combination of assistance within the jurisdiction of the Secretary and other government assistance provided in connection with a property for which a mortgage is to be insured shall not be any greater than is necessary to provide affordable housing.".

(b) HOUSING FINANCE AGENCY PILOT PROGRAM.—Section 542(c) of the Housing and Community Development Act of 1992 (12 U.S.C. 1707 note) is amended—

(1) in paragraph (1), by inserting after "qualified housing finance agencies" the following: "(including entities established by States that provide mortgage insurance)";

(2) in paragraph (2)—

(A) in subparagraph (C), by striking the last sentence and inserting the following: "Such agreements shall specify that the qualified housing finance agency and the Secretary shall share any loss in accordance with the risk-sharing agreement."; and

(B) by adding at the end the following new subparagraph:

"(F) DISCLOSURE OF RECORDS.—Qualified housing finance agencies shall make available to the Secretary such financial and other records as the Secretary deems necessary for program review and monitoring purposes.";

(3) in paragraph (7)—

(A) by striking "very low-income"; and

(B) by striking "(2)"; and

(4) by adding at the end the following new paragraphs:

"(9) ENVIRONMENTAL AND OTHER REVIEWS.—

"(A) ENVIRONMENTAL REVIEWS.—

"(i) IN GENERAL.—(I) In order to assure that the policies of the National Environmental Policy Act of 1969 and other provisions of law which further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with the insurance of mortgages under subsection (c)(2), and to assure to the public undiminished protection of the environment, the Secretary may, under such regulations, in lieu of the environmental protection procedures otherwise applicable, provide for agreements to endorse for insurance mortgages under subsection (c)(2) upon the request of qualified housing finance agencies under this subsection, if the State or unit of general local government, as designated by the Secretary in accordance with regulations, assumes all of the responsibilities for environmental review, decision-making, and action pursuant to such Act, and such other provisions of law as the regulations of the Secretary may specify, that would otherwise apply to the Secretary with respect to the insurance of mortgages on particular properties.

"(II) The Secretary shall issue regulations to carry out this subparagraph only after consultation with the Council on Environmental Quality. Such regulations shall, among other matters, provide—

"(aa) for the monitoring of the performance of environmental reviews under this subparagraph;

"(bb) subject to the discretion of the Secretary, for the provision or facilitation of training for such performance; and

"(cc) subject to the discretion of the Secretary, for the suspension or termination by the Secretary of the qualified housing finance agency's responsibilities under subclause (I).

"(III) The Secretary's duty under subclause (II) shall not be construed to limit any responsibility assumed by a State or unit of general local government with respect to any particular property under subclause (I).

"(ii) PROCEDURE.—The Secretary shall approve a mortgage for the provision of mortgage insurance subject to the procedures authorized by this paragraph only if, not less than 15 days prior to such approval, prior to any approval, commitment, or endorsement of mortgage insurance on the property on behalf of the Secretary, and prior to any commitment by the qualified housing finance agency to provide financing under the risk-sharing agreement with respect to the property, the qualified housing finance agency submits to the Secretary a request for such approval, accompanied by a certification of the State or unit of general local government that meets the requirements of clause (iii). The Secretary's approval of any such certification shall be deemed to satisfy the Secretary's responsibilities under the National Environmental Policy Act of 1969 and such other provisions of law as the regulations of the Secretary specify insofar as those responsibilities relate to the provision

of mortgage insurance on the property that is covered by such certification.

"(iii) CERTIFICATION.—A certification under the procedures authorized by this paragraph shall—

"(I) be in a form acceptable to the Secretary;

"(II) be executed by the chief executive officer or other officer of the State or unit of general local government who qualifies under regulations of the Secretary;

"(III) specify that the State or unit of general local government under this section has fully carried out its responsibilities as described under clause (i); and

"(IV) specify that the certifying officer consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 and under each provision of law specified in regulations issued by the Secretary insofar as the provisions of such Act or such other provisions of law apply pursuant to clause (i), and is authorized and consents on behalf of the State or unit of general local government and himself or herself to accept the jurisdiction of the Federal courts for the purpose of enforcement of the responsibilities as such an official.

"(iv) APPROVAL BY STATES.—In cases in which a unit of general local government carries out the responsibilities described in clause (i), the Secretary may permit the State to perform those actions of the Secretary described in clause (ii) and the performance of such actions by the State, where permitted by the Secretary, shall be deemed to satisfy the Secretary's responsibilities referred to in the second sentence of clause (ii).

"(B) LEAD-BASED PAINT POISONING PREVENTION.—In carrying out the requirements of section 302 of the Lead-Based Paint Poisoning Prevention Act, the Secretary may provide by regulation for the assumption of all or part of the Secretary's duties under such Act by qualified housing finance agencies, for purposes of this section.

"(C) CERTIFICATION OF SUBSIDY LAYERING COMPLIANCE.—The requirements of section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 may be satisfied in connection with a commitment to insure a mortgage under this subsection by a certification by a housing credit agency (including an entity established by a State that provides mortgage insurance) to the Secretary that the combination of assistance within the jurisdiction of the Secretary and other government assistance provided in connection with a property for which a mortgage is to be insured shall not be any greater than is necessary to provide affordable housing.

"(10) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

"(A) MORTGAGE.—The term 'mortgage' means a first mortgage on real estate that is—

"(i) owned in fee simple; or

"(ii) subject to a leasehold interest that—

"(I) has a term of not less than 99 years and is renewable; or

"(II) has a remaining term that extends beyond the maturity of the mortgage for a period of not less than 10 years.

"(B) FIRST MORTGAGE.—The term 'first mortgage' means a single first lien given to secure advances on, or the unpaid purchase price of, real estate, under the laws of the State in which the real estate is located, together with the credit instrument, if any, secured thereby. Any other financing permitted on property insured under this section must be expressly subordinate to the insured mortgage.

"(C) UNIT OF GENERAL LOCAL GOVERNMENT; STATE.—The terms 'unit of general local government' and 'State' have the same meanings as in section 102(a) of the Housing and Community Development Act of 1974.".

(c) DEFINITIONS.—Section 544 of the Housing and Community Development Act of 1992 (12 U.S.C. 1707 note) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph:

"(1) The term 'multifamily housing' means housing accommodations on the mortgaged property that are designed principally for residential use, conform to standards satisfactory to the Secretary, and consist of not less than 5 rental units on 1 site. These units may be detached, semidetached, row house, or multifamily structures."; and

(2) by adding at the end the following new paragraph:

"(5) The term 'qualified participating entity' means an entity approved by the Secretary for participation in the pilot program under this subsection, which may include—

"(A) the Federal National Mortgage Association;

"(B) the Federal Home Loan Mortgage Corporation;

"(C) State housing finance and mortgage insurance agencies; and

"(D) the Federal Housing Finance Board.".

SEC. 308. SUBSIDY LAYERING REVIEW.

Section 911 of the Housing and Community Development Act of 1992 (42 U.S.C. 3545 note) is amended—

(1) by striking subsection (a) and inserting the following new subsection:

"(a) CERTIFICATION OF SUBSIDY LAYERING COMPLIANCE.—The requirements of section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 may be satisfied in connection with a project receiving assistance under a program that is within the jurisdiction of the Department of Housing and Urban Development and under section 42 of the Internal Revenue Code of 1986 by a certification by a housing credit agency to the Secretary, submitted in accordance with guidelines established by the Secretary, that the combination of assistance within the jurisdiction of the Secretary and other government assistance provided in connection with a property for which assistance is to be provided within the jurisdiction of the Department of Housing and Urban Development and under section 42 of the Internal Revenue Code of 1986 shall not be any greater than is necessary to provide affordable housing."; and

(2) by striking subsection (c) and inserting the following new subsection:

"(c) REVOCATION BY SECRETARY.—If the Secretary determines that a housing credit agency has failed to comply with the guidelines established under subsection (a), the Secretary—

"(1) may inform the housing credit agency that the agency may no longer submit certification of subsidy layering compliance under this section; and

"(2) shall carry out section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 relating to affected projects allocated a low-income housing tax credit pursuant to section 42 of the Internal Revenue Code of 1986.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. GONZALEZ] will be recognized for 20 minutes, and the gentlewoman from New Jersey [Mrs. ROUKEMA] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. GONZALEZ].

Mr. GONZALEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today I rise to offer H.R. 4067, the Multifamily Property Disposition Reform Act of 1994, as amended. H.R. 4067, a bipartisan measure, amends the multifamily property disposition program administered by the Department of Housing and Urban Development and provides other technical changes and reforms. The property disposition reforms refine and simplify the reforms adopted by the House in H.R. 3400, the Government Reform and Savings Act, last November. They strike a necessary and critical balance among the need to preserve affordable rental housing, protect low-income tenants from displacement and outlandish rent increases, accelerate the property disposition process and save the Federal Government perhaps as much as $475 million.

These property disposition reforms provide HUD with the flexibility it needs to dispose of the backlog of multifamily property in the inventory and place disposition efforts within the context of local market conditions. The reforms also provide for the first time an array of incentives and tools for purchasers of inventory property.

Although the number of families required to receive section 8 assistance will be reduced as compared to current law, the reforms do provide meaningful displacement protection. Projects will not be sold without sufficient subsidy to remain viable over the long haul. And the bill requires a 2-year freeze on rents for unassisted very low-income tenants whose rents would exceed 30 percent adjusted income after disposition and a Federal preference for public housing and section 8 assistance at the end of that 2-year period.

I am confident that this approach will not only preserve and maintain affordable housing for low-income families, but will accelerate the property disposition process that has been at a virtual standstill to the real detriment of the low-income families now residing in inventory property. At the same time, there will be real budget savings.

H.R. 4067 also includes reforms and technical changes to prevent future defaults in HUD's multifamily properties, to improve the usage of the home program funds and the section 108 loan guarantee funds, and to clarify several public housing provisions.

H.R. 4067 enjoys the support, agreement, and encouragement of both sides of the aisle, both sides of the Capitol and the administration. I urge the adoption of H.R. 4067.

I particularly want to thank MARGE ROUKEMA, BARNEY FRANK, RICHARD BAKER, and JOE KENNEDY for their help in hammering out these provisions.

□ 1230

Mrs. ROUKEMA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this suspension legislation although I do so with two reservations.

First, while this legislation does address much needed changes to the Department of HUD's multi-family property disposition inventory, it does contain some 24 additional provisions which, while not controversial and in some cases are technical in nature, were added at the insistence of the administration and the other body. They clearly do not need to be addressed at this time.

Second, I am extremely disappointed with the Department of HUD's deliberate foot-dragging with respect to the issuance of its rules allowing public housing authorities to designate elderly only housing.

Two years ago, this Congress, recognizing the growing, and often dangerous, problem of mixing the elderly with the nonelderly mentally ill, handicapped and recovering drug addicts, passed important legislation permitting public housing authorities to designate housing for elderly only.

Today, HUD still has not issued its regulations. This is a disgrace. It is unfair to our elderly population. It represents an inexcusable and unacceptable arrogance and a total disregard for the will of the Congress.

If the chairman and I had not worked so long and hard on this property disposition effort, I would recommend the defeat of this bill until HUD complied with the law.

Having said that, let me address the legislation at hand.

As my colleagues may recall, last fall, both the House and the Senate passed legislation, H.R. 3400 and S. 1299 respectively, which among other things contained a very detailed reform of the multi-family property disposition program designed to help HUD reduce the size of its inventory and to help save taxpayer funds. H.R. 3400 was the Government Reform and Savings Act which the Senate failed to adopt and S. 1299 was an administration housing bill which the House did not consider.

Since that time, and because of the importance of this issue, Chairman GONZALEZ and I have been working with HUD and the Senate to remove provisions from both bills which many, including HUD, considered impediments to helping HUD sell these properties and to try and develop another bill which we could move on an expedited basis. The bill we are considering today represents our best effort to address this disposition crisis.

The management and disposition of HUD's multifamily inventory is one of the most pressing problems facing the Agency today. According to the GAO, HUD has paid out $1.7 billion in claims on 441 properties from FHA insurance funds. These properties, now held in HUD's inventory, have incurred more than $288 million in holding costs in fiscal year 1993. In addition, there are continuing and additional costs of providing rental assistance to those properties HUD holds.

HUD has, in effect, become a real estate management agency, because it has been forced to take over mortgages on low-income properties it has subsidized or insured over the past 20 years. HUD has also become a slumlord, in some cases, due to the condition of the projects taken over and because of HUD's inability to ensure the proper management of these properties.

What has exacerbated the problem to date is that in 1987 Congress legislated stringent requirements on the sale of these properties in order to preserve and expand the inventory of affordable housing for low-income households.

Unfortunately, and despite that noteworthy goal, two critical factors have inhibited HUD's ability to sell these properties.

First, current law requires HUD to sell all properties it takes over, with long-term rental assistance, such as 15-year project based section 8 assistance. This requirement is very costly.

Second, to comply with this requirement, HUD would need an estimated $5.4 billion in 15-year section 8 budget authority over the next 5 years to cover these projects. Current fiscal year 1994 appropriations for this program were $555 million, an amount which would dispose of only 6,733 units. Consider that at the end of 1993, HUD had over 31,000 units in its inventory and holds over 2,400 mortgages which could fall into foreclosure.

The result has been a real catch-22, and disposition gridlock. The law of unintended consequences had taken over.

On the one hand, HUD must manage and rehabilitate projects for which it is not adequately staffed and for which it incurs an annual holding cost of some $288 million. And, the Congress has been reluctant to provide the necessary funds. On the other hand, HUD cannot sell the properties because private investors and real estate managers do not want to buy properties which must be 100 percent subsidized.

The solution to this growing crises is complex. It must balance HUD's mission to provide affordable housing for low- and moderate-income families with the proper amount of flexibility to allow HUD to sell these properties in a effective and efficient manner.

The legislation before us today must, therefore, be enacted in order to revise current law and give HUD the necessary flexibility and tools to limit the subsidy requirements for the disposition of the properties.

H.R. 4067 would:

Permit HUD to sell market rate properties to market rate tenants thus ensuring a proper return to the HUD insurance fund.

Eliminate the requirement that HUD held properties be sold with long-term rental assistance for every unit.

It allows the Secretary to lower the sales price to expedite sales.

It permits state and local governments to have a right of first refusal to purchase while permitting private sector and nonprofits to purchase properties as well.

It permits the Secretary the flexibility to provide rehabilitation grants, short-term loans, bulk sales and other necessary tools to aid in disposition.

It provides a series of tenant protection.

This legislation also includes a few other housing-related issues which were passed as part of S. 1299 and which are either technical in nature or noncontroversial matters.

These include changes to the HOME Investment Partnership Program, including:

A change in the definition of a "State" to allow other designated State agencies to receive HOME funds.

Establishment of a flat 25 percent match for all Home activities.

A clarification of the first-time homebuyer provisions.

Permitting recaptured HOME funds through housing sales to be used for any eligible program within HOME.

The bill also includes changes to the Section 108 Loan Guarantee Program to allow HUD to pool notes to guarantee certain obligations, to extend eligible activities to include public facilities, and to authorize recaptured UDAG funds to be distributed as new grants for economic development.

I urge the Members to support this legislation.

Mr. YATES. Mr. Speaker, will the gentlewoman yield?

Mrs. ROUKEMA. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Speaker, as I understand it, tenants who now enjoy section 8 housing will be required after 2 years to find new housing under section 8. Is that a correct interpretation?

Mrs. ROUKEMA. Mr. Speaker, reclaiming my time, the rents may go up under this law, but they will still be level for section 8 housing. Would the chairman like to comment on that? They will still qualify. Is that not correct?

Mr. GONZALEZ. If the gentlewoman will yield, if they have section 8, they will still continue.

Mr. YATES. If the gentlewoman will yield further, will they be able to retain their present section 8 housing after a 2-year period?

Mrs. ROUKEMA. Yes. They will retain their section 8 certificates.

Mr. YATES. Providing they pay rent increases?

Mr. GONZALEZ. Mr. Speaker, if the gentlewoman will yield further, not

necessarily will they be paying rent increases.

□ 1240

Mrs. ROUKEMA. Reclaiming my time, Mr. Speaker, in response to our colleague, I must tell him that this is the most equitable treatment for all parties concerned. We cannot continue to hold these properties at great expense with nobody really benefiting in the end.

I would conclude, Mr. Speaker, by saying that there are other provisions concerning the market values of the properties. I will not go into that now. It will be in the RECORD.

But I believe, Mr. Speaker, whether the other technical amendments or the particular specifics of this legislation, they should have strong bipartisan support. They are noncontroversial and in the best interests of all our constituents.

Mr. Speaker, I reserve the balance of my time.

Mr. GONZALEZ. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. YATES].

Mr. YATES. Mr. Speaker, I thank the gentleman for yielding time to me.

I was visited this morning by a group of section 8 tenants from my district. I understand that such tenants have come in from various urban communities all over the country, very much disturbed by this bill.

The way it was explained to me by them, one, this bill has had no hearings. And they were not given the opportunity to express their opinions on the bill.

Is that a correct statement?

Mr. GONZALEZ. Mr. Speaker, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Speaker, no, it is not. We have had hearings. We certainly have had.

Mr. YATES. The gentleman has held hearings on this?

Mr. GONZALEZ. Mr. Speaker, if the gentleman will continue to yield, yes, we did.

The gentleman will recall that in my introductory statement I mentioned that this reflected the bill we passed last year.

In fact, I said, this amends the Multifamily Property Disposition Program administered by the Department of Housing and Urban Development. And it refines and simplifies the reforms adopted by H.R. 3400, which we passed out last year.

Let me say this: The record should show that the gentleman from Illinois has been one of the most faithful and strong supporters and knowledgeable Members of all of these assisted housing programs, particularly since he has quite a number of tenants affected in his district. I have been very happy to have received his support during the past years, when there were efforts to do the very thing the gentleman fears and that these groups fear.

Unfortunately, I am afraid these groups did not properly prepare themselves to advance the cause. I am sure that is the reason I had not heard from my distinguished colleagues and beloved friend until this moment.

Mr. YATES. Until this moment.

Mr. GONZALEZ. Let me assure the gentleman that I would not have stood by and abided to see what the gentleman has helped the struggle for be cast aside, under no circumstances. I can assure the gentleman that this does anchor down the protections that we have in place in the laws that we have passed in the immediate past Congress.

Mr. YATES. Mr. Speaker, may I say to the gentleman that I appreciate very much the words he has said about my interest in the problems of housing. Like the gentleman, who I know is very much interested in providing housing for those who can find no affordable housing on the market today because none is being built, no such housing is being built. It was represented to me by some of the tenants, and in good faith, I am sure, that no hearings had been held on this.

Mr. GONZALEZ. I am sure.

Mr. YATES. Let me get this clear. It was represented to me, upon my calling the office of one of the members of the gentleman's committee, that tenants who now occupy homes under section 8 would not be disturbed for 2 years but, after 2 years, they would be required to leave their apartments.

Mr. GONZALEZ. Let me disabuse my colleague on that score. They would not.

Let me add further, the HUD place between a hard rock and a hard place is that in the meanwhile these very dwellings will be deteriorating to such a point that they will be substandard, if they are not already, unless we refine the act. However, should there be any problem as HUD goes into this program, remember, we are still working on the extension of all of the authorization legislation on affordable housing, including this. We have got to extend every one of these bills before the end of this fiscal year.

That is what we are involved in now, to the exclusion of almost everything else.

So the gentleman can rest assured that in a dispassionate and calm fashion, the gentleman and I will be able to look this over and, if corrections are needed, by golly, we will place them in the authorization.

Mr. YATES. So the chairman is making a statement that the information that I had received that section 8 tenants would be required to leave their section 8 homes at the end of 2 years under this legislation is not correct.

Mr. GONZALEZ. Mr. Speaker, it is not correct. Let me repeat.

Mr. YATES. They will not be, under this legislation, there is no provision that will require them to leave their homes.

Mr. GONZALEZ. That is correct. That is right.

Mrs. ROUKEMA. Mr. Speaker, will the gentleman yield?

Mr. YATES. I yield to the gentlewoman from New Jersey.

Mrs. ROUKEMA. Mr. Speaker, I would like to add the point, I agree with the explanation that the chairman has given, but I might also observe that the chairman has correctly pointed out that we have to look to the future of section 8 subsidies and how we can improve that program and enlarge it in the future. But as long as we are dealing with this terrible drain on the Treasury and on HUD's funds, they continue to drain funding and that serves no useful purpose. It brings no rewards or awards for low-income people or anyone else. And certainly it disadvantages the taxpayer. As long as we are continuing this present system, it will continue to inhibit us and hobble us for dealing with an expansion of section 8 subsidies in the future.

I want to clear this, legislation does not affect the existing section 8 subsidies. Under this program, they will continue.

Mr. YATES. Inasmuch as I have the time, I would say to the gentlewoman, I recognize it as having a very substantial effect upon the problems of the Treasury and of housing. It is a drain. But these people have no place else to live.

Mrs. ROUKEMA. Mr. Speaker, if the gentleman will continue to yield, they will stay in their subsidized apartments. They will not be evicted. They will maintain their section 8 subsidies, and they will continue the assistance under this program.

Mr. YATES. I see. And will there be a diminution of section 8 subsidies in the future under this legislation?

Mrs. ROUKEMA. Mr. Speaker, the chairman has spoken to this question. We hope not. We are trying to find a way out of this dilemma.

Mr. YATES. Mr. Speaker, will there be a lessening of the amount of section 8 housing that will be available under any of the provisions of this bill?

Mr. GONZALEZ. Mr. Speaker, if the gentleman will continue to yield, it is not now nor is it contemplated there would be. Rather, we would like to see some enhancement in the use of section 8.

Mr. YATES. Mr. Speaker, I thank the gentleman for his explanation. I will be meeting with people who visited me this morning later in the day. I want the opportunity to discuss with them at that time and to provide the assurances I have received from the chairman and from the gentlewoman from New Jersey.

I may ask for a rollcall vote as a result, in order to do that, if the gen-

tleman has no great objection to that. I am sure he does not, in view of his views on the legislation.

Mr. GONZALEZ. Mr. Speaker, the gentleman is a free agent here, a Member. I hope he does meet with the folks he has described and explain to them the thrust of this legislation.

Mr. YATES. Mr. Speaker, I thank the gentleman.

Mr. RIDGE. Mr. Speaker, I want to thank the leadership of the Banking Committee for including in this legislation my bill, the Community Enterprise Revitalization Amendments Act of 1994. This bill, H.R. 3793, makes changes to HUD's Section 108 Loan Guarantee Program to increase further the flexibility this program will offer to cities and counties.

Section 108 has been an interest of mine for some years now. What the program does is allow those eligible for CDGB funding to receive HUD-guaranteed loans for projects that could not tap directly into a CDBG grant. What makes the program work is that should the loan repayment not stay current, the locality's future CDBG moneys are turned back to HUD to cover the loan. Not only does this protect the taxpayer, but it forces local governments and project sponsors to work together to identify all means of making the loan good, so as not to lose the CDBG revenue stream. To date there have not been any defaults on section 108 guarantees.

Notably, section 108 guarantee authority remains woefully underused. Partly this is due to a lack of information, but partly it is due to the fact that we need to make the program more flexible for small cities such as my home of Erie. What my bill does is allow localities to turn back to HUD unused urban development action grant [UDAG] funds, many of which are too small to leverage projects by themselves, so that a portion of the old UDAG grants can be used to enhance the security of a new section 108 loan. This change will put limited dollars to work more efficiently.

The bill also allows section 108 loan guarantees to back public facilities such as day care and Head Start, which will help meet expanding demand in this sector. In particular, many distressed communities need day care so parents can get up and go to work instead of waiting at home for a welfare check. We're only helping people to help themselves, in other words.

Finally, the bill allows HUD to make changes in the financial markets so section 108 loans will be more attractive to investors. This authority is common to other housing and economic development programs already in place in HUD and quasi-public agencies.

Mr. Speaker, I support this bipartisan housing bill, and look forward to implementing the section 108 changes and the other programs in H.R. 4067.

Mrs. ROUKEMA. Mr. Speaker, I yield back the balance of my time.

Mr. GONZALEZ. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Texas [Mr. GONZALEZ] that the House suspend the rules and pass the bill, H.R. 4067, as amended.

The question was taken.

Mr. YATES. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of order of no quorum is considered withdrawn.

□ 1250

MARINE MAMMAL PROTECTION ACT AMENDMENTS OF 1994

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2760) to authorize the Marine Mammal Protection Act for a period of 6 years, to establish a new regime to govern the incidental taking of marine mammals in the course of commercial fishing operations, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2760

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 "Marine Mammal Protection Act Amendments of 1994".

SEC. 2. AMENDMENT OF MARINE MAMMAL PROTECTION ACT OF 1972.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.).

SEC. 3. FINDINGS AND DECLARATION OF POLICY.

Section 2 (16 U.S.C. 1361) is amended—

(1) in paragraph (2) by inserting "essential habitats, including" after "made to protect"; and

(2) in paragraph (5) in the matter following subparagraph (B) by inserting "and their habitats" before "is therefore necessary".

SEC. 4. MORATORIUM AND EXCEPTIONS.

(a) Section 101(a) (16 U.S.C. 1371(a)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) Consistent with the provisions of section 104, permits may be issued by the Secretary for taking, and importation for purposes of scientific research, public display, photography for educational or commercial purposes, or enhancing the survival or recovery of a species or stock, or for importation of polar bear parts (other than internal organs) taken in sport hunts in Canada. Such permits, except permits issued under section 104(c)(5), may be issued if the taking or importation proposed to be made is first reviewed by the Marine Mammal Commission and the Committee of Scientific Advisors on Marine Mammals established under title II. The Commission and Committee shall recommend any proposed taking or importation, other than importation under section 104(c)(5), which is consistent with the purposes and policies of section 2 of this Act. If the Secretary issues such a permit for importation, the Secretary shall issue to the importer concerned a certificate to that effect in such form as the Secretary of the Treasury prescribes, and such importation may be made upon presentation of the certificate to the customs officer concerned.";

(2) in paragraph (2) in the first sentence by striking "and permits may" and all that follows through "section 103." and inserting "and authorizations may be granted therefor under section 118 subject to regulations prescribed by the Secretary.";

(3) in paragraph (3)(B)—

(A) by inserting ", photography for educational or commercial purposes," after "purposes"; and

(B) by inserting "or as provided for under paragraph (5) of this subsection," after "subsection,";

(4) by amending paragraph (4) to read as follows:

"(4)(A) Except as provided in subparagraph (C), the provisions of this Act shall not apply to the use of measures—

"(i) by the owner of fishing gear or catch, or an employee or agent of such owner, to deter a marine mammal from damaging the gear or catch;

"(ii) by the owner of other private property, or an agent, bailee, or employee of such owner, to deter a marine mammal from damaging private property;

"(iii) by any person, to deter a marine mammal from endangering personal safety; or

"(iv) by a government employee, to deter a marine mammal from damaging public property, so long as such measures do not result in the death or serious injury of a marine mammal.

"(B) The Secretary shall, through consultation with appropriate experts, and after notice and opportunity for public comment, publish in the Federal Register a list of guidelines for use in safely deterring marine mammals. In the case of marine mammals listed as endangered species or threatened species under the Endangered Species Act of 1973, the Secretary shall recommend specific measures which may be used to nonlethally deter marine mammals. Actions to deter marine mammals consistent with such guidelines shall not be a violation of this Act.

"(C) If the Secretary determines, using the best scientific information available, that certain forms of deterrence have a significant adverse effect on marine mammals, the Secretary may prohibit such deterrent methods, after notice and opportunity for public comment, through regulation under this Act.

"(D) The authority to deter marine mammals pursuant to subparagraph (A) applies to all marine mammals, including all stocks designated as depleted under this Act.".

(5) in paragraph (5)(A) by inserting ", other than by harassment," after "taking" the first place it appears;

(6) in paragraph (5) by adding at the end the following new subparagraphs:

"(D)(i) Upon request therefor by citizens of the United States who engage in a specified activity (other than commercial fishing) within a specific geographic region, the Secretary shall authorize, for periods of not more than 1 year, subject to such conditions as the Secretary may specify, the incidental, but not intentional, taking by harassment of small numbers of marine mammals of a species or population stock by such citizens while engaging in that activity within that region if the Secretary finds that such harassment during each period concerned—

"(I) will have a negligible impact on such species or stock, and

"(II) will not have an unmitigable adverse impact on the availability of such species or stock for taking for subsistence uses pursuant to subsection (b), or section 109(f) or 119.

"(ii) The authorization for such activity shall prescribe, where applicable—

"(I) permissible methods of taking pursuant to such activity, and other means of effecting the least practicable impact on such species or stock

and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for subsistence uses pursuant to subsection (b) or section 109(f) or 119,

"(II) the measures that the Secretary determines are necessary to ensure no unmitigable adverse impact on the availability of the species or stock for subsistence uses pursuant to subsection (b) or section 109(f) or 119, and

"(III) requirements pertaining to the monitoring and reporting of such taking, including requirements for the independent peer review of proposed monitoring plans or other research proposals where the proposed activity may affect the availability of a species or stock for taking for subsistence uses pursuant to subsection (b) or section 109(f) or 119.

"(iii) The Secretary shall publish a proposed authorization not later than 45 days after receiving an application under this subparagraph and request public comment through notice in the Federal Register, newspapers of general circulation, and appropriate electronic media and to all locally affected communities for a period of 30 days after publication. Not later than 45 days after the close of the public comment period, if the Secretary makes the findings set forth in clause (i), the Secretary shall issue an authorization with appropriate conditions to meet the requirements of clause (ii).

"(iv) The Secretary may annually renew an authorization issued under this subparagraph after providing for 30 days of public comment and consulting with the parties affected by the authorization, if the Secretary finds that the requirements of clause (i) continue to be met.

"(v) The Secretary shall establish additional conditions or restrictions on an authorization renewed under clause (iv) if the Secretary finds, based on public comment, that such conditions or restrictions are necessary to meet the provisions of clause (ii).

"(vi) The Secretary shall modify, suspend, or revoke an authorization if the Secretary finds that the provisions of clauses (i) or (ii) are not being met.

"(vii) A person conducting an activity for which an authorization has been granted under this subparagraph shall not be subject to the penalties of this Act for taking by harassment that occurs in compliance with such authorization.

"(E) The Secretary may issue a permit under this paragraph for periods of up to 3 years for the incidental, but not the intentional, taking by persons using vessels of the United States and vessels which have valid fishing permits issued by the Secretary in accordance with section 204(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)), while engaging in commercial fishing operations, of small numbers of marine mammals from a species or population stock that is listed as an endangered species or threatened species under the Endangered Species Act of 1973. Such permit may be issued only if the Secretary determines, after notice and opportunity for public comment, that—

"(i) such taking will have a negligible impact on the species or stock;

"(ii) a program is in place which will allow reliable estimation and monitoring of the level of incidental take; and

"(iii) a recovery plan has been developed or is in the process of being developed for the species or stock pursuant to the Endangered Species Act of 1973. A permit may be issued under this subparagraph to an organization representing more than 1 individual or fishing vessel.

"(F) If the Secretary determines that the issuance of a permit under this paragraph for a species or stock has resulted or is likely to result in levels of incidental takes which will have an impact that is more than negligible on the species or stock, the Secretary shall modify, suspend, or revoke the permit. In making a determination under this subparagraph, the Secretary shall consider the level of incidental takes by each permit holder in a fishery and whether a permit holder has failed to comply with the terms and conditions of the permit. The Secretary shall notify the permit holder before modifying, suspending, or revoking a permit.

"(G) The Secretary shall prescribe such procedures as are necessary to carry out this paragraph, including the form and manner in which application for permits may be made.

"(H) This paragraph shall not govern the incidental taking of California sea otters and shall not be deemed to amend or repeal the Act of November 7, 1986 (Public Law 99-625; 100 Stat. 3500).".

(7) by adding at the end the following new paragraph:

"(6)(A) A marine mammal product may be imported into the United States if the product—

"(i) was legally possessed and exported by any citizen of the United States in conjunction with travel outside the United States, provided that the product is imported into the United States by the same person upon the termination of travel and is registered at the time of export and import;

"(ii) was acquired outside of the United States as part of a cultural exchange by an Indian, Aleut, or Eskimo residing in Alaska, and is registered at the time of import; or

"(iii) is owned by a Native inhabitant of Russia, Canada, or Greenland and is imported in conjunction with travel within the United States or as part of a cultural exchange with an Indian, Aleut, or Eskimo residing in Alaska.

"(B) For the purposes of this paragraph, the term—

"(i) 'Native inhabitant of Russia, Canada, or Greenland' means a person residing in Russia, Canada, or Greenland who is related by blood to, is a member of the same clan or ethnological grouping as, or shares a common heritage with, an Indian, Aleut, or Eskimo residing in Alaska; and

"(ii) 'cultural exchange' means the sharing or exchange of ideas, information, gifts, clothing, or handicrafts between an Indian, Aleut, or Eskimo residing in Alaska and a Native inhabitant of Russia, Canada, or Greenland, including for the purpose of rendering of raw marine mammal parts into clothing or handicrafts through carving, painting, sewing, or decorating but does not include an exchange for commercial purposes.

"(C) Raw marine mammal parts imported under subparagraph (A)(ii) or (iii) shall be marked or tagged under the requirements of section 109(i).".

(b) Section 101(c) is amended to read as follows:

"(c) It shall not be a violation of this Act to take a marine mammal if such taking is imminently necessary in self-defense or to save the life of a person in immediate danger, and such taking is reported to the Secretary within 48 hours.".

SEC. 5. DEPLETION DETERMINATION.

Section 101(b) (16 U.S.C. 1371) is amended by adding the following at the end: "Before making a determination under this subsection that a species or stock of marine mammal is depleted, the Secretary shall identify and make available to the public the reasons for making a determination and provide opportunity, at the request of any interested party, for a hearing on the record with respect to the determination.".

SEC. 6. PERMITS.

(a) PROHIBITIONS.—Section 102(a) (16 U.S.C. 1372(a)) is amended—

(1) in paragraph (2)(B) by striking "for any purpose in any way connected with the taking or importation of" and inserting "to take or import"; and

(2) in paragraph (4) by—

(A) striking "or offer to purchase or sell" and inserting "export, or offer to purchase, sell, or export";

(B) striking "product; and" and inserting "product—"; and

(C) inserting after and below the text of the paragraph the following:

"(A) that is taken in violation of this Act; or

"(B) for any purpose other than public display, scientific research, or enhancing the survival of a species or stock as provided for under subsection 104(c); and".

(b) PERMITS.—Section 104 (16 U.S.C. 1374) is amended—

(1) in subsection (a) by inserting "except for the incidental taking of marine mammals in the course of commercial fishing operations" before the period at the end;

(2) in subsection (c)—

(A) in paragraph (1) in the first sentence by striking "and after";

(B) by amending paragraph (2) to read as follows:

"(2)(A) A permit may be issued to take or import a marine mammal for the purpose of public display only to a person which the Secretary determines—

"(i) offers a program for education or conservation purposes that is based on professionally recognized standards of the public display community;

"(ii) is registered or holds a license issued under 7 U.S.C. 2131; and

"(iii) maintains facilities for the public display of marine mammals that are open to the public on a regularly scheduled basis and that access to such facilities is not limited or restricted other than by charging of an admission fee.

"(B) A permit under this paragraph shall grant to the person to which it is issued the right, without obtaining any additional permit or authorization under this Act, to—

"(i) take, import, purchase, offer to purchase, possess, or transport the marine mammal that is the subject of the permit; and

"(ii) sell, export, or otherwise transfer possession of the marine mammal, or offer to sell, export, or otherwise transfer possession of the marine mammal—

"(I) for the purpose of public display, to a person that meets the requirements of clauses (i), (ii), and (iii) of subparagraph (A);

"(II) for the purpose of scientific research, to a person that meets the requirements of paragraph (3); or

"(III) for the purpose of enhancing the survival or recovery of a species or stock, to a person that meets the requirements of paragraph (4).

"(C) A person to which a marine mammal is sold or exported or to which possession of a marine mammal is otherwise transferred under the authority of subparagraph (B) shall have the rights and responsibilities described in subparagraph (B) with respect to the marine mammal without obtaining any additional permit or authorization under this Act. Such responsibilities shall be limited to—

"(i) for the purpose of public display, the responsibility to meet the requirements of clauses (i), (ii), and (iii) of subparagraph (A),

"(ii) for the purpose of scientific research, the responsibility to meet the requirements of paragraph (3), and

"(iii) for the purpose of enhancing the survival or recovery of a species or stock, the responsibility to meet the requirements of paragraph (4).

"(D) If the Secretary—

"(i) finds in concurrence with the Secretary of Agriculture, that a person that holds a permit

under this paragraph for a marine mammal, or a person exercising rights under subparagraph (C), no longer meets the requirements of subparagraph (A)(ii) and is not reasonably likely to meet those requirements in the near future, or

"(ii) finds that a person that holds a permit under this paragraph for a marine mammal, or a person exercising rights under subparagraph (C), no longer meets the requirements of subparagraph (A)(i) or (iii) and is not reasonably likely to meet those requirements in the near future,

the Secretary may revoke the permit in accordance with section 104(e), seize the marine mammal, or cooperate with other persons authorized to hold marine mammals under this Act for disposition of the marine mammal. The Secretary may recover from the person expenses incurred by the Secretary for that seizure.

"(E) No marine mammal held pursuant to a permit issued under subparagraph (A), or by a person exercising rights under subparagraph (C), may be sold, purchased, exported, or transported unless the Secretary is notified of such action no later than 15 days before such action, and such action is for purposes of public display, scientific research, or enhancing the survival or recovery of a species or stock. The Secretary may only require the notification to include the information required for the inventory established under paragraph (10).";

(C) by amending paragraph (3) to read as follows:

"(3)(A) The Secretary may issue a permit under this paragraph for scientific research purposes that may result in a taking of a marine mammal to an applicant which submits with its permit application information indicating that the taking is required to further a bona fide scientific purpose. The Secretary may issue a permit under this paragraph before the end of the public review and comment period required under subsection (d)(2) if delaying issuance of the permit could result in harm to a species, population, or individual, or in loss of unique research opportunities.

"(B) No permit issued for purposes of scientific research shall authorize the lethal taking of a marine mammal unless the applicant demonstrates that a nonlethal method of conducting the research is not feasible. The Secretary shall not issue a permit for research which involves the lethal taking of a marine mammal from a species or stock that is depleted, unless the Secretary determines that the results of such research will directly benefit that species or stock, or that such research fulfills a critically important research need.

"(C) Not later than 120 days after the date of enactment of the Marine Mammal Protection Act Amendments of 1994, the Secretary shall issue a general authorization and implementing regulations allowing bona fide scientific research that may result only in taking by Level B harassment of a marine mammal. Such authorization shall apply to persons which submit, by 60 days before commencement of such research, a letter of intent via certified mail to the Secretary containing the following:

"(i) The species or stocks of marine mammals which may be harassed.

"(ii) Geographic location of the research.

"(iii) The period of time over which the research will be conducted.

"(iv) The purpose of the research, including a description of how the definition of bona fide research as established under this Act would apply.

"(v) Methods to be used to conduct the research.

Not later than 30 days after receipt of a letter of intent to conduct scientific research under the general authorization, the Secretary may notify the applicant that the proposed research is likely to result in the taking, including Level A harassment, of a marine mammal, and that subparagraph (A) applies. If no such notification is received, the proposed research shall be covered under the general authorization."; and

(D) by adding at the end the following new paragraphs:

"(5)(A) The Secretary may issue a permit for the importation of polar bear parts (other than internal organs) taken in sport hunts in Canada, including polar bears taken prior to the date of enactment of the Marine Mammal Protection Act Amendments of 1994, to an applicant which submits with its permit application proof that the polar bear was legally harvested in Canada. Such a permit shall be issued if the Secretary, in consultation with the Marine Mammal Commission and after notice and opportunity for public comment, finds that—

"(i) Canada has a monitored and enforced sport hunting program consistent with the purposes of the Agreement on the Conservation of Polar Bears;

"(ii) Canada has a sport hunting program based on scientifically sound quotas ensuring sustainable populations;

"(iii) the export and subsequent import are consistent with the provisions of the Convention on International Trade in Endangered Species of Wild Fauna and Flora and other international agreements and conventions; and

"(iv) the export and subsequent import are not likely to contribute to illegal trade in bear parts.

"(B) The Secretary shall establish and charge a reasonable fee for permits issued under this paragraph. All fees collected under this paragraph shall be available to the Secretary for use in developing and implementing cooperative research and management programs for the conservation of polar bears in Alaska and Russia pursuant to section 113(d).

"(6) A permit may be issued for photography for educational or commercial purposes involving marine mammals in the wild only to an applicant which submits with its permit application information indicating that the taking will be limited to Level B harassment, and the manner in which the products of such activities will be made available to the public.

"(7) Upon request by a person for a permit under paragraph (2), (3), or (4) for a marine mammal which is in the possession of any person authorized to possess it under this Act and which is determined under guidance under section 402(a) not to be releasable to the wild, the Secretary shall issue the permit to the person requesting the permit if that person—

"(A) meets the requirements of clauses (i), (ii), and (iii) of paragraph (2)(A), in the case of a request for a permit under paragraph (2);

"(B) meets the requirements of paragraph (3), in the case of a request for a permit under that paragraph; or

"(C) meets the requirements of paragraph (4), in the case of a request for a permit under that paragraph.

"(8)(A) No additional permit or authorization shall be required to possess, sell, purchase, transport, export, or offer to sell or purchase the progeny of marine mammals taken or imported under this subsection, if such possession, sale, purchase, transport, export, or offer to sell or purchase is—

"(i) for the purpose of public display, and by or to, respectively, a person which meets the requirements of clauses (i), (ii), and (iii) of paragraph (2)(A);

"(ii) for the purpose of scientific research, and by or to, respectively, a person which meets the requirements of paragraph (3), or

"(iii) for the purpose of enhancing the survival or recovery of a species or stock, and by or to, respectively, a person which meets the requirements of paragraph (4).

"(B)(i) A person which has a permit under paragraph (2), or a person exercising rights under paragraph (2)(C), which has possession of a marine mammal that gives birth to progeny shall—

"(I) notify the Secretary of the birth of such progeny within 30 days after the date of birth; and

"(II) notify the Secretary of the sale, purchase, or transport of such progeny no later than 15 days before such action.

"(ii) The Secretary may only require notification under clause (i) to include the information required for the inventory established under paragraph (10).

"(C) Any progeny of a marine mammal born in captivity before the date of the enactment of the Marine Mammal Protection Act Amendments of 1994 and held in captivity for the purpose of public display shall be treated as though born after that date of enactment.

"(9) No marine mammal may be exported for the purpose of public display, scientific research, or enhancing the survival or recovery of a species or stock unless the receiving facility meets standards that are comparable to the requirements that a person must meet to receive a permit under this subsection for that purpose.

"(10) The Secretary shall establish and maintain an inventory of all marine mammals possessed pursuant to permits issued under paragraph (2)(A), by persons exercising rights under paragraph (2)(C), and all progeny of such marine mammals. The inventory shall contain, for each marine mammal, only the following information which shall be provided by a person holding a marine mammal under this Act:

"(A) The name of the marine mammal or other identification.

"(B) The sex of the marine mammal.

"(C) The estimated or actual birth date of the marine mammal.

"(D) The date of acquisition or disposition of the marine mammal by the permit holder.

"(E) The source from whom the marine mammal was acquired including the location of the take from the wild, if applicable.

"(F) If the marine mammal is transferred, the name of the recipient.

"(G) A notation if the animal was acquired as the result of a stranding.

"(H) The date of death of the marine mammal and the cause of death when determined."; and

(3) in subsection (e)(1) by—

(A) striking "or" at the end of subparagraph (A);

(B) striking the period at the end of subparagraph (B) and inserting ", or"; and

(C) adding at the end the following new subparagraph:

"(C) if, in the case of a permit under subsection (c)(5) authorizing importation of polar bear parts, the Secretary, in consultation with the appropriate authority in Canada, determines that the sustainability of Canada's polar bear populations are being adversely affected or that sport hunting may be having a detrimental effect on maintaining polar bear populations throughout their range.".

(c) EXISTING PERMITS.—Any permit issued under section 104(c)(2) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1374(c)(2)) before the date of the enactment of this Act is hereby modified to be consistent with that section as amended by this Act.

SEC. 7. PURPOSE AND USE OF THE FUND.

Section 405 (16 U.S.C. 1421d) as amended by this Act is further amended—

(1)(A) in subsection (b)(1)(A) by striking "and" at the end of clause (i); and

(B) by inserting a new clause (iii) as follows:

"(iii) for care and maintenance of a marine mammal seized under section 104(c)(2)(C); and"; and

(2) in subsection (d) by striking "For purposes of carrying out this title, the" and inserting "The".

SEC. 8. APPLICATION TO OTHER TREATIES AND CONVENTIONS.

Section 113 (16 U.S.C. 1383) is amended by—

(1) designating the existing paragraph as subsection (a); and

(2) adding at the end the following new subsections:

"(b) Not later than 1 year after the date of enactment of the Marine Mammal Protection Act Amendments of 1994, the Secretary of the Interior shall, in consultation with the contracting parties, initiate a review of the effectiveness of the Agreement on the Conservation of Polar Bears, as provided for in Article IX of the Agreement, and establish a process by which future reviews shall be conducted.

"(c) The Secretary of the Interior, in consultation with the Secretary of State and the Marine Mammal Commission, shall review the effectiveness of United States implementation of the Agreement on the Conservation of Polar Bears, particularly with respect to the habitat protection mandates contained in Article II. The Secretary shall report the results of this review to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate not later than April 1, 1995.

"(d) Not later than 6 months after the date of enactment of the Marine Mammal Protection Act Amendments of 1994, the Secretary of the Interior, acting through the Secretary of State and in consultation with the Marine Mammal Commission and the State of Alaska, shall consult with the appropriate officials of the Russian Federation on the development and implementation of enhanced cooperative research and management programs for the conservation of polar bears in Alaska and Russia. The Secretary shall report the results of this consultation and provide periodic progress reports on the research and management programs to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science and Transportation of the Senate.".

SEC. 9. TAKING OF MARINE MAMMALS INCIDENTAL TO COMMERCIAL FISHING OPERATIONS; COOPERATIVE AGREEMENTS IN ALASKA.

(a) IN GENERAL.—Title I (16 U.S.C. 1371 et seq.) is amended by adding at the end the following new sections:

"SEC. 118. TAKING OF MARINE MAMMALS INCIDENTAL TO COMMERCIAL FISHING OPERATIONS.

"(a) IN GENERAL.—

"(1) Effective on the date of enactment of the Marine Mammal Protection Act Amendments of 1994 and except as provided in paragraphs (2), (3), and (4), the provisions of this section shall govern the incidental taking of marine mammals in the course of commercial fishing operations by persons using vessels of the United States and vessels which have valid fishing permits issued by the Secretary in accordance with section 204(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)). It shall be the immediate goal that the incidental kill or serious injury of marine mammals permitted in the course of commercial fishing operations be reduced to insignificant levels approaching a zero mortality and serious injury rate within 5 years after the date of enactment of the Marine Mammal Protection Act Amendments of 1994.

"(2) Section 101 and not this section shall govern the incidental taking of a marine mammal listed as an endangered species or threatened species under the Endangered Species Act of 1973.

"(3) Section 104(h) and title III and not this section shall govern the taking of marine mammals in the course of commercial purse seine fishing for yellowfin tuna in the eastern tropical Pacific Ocean.

"(4) This section shall not govern the incidental taking of California sea otters and shall not be deemed to amend or repeal the Act of November 7, 1986 (Public Law 99-625; 100 Stat. 3500).

"(5) Except as provided in section 101(c), the intentional lethal take of any marine mammal in the course of commercial fishing operations is prohibited.

"(b) SCIENTIFIC CONSULTATION.—

"(1) Not later than 60 days after the date of enactment of the Marine Mammal Protection Act Amendments of 1994, the Secretary shall, in consultation with the Marine Mammal Commission, establish independent scientific review groups representing Alaska, the Pacific coast (including Hawaii), the Gulf of Mexico, and the Atlantic coast consisting of individuals with expertise in marine mammal biology and ecology, population dynamics and modeling, and commercial fishing technology and practices, and representatives of coastal States, for the purposes of reviewing proposed actions under this section. The groups shall advise the Secretary on—

"(A) population estimates for those marine mammal stocks taken incidental to commercial fishing operations;

"(B) the population status and trends of such stocks;

"(C) uncertainties and research needed regarding stock separation, abundance, or trends, and factors affecting the distribution, size, or productivity of the stock;

"(D) uncertainties and research needed regarding the species, number, ages, gender, and reproductive status of marine mammals taken incidental to commercial fishing operations;

"(E) research needed to identify modifications in fishing gear and practices likely to reduce the mortality and serious injury of marine mammals incidental to commercial fishing operations;

"(F) the potential impacts of habitat destruction, including marine pollution and natural environmental change, on specific marine mammal species or stocks; and

"(G) any other issue which the Secretary or the groups consider appropriate.

"(2) The scientific review groups established under this subsection shall not be subject to the Federal Advisory Committee Act (5 App. U.S.C.).

"(3) Members of the scientific review groups shall serve without compensation, but may be reimbursed by the Secretary, upon request, for reasonable travel costs and expenses incurred in performing their obligations.

"(c) STOCK ASSESSMENTS AND DETERMINATIONS OF STRATEGIC STOCKS.—

"(1) Not later than 60 days after the establishment of the scientific review groups under subsection (b), the Secretary shall, in consultation with the scientific review groups, prepare proposed stock assessments of each marine mammal stock which occurs in waters under the jurisdiction of the United States and which is taken incidental to commercial fishing operations, and shall publish notice of its availability in the Federal Register for public review and comment for a period which shall not exceed 60 days. Each proposed stock assessment shall include—

"(A) the area in which each stock is located and, if migratory, the season of its location in that area;

"(B) the best available estimates of minimum population size, most likely population size, stock separation, productivity, current population trend, and estimated optimum sustainable population range if available;

"(C) estimates of total lethal and serious injury take from each stock by source and, for depleted stocks, other factors that may cause the further decline or impede the recovery of that stock, including impacts on marine mammal habitat and prey;

"(D) a description of the commercial fisheries that may incur incidental lethal and serious injury takes from each stock, including—

"(i) the approximate number of vessels actively participating in each fishery;

"(ii) the best available estimates of incidental lethal and serious injury take from the stock by each fishery on an annual basis;

"(iii) seasonal or area differences in levels of such take; and

"(iv) the rate at which such take occurs, based on the appropriate standard unit of fishing effort, with an analysis of whether the rate at which the take occurs is exceeding or has achieved insignificant levels approaching a zero mortality and serious injury rate;

"(E) the status of each stock, specifying—

"(i) whether the stock has been determined to be within its optimum sustainable population range, is depleted, is listed as a threatened species or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), or is a strategic stock; or

"(ii) that the status of the stock is unknown;

"(F) the estimated potential biological removal level for each stock and the factors used to calculate it; and

"(G) the information or sources of information upon which the assessment is based.

"(2) Not later than 90 days after the close of the public comment period on a proposed stock assessment, the Secretary shall publish a final stock assessment and make it available to the public.

"(3) The Secretary shall review stock assessments in accordance with this subsection—

"(A) at least annually for stocks which are—

"(i) specified as strategic stocks in a final stock assessment under this subsection;

"(ii) listed as a threatened species or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

"(B) at least annually for stocks for which significant new information is available; and

"(C) at least once every 3 years for all other stocks.

"(4) Nothing in this subsection shall prevent the Secretary from publishing stock assessments for strategic stocks in an expedited fashion.

"(d) AUTHORIZATION TO TAKE MARINE MAMMALS.—

"(1) Not later than 30 days after the date of the publication of the final stock assessments under subsection (c), or September 1, 1995, whichever is earlier, the Secretary shall issue a general authorization and implementing regulations allowing incidental, but not intentional, taking of marine mammals in the course of commercial fishing operations subject to the provisions of this section. The implementing regulations shall identify the fisheries in which vessels shall be considered to be operating under the general authorization and shall establish additional permit requirements for fisheries that are not so identified under the general authorization.

"(2) The Secretary shall, within 90 days after the date of enactment of this section—

"(A) publish in the Federal Register for public comment, for a period of not less than 90 days, any necessary changes to the Secretary's list of commercial fisheries published under section 114(b)(1) and which is in existence on March 31, 1994 (along with an explanation of such changes and a statement of the marine mammals and the approximate number of vessels or persons actively involved in each such fishery), that have—

"(i) frequent incidental taking of marine mammals;

"(ii) occasional incidental taking of marine mammals; or

"(iii) a remote likelihood of or no known incidental taking of marine mammals;

"(B) after the close of the period for such public comment, publish in the Federal Register a revised list of commercial fisheries and an update of information required by subparagraph (A), together with a summary of the provisions of this section and information sufficient to advise vessel owners on how to obtain an authorization and otherwise comply with the requirements of this section; and

"(C) at least once each year thereafter, and at such other times as the Secretary considers appropriate, reexamine, based on information gathered under this Act and other relevant sources and after notice and opportunity for public comment, the classification of commercial fisheries and other determinations required under subparagraph (A) and publish in the Federal Register any necessary changes.

"(3)(A) An authorization shall be granted by the Secretary in accordance with this section for a vessel engaged in a commercial fishery listed under paragraph (2)(A)(i) or (ii), upon receipt by the Secretary of a completed registration form providing the name of the vessel owner and operator, the name and description of the vessel, the fisheries in which it will be engaged, the approximate time, duration, and location of such fishery operations, and the general type and nature of use of the fishing gear and techniques used. Such information shall be in a readily usable format that can be efficiently entered into and utilized by an automated or computerized data processing system. A decal or other physical evidence that the authorization is current and valid shall be issued by the Secretary at the time an authorization is granted, and so long as the authorization remains current and valid, shall be reissued annually thereafter.

"(B) No authorization may be granted under this section to the owner of a vessel unless such vessel—

"(i) is a vessel of the United States; or

"(ii) has a valid fishing permit issued by the Secretary in accordance with section 204(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)).

"(C) Except as provided in subsection (a), an authorization granted under this section shall allow the incidental taking of all species and stocks of marine mammals to which this Act applies.

"(4)(A) An owner of a vessel engaged in any fishery listed under paragraph (2)(A)(i) or (ii) shall, in order to engage in the lawful incidental taking of marine mammals in a commercial fishery—

"(i) have registered as required under paragraph (3) with the Secretary in order to obtain for each such vessel owned and used in the fishery an authorization for the purpose of incidentally taking marine mammals in accordance with this section, except that owners of vessels holding valid certificates of exemption under section 114 are deemed to have registered for purposes of this subsection for the period during which such registration is valid;

"(ii) ensure that a decal or such other physical evidence of a current and valid authorization as the Secretary may require is displayed on or is in the possession of the master of each such vessel;

"(iii) report as required by subsection (h); and

"(iv) comply with a take reduction plan and emergency regulations issued under this section.

"(B) Any owner of a vessel receiving an authorization under this section for any fishery listed under paragraph (2)(A)(i) or (ii) shall, as a condition of that authorization, take on board an observer if requested to do so by the Secretary.

"(C) An owner of a vessel engaged in a fishery listed under paragraph (2)(A)(i) or (ii) who—

"(i) fails to obtain from the Secretary an authorization for such vessel under this section;

"(ii) fails to maintain a current and valid authorization for such vessel; or

"(iii) fails to ensure that a decal or other physical evidence of such authorization issued by the Secretary is displayed on or is in possession of the master of the vessel,

and the master of any such vessel engaged in such fishery, shall be deemed to have violated this title, and for violations of clauses (i) and (ii) shall be subject to the penalties of this title, and for violations of clause (iii) shall be subject to a fine of not more than $100 for each offense.

"(D) If the owner of a vessel has obtained and maintains a current and valid authorization from the Secretary under this section and meets the requirements set forth in this section, including compliance with any regulations to implement a take reduction plan under this section, the owner of such vessel, and the master and crew members of the vessel, shall not be subject to the penalties set forth in this title for the incidental taking of marine mammals while such vessel is engaged in a fishery to which the authorization applies.

"(E) Each owner of a vessel engaged in any fishery not listed under paragraph (2)(A)(i) or (ii), and the master and crew members of such a vessel, shall not be subject to the penalties set forth in this title for the incidental taking of marine mammals if such owner reports to the Secretary, in the form and manner required under subsection (h), instances of incidental mortality or injury of marine mammals in the course of that fishery.

"(5) The Secretary shall suspend or revoke an authorization granted under this section and shall not issue a decal or other physical evidence of the authorization for any vessel until the owner of such vessel complies with the reporting requirements under subsection (h) and such requirements to take on board an observer under paragraph (4)(B) as are applicable to such vessel. Previous failure to comply with the requirements of section 114 shall not bar authorization under this section for an owner who complies with the requirements of this section. The Secretary may suspend or revoke an authorization granted under this subsection, and may not issue a decal or other physical evidence of the authorization for any vessel which fails to comply with a take reduction plan or emergency regulations issued under this section.

"(6)(A) The Secretary shall develop, in consultation with the appropriate States, affected Regional Fishery Management Councils, and other interested persons, the means by which the granting and administration of authorizations under this section shall be integrated and coordinated, to the maximum extent practicable, with existing fishery licenses, registrations, and related programs.

"(B) The Secretary shall utilize newspapers of general circulation, fishery trade associations, electronic media, and other means of advising commercial fishermen of the provisions of this section and the means by which they can comply with its requirements.

"(C) The Secretary is authorized to charge a fee for the granting of an authorization under this section. The level of fees charged under this subparagraph shall not exceed the administrative costs incurred in granting an authorization. Fees collected under this subparagraph shall be available to the Under Secretary of Commerce for Oceans and Atmosphere for expenses incurred in the granting and administration of authorizations under this section.

"(e) TAKE REDUCTION TEAMS.—

"(1) No later than 30 days after the publication of a final stock assessment under subsection (c), the Secretary shall establish take reduction teams for those marine mammal species or stocks which are specified as strategic stocks in final stock assessments under subsection (c) and publish notice of that establishment in the Federal Register. The Secretary shall establish take reduction teams for stocks which are not specified as strategic stocks in final stock assessments under subsection (c), as the Secretary considers necessary in accordance with subsection (f).

"(2) The Secretary may request a take reduction team to consider and provide advice on measures necessary to reduce incidental lethal takes from a marine mammal stock whose range extends over more than 1 region, or on multiple marine mammal stocks within a region.

"(3) Members of take reduction teams shall have expertise regarding the conservation or biology of the marine mammal species which the incidental take plan will address, or the fishing practices involved in the incidental lethal taking of such species. Members shall include representatives of Federal agencies, each coastal State which has fisheries which interact with the species or stock, appropriate Regional Fishery Management Councils, interstate fisheries commissions, academic and scientific organizations, environmental groups, all commercial and recreational fisheries groups and gear types which incidentally take the species or stock, Alaska Native organizations or Indian tribal organizations, and others as the Secretary deems appropriate. Take reduction teams shall, to the maximum extent practicable, consist of an equitable balance among representatives of resource user interests and nonuser interests.

"(4) Take reduction teams shall not be subject to the Federal Advisory Committee Act (5 App. U.S.C.). Meetings of take reduction teams shall be open to the public, and prior notice of meetings shall be made public in a timely fashion.

"(5) Members of take reduction teams shall serve without compensation. Members of take reduction teams who are not Federal or State government employees shall be reimbursed by the Secretary, upon request, for reasonable travel costs and expenses incurred in performing their obligations.

"(f) TAKE REDUCTION PLANS.—

"(1) The Secretary shall issue take reduction plans for marine mammal stocks in accordance with this subsection. The immediate goal of a take reduction plan shall be reduce, within 1 year of its implementation, the lethal take or serious injury of marine mammals incidentally taken in the course of commercial fishing operations to levels less than the potential biological removal level established in this section. The long-term goal of the plan shall be to reduce, within 5 years of its implementation, the lethal take or serious injury of marine mammals incidentally taken in the course of commercial fishing operations to insignificant levels approaching a zero mortality and serious injury rate, taking into account the economics of the fishery, the availability of existing technology, and existing State or regional fishery management plans.

"(2) 2 years after the issuance of the general authorization under subsection (d), the Secretary shall review the progress, by fishery, toward reducing incidental lethal takes and serious injury of marine mammals in the course of commercial fishing operations to insignificant levels approaching a zero mortality and serious injury rate. The Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report setting forth the results of such review within 1 year after commencement of the review.

"(3) The Secretary shall give priority to the development of take reduction plans for marine mammal stocks or species—

"(A) which are specified as strategic stocks and which are incidentally taken in fisheries listed under subsection (d)(2)(A)(i);

"(B) which are specified as strategic stocks and which are incidentally taken in fisheries listed under subsection (d)(2)(A)(ii); and

"(C) which are not specified as strategic stocks but which the Secretary finds are approaching strategic stock status.

"(4) Each take reduction plan shall include—

"(A) a review of the information in the final stock assessment published under subsection (c) and any new information;

"(B) an estimate of the total number and, if possible, age and gender, of animals from the stock that are being incidentally lethally taken each year during the course of commercial fishing operations, by fishery;

"(C) recommended regulatory or voluntary measures for the reduction of incidental lethal takes; and

"(D) recommended dates for achieving the specific objectives of the plan.

"(5) Recommended take reduction plans developed by a take reduction team under this subsection for submission to the Secretary shall be developed by consensus. In the event that a consensus cannot be reached, the team shall advise the Secretary on the range of possibilities considered by the team, and the views of both the majority and the minority. The Secretary shall then propose a take reduction plan consistent with the provisions of this subsection.

"(6) In the case of those marine mammal species or stocks which are specified as strategic stocks in final stock assessments under subsection (c), the following provisions apply:

"(A) Not later than 6 months after the date of establishment of a take reduction team for that stock, the take reduction team shall recommend a take reduction plan to the Secretary, consistent with the other provisions of this subsection.

"(B) The Secretary shall consider the recommended take reduction plan and, not later than 60 days after the submission of the recommended take reduction plan, the Secretary shall publish in the Federal Register the recommended take reduction plan, any changes proposed by the Secretary along with the reason for the proposed changes, and proposed implementing regulations, for public review and comment.

"(C) If the take reduction team does not recommend a take reduction plan to the Secretary within 6 months, the Secretary shall, not later than 8 months after the establishment of the take reduction team, publish in the Federal Register a proposed take reduction plan and proposed implementing regulations, for public review and comment.

"(D) Not later than 60 days after the close of the comment period required under this paragraph, the Secretary shall issue a final take reduction plan and implementing regulations, consistent with the other provisions of this subsection. If the Secretary rejects or significantly modifies a plan recommended under subparagraph (B), the Secretary shall notify the take reduction team and specify in writing the reasons for the rejection or modification.

"(E) The Secretary and the take reduction team shall meet every 6 months to monitor the implementation of the take reduction plan until such time as the Secretary determines that meetings are no longer necessary.

"(7) In the case of those marine mammal species or stocks which are not specified as strategic stocks in final stock assessments under subsection (c), the following provisions apply:

"(A) Within 11 months after the establishment of the take reduction team, the team shall recommend a take reduction plan for that stock to the Secretary, consistent with the other provisions of this subsection.

"(B) The Secretary shall consider the recommended take reduction plan and, not later than 60 days after the submission of the recommended take reduction plan, the Secretary shall publish in the Federal Register the recommended take reduction plan, any changes proposed by the Secretary along with the reason for the proposed changes, and proposed implementing regulations for public review and comment.

"(C) If the take reduction team does not recommend a take reduction plan to the Secretary within 11 months, the Secretary shall, not later than 13 months after the establishment of the take reduction team, publish in the Federal Register a proposed take reduction plan and implementing regulations for public review and comment.

"(D) Not later than 60 days after the close of the comment period required under this paragraph, the Secretary shall issue a final take reduction plan and implementing regulations, consistent with the other provisions of this subsection. If the Secretary rejects or significantly modifies a plan recommended under subparagraph (B), the Secretary shall notify the take reduction team and specify in writing the reasons for the rejection or modification.

"(E) The Secretary and the take reduction team shall meet on an annual basis to monitor the implementation of the take reduction plan until such time as the Secretary determines that meetings are no longer necessary.

"(8) If a take reduction plan does not achieve its immediate goal of reducing incidental lethal takes in the course of commercial fishing operations to levels less than the potential biological removal level within 1 year, or its long-term goal of reducing incidental lethal takes in the course of commercial fishing operations to insignificant levels approaching a zero mortality and serious injury rate within 5 years, the Secretary shall, in consultation with the take reduction team, amend the take reduction plan and implementing regulations as necessary to achieve the goal, consistent with the procedures in this subsection for the issuance of such plans and regulations.

"(9) In implementing a take reduction plan issued pursuant to this subsection, the Secretary may promulgate regulations which include measures which—

"(A) establish fishery-specific limits on incidental lethal takes;

"(B) restrict commercial fisheries by time or area;

"(C) require the use of alternative gear techniques or technology, and encourage the development of such gear or technology;

"(D) educate commercial fishermen and others on the importance and means of reducing incidental lethal takes of marine mammals; and

"(E) in promulgating such regulations, the Secretary shall conform such regulations, to the maximum extent practicable, with State or regional fishery management plans.

"(10) If the Secretary finds that a significant level of incidental lethal taking of a marine mammal stock is occurring within a fishery within the jurisdiction of a State, the Secretary and take reduction team shall consult with State fishery managers to develop a take reduction plan for that fishery.

"(g) EMERGENCY REGULATIONS.—(1) If the Secretary finds that the incidental lethal take and serious injury of marine mammals from commercial fisheries is having, or is likely to have, an immediate and significant adverse impact on a stock or species, the Secretary shall take actions as follows:

"(A) In the case of a stock or species for which a take reduction plan is in effect, the Secretary shall—

"(i) prescribe emergency regulations that, consistent with such plan to the maximum extent practicable, reduce incidental lethal take and serious injury in that fishery; and

"(ii) approve and implement, on an expedited basis, any amendments to such plan that are recommended by the take reduction team to address such adverse impact.

"(B) In the case of a stock or species for which a take reduction plan is being developed, the Secretary shall—

"(i) prescribe emergency regulations to reduce such incidental lethal take and serious injury in that fishery; and

"(ii) approve and implement, on an expedited basis, such plan, which shall provide methods to address such adverse impact if still necessary.

"(C) In the case of a stock or species for which a take reduction plan does not exist and is not being developed, or in the case of a commercial fishery listed under subsection (d)(1)(A)(iii) which the Secretary believes may be contributing to such adverse impact, the Secretary shall—

"(i) prescribe emergency regulations to reduce such incidental lethal take and serious injury in that fishery, to the extent necessary to mitigate such adverse impact;

"(ii) immediately review the stock assessment for such stock or species and the classification of such commercial fishery under this section to determine if a take reduction team should be established; and

"(iii) may, where necessary to address such adverse impact, place observers on vessels in a commercial fishery listed under subsection (d)(2)(A)(iii), if the Secretary has reason to believe such vessels may be causing the incidental lethal take and serious injury to marine mammals from such stock and the vessel owner agrees to take an observer on board.

"(2) Prior to taking action under paragraph (1)(A), (B), or (C), the Secretary shall consult with the Marine Mammal Commission, all appropriate Regional Fishery Management Councils, State fishery managers, and the appropriate take reduction team (if established).

"(3) Emergency regulations prescribed under this subsection—

"(A) shall be published in the Federal Register, together with an explanation thereof;

"(B) shall remain in effect for not more than 180 days or until the end of the applicable commercial fishing season, whichever is earlier; and

"(C) may be terminated by the Secretary at an earlier date by publication in the Federal Register of a notice of termination, if the Secretary determines that the reasons for emergency regulations no longer exist.

"(h) REPORTING REQUIREMENT.—The owner or operator of a commercial fishing vessel subject to this Act shall report all incidental mortality and serious injury of marine mammals in the course of commercial fishing operations to the Secretary by mail or other means acceptable to the Secretary within 48 hours after the end of each fishing trip on a standard form to be developed by the Secretary under this section. Such form shall be readily usable by an automated or computerized data processing system and shall require the vessel owner or operator to provide the following:

"(1) The vessel name, and Federal, State, or tribal registration numbers of the registered vessel.

"(2) The name and address of the vessel owner or operator.

"(3) The name and description of the fishery.

"(4) The species of each marine mammal incidentally killed or seriously injured, and the date, time, and approximate geographic location of such occurrence.

"(i) MONITORING OF INCIDENTAL TAKES.—

"(1) The Secretary shall establish a program to monitor incidental lethal takes and serious injury of marine mammals during the course of

commercial fishing operations. The purposes of the monitoring program shall be to—

"(A) obtain statistically reliable estimates of incidental lethal takes and serious injury;

"(B) determine the reliability of reports of incidental lethal takes and serious injury under subsection (h); and

"(C) identify changes in fishing methods or technology that may increase or decrease incidental lethal takes.

"(2) Pursuant to paragraph (1), the Secretary may place observers on board vessels as necessary, subject to the provisions of this section. Observers may, among other tasks—

"(A) record incidental mortality or by-catch of other nontarget species;

"(B) record numbers of marine mammals sighted; and

"(C) perform other scientific investigations.

"(3) In determining the distribution of observers among fisheries and vessels within a fishery, the Secretary shall be guided by the following standards:

"(A) The requirement to obtain statistically reliable information.

"(B) The requirement that assignment of observers is fair and equitable among fisheries and among vessels in a fishery.

"(C) The requirement that no individual person or vessel, or group of persons or vessels, be subject to excessive or overly burdensome observer coverage.

"(D) To the extent practicable, the need to minimize costs and avoid duplication.

"(4) To the extent practicable, the Secretary shall allocate observers among fisheries consistent with the following priorities:

"(A) First, fisheries that incidentally lethally take or seriously injure marine mammals from stocks that are depleted because of their listing as an endangered species or threatened species under the Endangered Species Act of 1973.

"(B) Second, fisheries that incidentally lethally take or seriously injure marine mammals from stocks which are specified as strategic stocks in final stock assessments under subsection (c).

"(C) Third, fisheries that incidentally lethally take or seriously injure marine mammals from stocks for which the level of incidental lethal takes is unknown but is suspected to be high.

"(D) Fourth, species not described in subparagraph (A), (B), or (C).

"(5) The Secretary may establish an alternative observer program to provide statistically reliable information on the species and number of marine mammals incidentally taken in the course of commercial fishing operations. The alternative observer program may include direct observation of fishing activities from vessels, airplanes, or points on shore.

"(6) The Secretary is not required to place an observer on a vessel in a fishery if the Secretary finds that—

"(A) in a situation in which harvesting vessels are delivering fish to a processing vessel and the catch is not taken on board the harvesting vessel, statistically reliable information can be obtained from an observer on board the processing vessel to which the fish are delivered;

"(B) the facilities on a vessel for quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized; or

"(C) for reasons beyond the control of the Secretary, an observer is not available.

"(7) Any proprietary information collected under this subsection shall be confidential and shall not be disclosed except—

"(A) to Federal employees whose duties require access to such information;

"(B) to State or tribal employees pursuant to an agreement with the Secretary that prevents public disclosure of the identity or business of any person;

"(C) when required by court order; or

"(D) in the case of scientific information involving fisheries, to employees of Regional Fishery Management Councils who are responsible for fishery management plan development and monitoring.

"(8) The Secretary shall prescribe such procedures as may be necessary to preserve such confidentiality, except that the Secretary shall release or make public upon request any such information in aggregate, summary, or other form which does not directly or indirectly disclose the identity or business of any person.

"(j) PENALTIES.—Any person who violates the provisions of this section shall be subject to the provisions of sections 105, 106, and 107 as the Secretary considers appropriate.

"(k) ASSISTANCE.—The Secretary shall provide assistance to Regional Fishery Management Councils, States, interstate fishery commissions, and Indian tribal organizations in meeting the goal of reducing incidental lethal takes and serious injury to insignificant levels approaching a zero mortality and serious injury rate.

"(l) CONTRIBUTIONS.—For purposes of carrying out this section, the Secretary may accept, solicit, receive, hold, administer, and use gifts, devises, and bequests.

"(m) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce for carrying out this section $15,000,000 for each of fiscal years 1994, 1995, 1996, 197, 1998, and 1999.

"(n) SECTION 101(b).—Nothing in this section shall affect section 101(b).

"(o) CONSULTATION WITH SECRETARY OF THE INTERIOR.—The Secretary shall consult with the Secretary of the Interior prior to taking actions or making determinations under this section that affect or relate to species or population stocks of marine mammals for which the Secretary of the Interior is responsible under this title.

"(p) DEFINITIONS.—As used in this section—

"(1) the term 'fishery' has the same meaning as it does in section 3 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802);

"(2) the term 'Secretary' means the Secretary of Commerce; and

"(3) the term 'vessel of the United States' has the same meaning as it does in section 3 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802).

"SEC. 119. MARINE MAMMAL COOPERATIVE AGREEMENTS IN ALASKA.

"(a) IN GENERAL.—The Secretary may enter into cooperative agreements with Alaska Native organizations to conserve marine mammals and provide comanagement of subsistence use by Alaska Natives.

"(b) GRANTS.—Agreements entered into under this section may include grants to Alaska Native organizations for, among other purposes—

"(1) collection and analysis of data on marine mammal populations;

"(2) monitoring the harvest of marine mammals for subsistence use;

"(3) participating in marine mammal research conducted by the Federal Government, States, academic institutions, and private organizations; and

"(4) developing marine mammal co-management structures with Federal and State agencies.

"(c) EFFECT OF JURISDICTION.—

"(1) Nothing in this section is intended or shall be construed as authorizing any expansion or change in the respective jurisdiction of Federal, State, or tribal governments over fish and wildlife resources.

"(2) Nothing in this section is intended or shall be construed to alter in any respect the existing political or legal status of Alaska Natives, or the governmental or jurisdictional status of Alaska Native communities or Alaska Native entities.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for carrying out this section—

"(1) $1,500,000 to the Secretary of Commerce for each of fiscal years 1994, 1995, 1996, 1997, 1998, and 1999; and

"(2) $1,000,000 to the Secretary of the Interior for each of fiscal years 1994, 1995, 1996, 1997, 1998, and 1999.".

(b) CLERICAL AMENDMENT.—The table of contents in the first section, as amended by section 14(b), is amended by adding at the end the following:

"Sec. 118. Taking of marine mammals incidental to commercial fishing operations.

"Sec. 119. Marine mammal cooperative agreements in Alaska.".

SEC. 10. PINNIPED TASK FORCE; MANAGEMENT OF CALIFORNIA SEA LIONS AND PACIFIC HARBOR SEALS.

(a) TASK FORCE.—Section 104 (16 U.S.C. 1374) is amended by adding at the end the following:

"(i)(1) No later than 90 days after the date of enactment of the Marine Mammal Protection Act Amendments of 1994, the Secretary, in consultation with the Marine Mammal Commission, shall establish a Pinniped-Fishery Interaction Task Force (in this subsection referred to as the 'Task Force') to advise the Secretary on management practices regarding seals and sea lions interacting in a dangerous or damaging manner with fishery stocks.

"(2) The Task Force shall consist of individuals designated by the Secretary, including—

"(A) employees of the Department of Commerce,

"(B) scientists knowledgeable in pinniped biology and ecology,

"(C) representatives of conservation organizations, and

"(D) representatives of affected sectors of the fishing industry, Indian treaty tribes, States, and other interests as the Secretary considers appropriate.

"(3) The Task Force shall advise the Secretary regarding—

"(A) the level of impact of pinniped stocks on the decline or recovery of threatened or endangered salmonids and other declining fish stocks;

"(B) the level of impact of pinniped stocks on other fishery resources;

"(C) other factors affecting the decline or recovery of threatened or endangered salmonids and other declining fish stocks;

"(D) available alternatives to effectively mitigate negative impacts, including alternative technologies, relocation of animals, or nonlethal deterrence of animals, and the estimated cost of such alternatives;

"(E) for negative impacts for which no mitigating alternatives are known, research to identify such alternatives; and

"(F) limited intentional lethal takes of pinnipeds.

"(4) The Secretary shall establish within the Task Force a special committee to advise the Secretary on management practices regarding seals interacting in a dangerous or damaging manner with aquaculture resources in the Gulf of Maine. No later than 2 years from the date of enactment, the Secretary shall submit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing recommended available alternatives to mitigate such interactions.

"(5)(A) Any State may petition the Secretary to authorize the lethal removal of individually identifiable pinnipeds which are having a sig-

nificant negative impact on the decline or recovery of salmonid fishery stocks which have been listed as threatened species or endangered species under the Endangered Species Act of 1973 or which the Secretary finds are approaching endangered species or threatened species status (as those terms are defined in that Act). Such authority shall be granted for periods of 1 to 3 years. Additional authorizations shall be dependent upon the success of the action. Within 30 days after receiving a petition, the Secretary shall consult with the Task Force to determine whether the petition has produced sufficient evidence to warrant further investigation. If further investigation is considered necessary, the Secretary shall publish a notice in the Federal Register requesting public comment.

"(B) Not later than 60 days after the close of the public comment period for a petition under subparagraph (A), the Task Force shall recommend to the Secretary whether to authorize the lethal removal that is the subject of the petition. If authorization is recommended, the Task Force shall also recommend—

"(i) a method of removal;

"(ii) criteria for evaluating the success of the action; and

"(iii) a duration for the authority.

"(C) If authorization is not recommended, the Task Force shall also recommend nonlethal alternatives, if appropriate.

"(D) Not later than 30 days after the receipt of recommendations from the Task Force, the Secretary shall either approve or deny the petition for lethal removal. If approved, implementation shall occur as soon as practicable. Lethal removal shall be performed by State agencies or qualified individuals under contract to such agencies, in consultation with the Secretary.

"(6) The costs of lethal removal shall be borne in equal amounts by the Secretary and the State or States having fishery resources that have been affected.

"(7) Following lethal removal, carcasses or parts of carcasses shall be made available for bona fide research or educational purposes upon request.

"(8) The Secretary shall not approve under this subsection lethal removal for any pinniped from a species or stock that is listed as a threatened species or endangered species under the Endangered Species Act of 1973, otherwise depleted, or specified as a critical stock in a final stock assessment under section 118(c).".

(b) MANAGEMENT OF CALIFORNIA SEA LIONS AND PACIFIC HARBOR SEALS.—

(1) COOPERATIVE AGREEMENT.—The Secretary of Commerce shall enter into negotiations with the States of Washington, Oregon, and California to establish a cooperative agreement for the management of California sea lion and Pacific harbor seal populations in those States. The purposes of the cooperative agreement shall be to—

(A) determine whether California sea lions and Pacific harbor seals are having a significant negative impact on the recovery of fishery stocks in those States;

(B) determine the broader impacts of growing populations of California sea lions and Pacific harbor seals on the coastal ecosystems of Washington, Oregon, and California; and

(C) develop a plan to—

(i) reduce, to the extent practicable, negative impacts referred to in subparagraph (A); and

(ii) mitigate impacts referred to in subparagraph (B).

(2) DEVELOPMENT AND REVIEW OF DRAFT PLAN.—No later than 12 months after the date of the enactment of this Act, the Secretary of Commerce shall develop a draft of a plan described in paragraph (1)(C) and submit it for review by the Marine Mammal Commission, independent scientists with expertise in marine mammal biology and management, representatives of national environmental organizations, and other interested persons determined by the Secretary.

(3) SUBMISSION OF PLAN TO CONGRESS.—No later than 18 months after the date of the enactment of this Act, the Secretary of Commerce shall submit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate—

(A) a plan described in paragraph (1)(C); and

(B) a report containing—

(i) responses of the Secretary to comments received from the review required by paragraph (2); and

(ii) an explanation of any provisions of the plan with which any of the States of Washington, Oregon, and California do not agree.

(4) CONSIDERATION OF OTHER FACTORS.—Any plan under this subsection shall take into account, in addition to California sea lions and Pacific harbor seals, other factors that are slowing or impeding the recovery of fishery stocks or adversely affecting the coastal ecosystems of Washington, Oregon, and California.

(5) NO LEGAL EFFECT.—A plan under this subsection shall have no force or effect except as provided by a law enacted after the date the plan is submitted to the Congress under paragraph (3).

SEC. 11. MARINE ECOSYSTEM PROTECTION.

Section 110 (16 U.S.C. 1380) is amended by striking subsection (c) and inserting the following:

"(c)(1) No later than 1 year after the date of enactment of the Marine Mammal Protection Act Amendments of 1994, the Secretary of Commerce shall convene a regional workshop for the Gulf of Maine to assess human-caused factors affecting the health and stability of that marine ecosystem, of which marine mammals are a part. The workshop shall be conducted in consultation with the Marine Mammal Commission, the adjacent coastal States, individuals with expertise in marine mammal biology and ecology, representatives from environmental organizations, the fishing industry, and other appropriate persons. The goal of the workshop shall be to identify such factors, and to recommend a program of research and management to restore or maintain that marine ecosystem and its key components that—

"(A) protects and encourages marine mammals to develop to the greatest extent feasible commensurate with sound policies of resource management;

"(B) has as the primary management objective the maintenance of the health and stability of the marine ecosystems;

"(C) ensures the fullest possible range of management options for future generations; and

"(D) permits nonwasteful, environmentally sound development of renewable and nonrenewable resources.

"(2) On or before December 31, 1995, the Secretary of Commerce shall submit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing the results of the workshop under this subsection, proposed regulatory or research actions, and recommended legislative action.

"(d)(1) The Secretary of Commerce, in consultation with the Secretary of the Interior, the Marine Mammal Commission, the State of Alaska, and Alaska Native organizations, shall, not later than 180 days after the date of enactment of the Marine Mammal Protection Act Amendments of 1994, undertake a scientific research program to monitor the health and stability of the Bering Sea marine ecosystem and to resolve uncertainties concerning the causes of population declines of marine mammals, sea birds, and other living resources of that marine ecosystem. The program shall address the research recommendations developed by previous workshops on Bering Sea living marine resources, and shall include research on subsistence uses of such resources and ways to provide for the continued opportunity for such uses.

"(2) To the maximum extent practicable, the research program undertaken pursuant to subsection (d)(1) shall be conducted in Alaska. The Secretary shall utilize, where appropriate, traditional local knowledge and may contract with a qualified Alaska Native organization to conduct such research.

"(3) The Secretary of Commerce, the Secretary of the Interior, and the Commission shall address the status and findings of the research program in their annual reports to Congress required by sections 103(f) and 204 of this Act.".

SEC. 12. TREATY RIGHTS.

Nothing in these amendments alters or is intended to alter any treaties between the United States and Indian tribes.

SEC. 13. TRANSITION RULE.

Section 114(a)(1) of the Marine Mammal Protection Act (16 U.S.C 1383(a)(1)) is amended by striking "April 1, 1994," and inserting "on the effective date of regulations prescribed under section 118,".

SEC. 14. AUTHORIZATION OF APPROPRIATIONS.

(a) DEPARTMENT OF COMMERCE.—Title I is amended by inserting after section 115 the following:

"SEC. 116. AUTHORIZATION OF APPROPRIATIONS.

"(a) SECRETARY OF COMMERCE.—There are authorized to be appropriated to the Secretary of Commerce for carrying out functions and responsibilities under title I and title IV, other than under section 118, $6,636,000 for fiscal year 1994, $7,502,000 for fiscal year 1995, $8,402,000 for fiscal year 1996, $9,338,000 for fiscal year 1997, $10,311,000 for fiscal year 1998, and $11,000,000 for fiscal year 1999.

"(b) SECRETARY OF THE INTERIOR.—There are authorized to be appropriated to the Secretary of the Interior for carrying out functions and responsibilities under title I, $8,000,000 for fiscal year 1994, $8,600,000 for fiscal year 1995, $9,000,000 for fiscal year 1996, $9,400,000 for fiscal year 1997, $9,900,000 for fiscal year 1998, and $10,500,000 for fiscal year 1999.".

(b) CLERICAL AMENDMENT.—The table of contents in the first section is amended by inserting after the item relating to section 115 the following:

"Sec. 116. Authorization of appropriations.".

SEC. 15. DEFINITIONS.

Section 3 (16 U.S.C. 1362) is amended—

(1) in paragraph (13) by inserting "harm," before "harass" each place it appears; and

(2) by adding at the end the following:

"(18)(A) The term 'harassment' means any act of approach, pursuit, torment, or annoyance which—

"(i) has the potential to harm a marine mammal or marine mammal stock in the wild; or

"(ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, respiration, nursing, breeding, feeding, or sheltering.

"(B) The term 'Level A harassment' means harassment described in subparagraph (A)(i).

"(C) The term 'Level B harassment' means harassment described in subparagraph (A)(ii).

"(19) The term 'harm' means an act which is likely to kill to injure a marine mammal, significantly reduce its reproductive potential, or result in habitat modification or degradation that is likely to significantly impair essential behavioral patterns.

"(20) The term 'strategic stock' means a marine mammal population or stock—

"(A) for which the level of direct human-caused mortality exceeds the potential biological removal level; or

"(B) which, based on the best available scientific information, is declining and is likely to be listed as a threatened species under the Endangered Species Act of 1973 within the foreseeable future.

"(21) The term 'potential biological removal level' means the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal population or stock without affecting that population's or stock's ability to reach or maintain its optimum sustainable population. The potential biological removal level is the product of the following factors:

"(A) The best available minimum population estimate of the population or stock.

"(B) One-half the maximum theoretical or estimated net productivity rate of the population or stock.

"(C) A recovery factor of between 0.1 and 1.0.

"(22) The term 'Regional Fishery Management Council' means a Regional Fishery Management Council established under section 302 of the Magnuson Fishery Conservation and Management Act.

"(23) The term 'bona fide research' means scientific research on marine mammals, the results of which—

"(A) likely would be accepted for publication in a referred scientific journal;

"(B) are likely to contribute to the basic knowledge of marine mammal biology or ecology; or

"(C) are likely to identify, evaluate, or resolve conservation problems.

"(24) The term 'Alaska Native organization' means a group designated by law or formally chartered which represents or consists of Indians, Aleuts, or Eskimos residing in Alaska.".

SEC. 16. SCRIMSHAW EXEMPTIONS.

Notwithstanding any other provision of law, any valid certificate of exemption renewed by the Secretary (or deemed to be renewed) under section 10(f)(8) of the Endangered Species Act of 1973 (16 U.S.C. 1539(f)(8)) for any person holding such a certificate with respect to the possession of pre-Act finished scrimshaw products or raw material for such products shall remain valid for a period not to exceed 5 years beginning on the date of enactment of this Act.

SEC. 17. TECHNICAL AND CONFORMING AMENDMENTS.

The Act is amended—

(1) by redesignating, as title IV, the title III of that Act that was added by section 3003 of the Marine Mammal Health and Stranding Response Act (106 Stat. 5060);

(2) by redesignating the sections of that title in order as sections 401, 402, 403, 404, 405, 406, 407, 408, and 409;

(3) in section 401(b)(3) (as redesignated by this section) by striking "304" and inserting "404";

(4) in section 405(b)(1)(A)(i) (as redesignated by this section) by striking "304(b)" and inserting "404(b)";

(5) in section 406(a)(2)(A) (as redesignated by this section) by striking "304(b)" and inserting "404(b)";

(6) in section 406(a)(2)(B) (as redesignated by this section) by striking "304(c)" and inserting "404(c)";

(7) in section 408(1) (as redesignated by this section)—

(A) by striking "305" and inserting "405", and

(B) by striking "307" and inserting "407";

(8) in section 408(2) (as redesignated by this section) by striking "307" and inserting "407";

(9) in section 409(1) (as redesignated by this section) by striking "305(a)" and inserting "405(a)";

(10) in section 409(5) (as redesignated by this section) by striking "307(a)" and inserting "407(a)";

(11) in section 102(a) (16 U.S.C. 1372(a)) by striking "title III" and inserting "title IV";

(12) in section 109(h)(1) (16 U.S.C. 1379(h)(1)) by striking "title III" and inserting "title IV";

(13) in section 112(c) (16 U.S.C. 1382(c)) by striking "or title III" and inserting "or title IV"; and

(14) in the table of contents in the first section, by striking the items relating to the title that is redesignated by paragraph (2) of this section and the sections that are redesignated by paragraph (3) of this section and inserting the following:

"TITLE IV—MARINE MAMMAL HEALTH AND STRANDING RESPONSE

"Sec. 401. Establishment of program.
"Sec. 402. Determination; data collection and dissemination.
"Sec. 403. Stranding response agreements.
"Sec. 404. Unusual mortality event response.
"Sec. 405. Unusual mortality event activity funding.
"Sec. 406. Liability.
"Sec. 407. National Marine Mammal Tissue Bank and tissue analysis.
"Sec. 408. Authorization of appropriations.
"Sec. 409. Definitions.".

SEC. 18. AUTHORIZATION OF APPROPRIATIONS FOR MARINE MAMMAL COMMISSION.

(a) AUTHORIZATION.—Title II (16 U.S.C. 1401 et seq.) is amended by adding at the end the following:

"SEC. 207. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Marine Mammal Commission for carrying out this title $1,500,000 for fiscal year 1994, $1,550,000 for fiscal year 1995, $1,600,000 for fiscal year 1996, $1,650,000 for fiscal year 1997, $1,700,000 for fiscal year 1998, and $1,750,000 for fiscal year 1999.".

(b) CLERICAL AMENDMENT.—The table of contents in the first section is amended by inserting after the item relating to section 206 the following:

"Sec. 207. Authorization of appropriations.".

SEC. 19. FURTHER TECHNICAL AND CONFORMING AMENDMENTS.

(a) AMENDMENTS RELATING TO DEFINITION OF SECRETARY.—Section 3(12) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362(12)) is amended in subparagraph (B) by striking "title III" and inserting "title IV".

(b) AMENDMENTS RELATING TO DEFINITION OF POPULATION STOCK AND STOCK.—Section 3(11) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362(11)) is amended to read as if section 3004(b) of the Marine Mammal Health and Stranding Response Act were not enacted (106 Stat. 5067).

(c) FURTHER CORRECTIONS TO DEFINITIONS.—Section 3 (16 U.S.C. 1362) is amended—

(1) by striking paragraph (5);

(2) by redesignating paragraph (17) as paragraph (5), and moving that paragraph so as to appear immediately following paragraph (4); and

(3) by redesignating the second paragraph (15) (relating to the definition of the term "fishery") and paragraph (16) in order as paragraphs (16) and (17).

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall be effective as if enacted as part of section 3004 of the Marine Mammal Health and Stranding Response Act (106 Stat. 5067).

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to the rule, the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes, and the gentleman from Texas [Mr. FIELDS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, over two decades ago—in response to public concern about the future survival of whales and dolphins—Congress enacted a moratorium on the killing of marine mammals in the Marine Mammals Protection Act of 1972 [MMPA]. Its purpose was simple: To protect and conserve this Nation's marine mammals. At that time, tens of thousands of dolphins, whales, otters, and other warm-blooded marine creatures were being killed—some intentionally, others incidentally, during fishing operations. Back then, our goal was not only to ensure that stocks of marine mammals did not become depleted, but to help them to recover to optimum sustainable populations.

Congress also recognized that some fishermen will, in the course of their operations, inadvertently take marine mammals; that researchers needed to study them; and that aquariums would be empty unless they could take a few of these creatures from the wild. Consequently, the MMPA provided for certain exemptions from the moratorium.

In the 24 years that the MMPA has been on the books, hundreds of thousands of marine mammals have been saved. Certain stocks, like the grey whale, have been saved from extinction. Other marine mammals, like California sea lions and harbor seals, are flourishing. Unfortunately, despite our best efforts and the protections of the law, some marine mammal stocks continue to be in trouble.

Mr. Speaker, H.R. 2760 makes a number of important changes to the MMPA, particularly to the provisions governing the taking of marine mammals by commercial fishermen. Improving the law to make sure that fishermen can fish and marine mammals will continue to be protected was the driving force behind the reauthorization. The interim exemption under which fishermen are now operating expires on March 30, and without this legislation we run the risk of having the entire fishing industry in the country shut down. I believe that through the new requirements proposed in the bill, we will realize significant advances toward meeting the goals of the Act.

The provisions of the amendment regarding incidental takes in commercial fisheries:

First, retain the original goal of the MMPA, which is to reduce all incidental takes of marine mammals to insignificant levels approaching a zero mortality and serious injury rate.

Second, require the Secretary to establish four regional independent scientific review groups—for Alaska, the Pacific coast, the Atlantic coast, and the Gulf of Mexico—to work with the agency on the preparation of stock assessments for each marine mammal

stock taken incidental to commercial fishing operations. The stock assessments will address the status of marine mammal stocks, levels of incidental take, and a potential biological removal level that would identify the maximum number of animals that can be taken from each stock without disadvantaging the stock.

Third, directs the Secretary to issue a general authorization allowing fishermen to incidentally take nonendangered, nonthreatened, marine mammals if they comply with registration, monitoring, and reporting requirements; and establishes strict permitting procedures for very limited takes of endangered or threatened species.

Fourth, requires the establishment of take reduction plans for marine mammal stocks. The goal of these plans would be to reduce incidental takes to less than the potential biological removal level within 2 years, and to reach the zero mortality rate goal within 5 years. Plans would be developed by regional teams working with the Secretary. In an effort to assure as much public participation as possible, these teams would include representatives from coastal States regional fishery management councils, scientific organizations, environmental groups, the fishing industry, Alaska Natives, treaty tribes, and whoever else the Secretary deems appropriate. To assure that the process is as fair as possible, we have also required that the teams include an equitable balance among user and nonuser interests.

Overall, the proposed new management regime would establish a process of broad public participation, team effort, and good science that will, I believe, finally allow us to achieve the original goal of this law. The bill also addresses other important issues, which I will briefly summarize.

First, the bill establishes a Pinniped Interaction Task Force to advise the Secretary on the level of impact that seals and sea lions are having on fishery resources and how to mitigate those impacts. The bill also authorizes the Secretary to allow the intentional lethal removal of pinnipedds that are having a significant negative impact on the decline or recovery on threatened or endangered salmonid fishery stocks or on salmonid stocks which the Secretary finds are approaching endangered or threatened species status.

Second, the bill simplifies existing overly burdensome permit restrictions on the scientists whose lives are dedicated to studying and saving these animals.

Third, finally, the bill adds important provisions to the act that strengthen our ability to protect marine mammal habitats. Among other things, these include a requirement for the Secretary to convene workshops to address marine ecosystem protection in the Bering Sea and the Gulf of Maine—two areas of vital importance to the future of marine mammal populations—and to report back to Congress with recommended legislative, research, and regulatory actions.

I am pleased to be able to inform you that the administration supports the legislation, and that the most extensive section of the bill—establishing a new program to manage interactions between marine mammals and commercial fisheries—is supported by some of the largest environmental groups, including Greenpeace, the Center for Marine Conservation, the National Audubon Society, and the World Wildlife Fund. That section of the bill is also supported by a number of fishing organizations.

I want to thank my colleagues on the committee, particularly Mr. FIELDS and Mr. YOUNG, for their patience and their cooperation over the last few months as we have worked to pull together a bill with broad bipartisan support. We will continue to work together with our friends in the other body to enact a law that works, both for fishermen and for marine mammals.

Twenty years ago, tremendous public outcry over the deaths of millions of dolphins in the tuna fishing industry was responsible for the enactment of the MMPA. It was, and still is, a landmark environmental law. Overall, it has worked. Today, the number of dolphins and other marine mammals that are accidentally taken during fishing operations has been reduced by an order of magnitude. As our knowledge and understanding of the environment grows, we are now forced to focus on a new concern: the protection of the marine ecosystems on which these animals depend. These are the same ecosystems on which our fishermen depend and, ultimately, on which we all depend. I believe this bill begins that process of change.

Mr. Speaker, I reserve the balance of my time.

Mr. FIELDS of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 2760, a bill to reauthorize the Marine Mammal Protection Act [MMPA] of 1972.

The MMPA governs a variety of subjects, including public display, scientific research, subsistence use of marine mammals, and the incidental take of marine mammals during commercial fishing operations.

During the past year, the Committee on Merchant Marine and Fisheries held a number of hearings to consider various reauthorization issues. It was a pleasure working with you, Chairman STUDDS, and other Members, to draft the language that was adopted last week at our committee markup. While there may be a difference of opinion on certain isolated provisions, the language is indeed a consensus document that is the result of hundreds of hours of hard work, determination, and compromise, and represents a bipartisan effort of the committee.

Mr. Speaker, as you know, our committee is being driven by an April 1, 1994, deadline to reauthorize the act. I believe the language outlined in the bill governing the interaction of commercial fishing activities with marine mammals will not be overburdensome. It uses good science through the establishment of scientific working groups and take reduction teams, stock assessments, and the determination of critical stocks. This information is vital in order to make rational decisions based on science rather than emotion or moral judgments.

H.R. 2760 also allows the importation of polar bear trophies from Canada—a country whose polar bear population is healthy. Canada's management program is based on science, which ensures a sustainable polar bear population, and is consistent with international conservation agreements. The bill ensures that conservation of polar bears worldwide is not compromised in any way.

H.R. 2760 also addresses the authority to grant permits for public display, clarifies the roles of various Federal agencies, provides for the welfare of the marine mammals, and meets the needs of the public display community.

Again, Mr. Speaker, it was a pleasure having the opportunity to work with Chairman STUDDS and Congressman YOUNG to ensure that our marine mammal resources are properly managed in the future. I support adoption and urge all Members to vote "aye" on this important legislation.

Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. GOSS].

Mr. GOSS. Mr. Speaker, American commercial fishing fleets need this bill to pass before the April 1 deadline—or they face severe consequences. I understand this fact. However, the legislation we are considering reauthorizes for 6 years a law which has a tremendous impact on coastal States. Yet H.R. 2760 was moved through subcommittee and committee markups to be considered on the floor under the suspension process, which effectively prevents Members from exercising their right to offer amendments on the floor. I predict that in our rush, we will end up with a less-than-best piece of legislation, or at least one with significant omissions. For instances, I would have liked to have worked out and offered an amendment to allow States to provide additional protection for marine mammals which reside in State waters. By so amending the Marine Mammal Protection Act [MMPA], we could close a loophole that actually hinders or removes protection for marine mammals in some instances. I be-

lieve that it is an unfortunate irony that under the current rules of the MMPA, States are denied the ability to safeguard specific populations of mammals in certain carefully designated waters of their own. In my State of Florida, there are laws on the books which would prohibit the capture of marine mammals in areas known as aquatic preserves, which are specifically defined by statute, and have clearly defined borders. These areas have been set aside because the duly elected government of Florida has publicly and in the sunshine decided that the preservation of the natural resources within these boundaries is vital to the public interest. Many public hearings have occurred. But the Marine Mammal Protection Act unfortunately, and I believe inadvertently, preempts Florida's—and any other State's—efforts to responsibly protect natural resources. Mr. Speaker, that is unfinished business that needs attention. I will pursue it another day, in difference to the need to move H.R. 2760, but I regret the procedure we are using today.

Mr. BILIRAKIS. Mr. Speaker, Florida currently holds about 40 percent of all captive dolphins. In addition, most of the dolphins that are seen in theme parks across the country were probably captured in Florida waters, This also holds true for dolphins exported to other countries.

In 1972, Congress passed the Marine Mammal Protection Act [MMPA], to ensure that these mammals were maintained at, or restored to, healthy population levels. The act established a moratorium on taking or importing marine mammals except for certain activities regulated and permitted under the act. These permitted activities include public display and scientific research.

Unfortunately, jurisdiction over marine mammals has been divided among several agencies and I believe we have had a class example of the dangers of Federal bureaucracy. We have several agencies contradicting one another with regard to this act, and in some cases, the agencies have not ensured that dolphins are being treated humanely and captured properly.

In the 102d Congress, I introduced legislation titled The Marine Mammal Capture, Export and Public Display Act. I reintroduced this legislation in the 103d Congress.

Thus, I am pleased today that the committee has incorporated a few key provisions from my legislation into H.R. 2760. After working with the Chairman STUDDS and the ranking member on the subcommittee, Congressman YOUNG of Alaska, I believe we have been able to accomplish much of what I proposed. It has been a pleasure to work with my colleagues to amend the act and make needed reforms.

The intent of this bill is to protect dolphins held in captivity and to reform the procedures which are designed to protect their health and safety.

One of the provisions incorporated in this legislation concerns marine mammal export. Currently, the Marine Mammal Protection Act is silent on the export of marine mammals either caught in U.S. waters or bred in U.S. zoos and aquaria.

The provision incorporated in H.R. 2760 will end this silence and help equalize the treatment of dolphins in the U.S. and foreign countries. I believe it is simply hypocritical to place stringent requirements on theme parks and oceanariums in this country but allow dolphins to be exported to other countries where they may be mistreated.

H.R. 2760 provides that no marine mammal may be exported for the purpose of public display, scientific research, or enhancing the survival or recovery of a species or stock unless the receiving facility meets the standards of the United States.

H.R. 2760 also provides that the secretary of the national marine fisheries service shall establish an inventory of all marine mammals possessed pursuant to permits issued. Under this provision, the secretary must keep a record of the date of death of the marine mammal and the cause of death when determined.

These provisions, which were also contained in my original bill will help to ensure an accurate tracking system will be maintained. Thus, in turn, will add greatly in the enforcement of other provisions of this act.

Once again, I would like to thank Chairman STUDDS and the Merchant Marine and Fisheries Committee for their work on this important legislation. The inclusion of the export and inventory provisions are a significant step forward in dolphin protection. I hope that we examine closely the secretary's findings as an inventory is kept, so that we can continue to upgrade this legislation to ensure that marine mammals are treated in a humane manner.

Mr. HUGHES. Mr. Speaker, I rise today in support of H.R. 2760, legislation to reauthorize the Marine Mammal Protection Act.

Congress established the MMPA in 1972 to protect dolphins, whales and other marine mammals from the adverse effects of fishing and other human activities. MMPA banned the capture or import of marine mammals except for research or public display. Although the act has always allowed the incidental taking of some marine mammals during fishing operations, a 1988 amendment to the MMPA required an end to all incidental takings by 1993. In the meantime, Congress directed the National Marine Fisheries Service to develop a long range plan to preserve these mammals.

On July 27, 1993, the distinguished chairman of the Merchant Marine Committee, Mr. STUDDS, introduced H.R. 2760, the Marine Mammal Protection Act amendments of 1993, to reauthorize the MMPA for 6 years. That bill was a good starting point, but as it turned out, we still had a long way to go. As the committee began looking more closely at the issues surrounding the MMPA, it became evident that we needed more time to address a wide range of questions regarding marine mammal protection and incidental takings. Consequently, the committee approved and Congress passed a simple extension of the act to give us until April to complete work.

The bill that is before us now is the result of some extraordinary work that was done by Chairman STUDDS and the distinguished gentleman from Alaska [Mr. YOUNG], during that extended period.

H.R. 2760 would impose a prohibition on the intentional killing of marine mammals. The bill correctly aims to reduce accidental marine mammal deaths from encounters with fishing operations to levels approaching zero within 5 years of enactment. It requires the Secretaries of Commerce and Interior to perform and publish stock assessments for all marine mammal populations occurring in U.S. waters that might be adversely impacted by fishing operations or other activities. The secretaries must establish take reduction teams comprised of scientists, environmentalists, government officials and representatives of the fishing industry. These teams, in turn, must develop plans to reduce the level of accidental marine mammal deaths to near zero. The legislation would also grant the Secretaries regulatory and emergency powers to address any activities that are having an immediate and significant adverse impact on a stock of marine mammals.

H.R. 2760 also lessens some of the bureaucratic burden on the scientific and display community. Under this legislation, holders of display or scientific permits will no longer have to apply for permits to transfer or sell marine mammals from one licensed facility to another. From now on, they will merely have to notify the secretary of the transfer or sale in advance of the transaction. The legislation also adds new export language requiring that a receiving facility meet the standards of the Animal Welfare Act.

Let me say that this is not a perfect bill. I do not feel uncomfortable saying that, because it is a fact that the chairman himself has pointed out repeatedly. There are some provisions in the bill that concern me, such as the language that will allow—for the first time in 22 years—the importation of polar bear trophies or viscera into this country. I believe that Chairman STUDDS, Mr. FIELDS and Mr. YOUNG have crafted the language to be as narrow and protective of the polar bear as possible—a fact which is evidenced by the provisions regarding international polar bear conservation. Yet, I remain concerned about the policy implications of putting the Secretary of the Interior in the position of giving DE FACTO approval to Canada's polar bear hunt, when it is the stated goal of the MMPA to end the intentional killing of marine mammals. Having said this, I should point out that I did support the chairman in committee on this issue because I understand the importance of moving this legislation and the care with which my colleagues wrote the provision.

While I support removing needles bureaucratic tape from the scientific and display communities, I also remain concerned about the animal plant health inspection service's enforcement of the Animal Welfare Act with respect to marine mammals. In the last session, I joined with Congressman BILIRAKIS as an original cosponsor of his bill, H.R. 656, which would mandate—among other things—that Aphis update its regulations. I believe it is time for Aphis to review and revise their regulations and to strengthen their enforcement of the AWA, and I will be working with Mr. BILIRAKIS and others to make sure that our captive marine mammals are treated humanely.

I want to express my gratitude and appreciation to the Chairman, Mr. YOUNG and their staffs for their hard work on a difficult task. I

especially want to thank Karen Steuer and Rod Moore for their work and their efforts to accommodate me in making some changes to the final bill. This is a balanced bill that will go a long way toward improving the protection of marine mammals, while at the same time allowing our fishermen to continue to do their job.

I urge my colleagues to pass this measure.

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of H.R. 2760, legislation that reauthorizes the Marine Mammal Protection Act through fiscal year 1999. I commend the distinguished gentleman from Massachusetts [Mr. STUDDS], who is also the chairman of the House Merchant Marine and Fisheries Committee, for introducing this worthwhile legislation. I strongly believe that the reauthorization legislation that we are discussing today, represents a fair compromise that will continue to prevent the extinction of marine mammals.

By amending the Marine Mammal Protection Act of 1972, the original legislation is strengthened, and will continue to ensure the well being of porpoises, seals, and other marine mammals.

H.R. 2760, will improve the Marine Mammal Protection Act in a variety of ways. First, H.R. 2760, will establish a new system to govern the incidental taking of marine mammals in the course of commercial fishing operations. This legislation allows permits to be issued for the incidental taking of endangered or threatened marine mammals, if certain criteria are met. Also, the Secretary of Commerce is required to issue a general authorization allowing for the incidental taking of marine mammals during commercial fishing operations. However, the fishing industry must comply with strict registration guidelines, as well as monitoring and reporting regulations. H.R. 2760, also calls for fishermen, government representatives, biologists, and environmentalists to work with the Secretary of Commerce in developing long-term conservation plans for marine mammals.

Other highlights of H.R. 2760, include: A provision allowing individuals to take or import marine mammals for the purpose of public display, if certain criteria are met; a provision requiring the Secretary of Commerce to establish a task force to study the impact that seals and lions have on salmonid fish stocks; and a provision to allow American sport hunters, who legally kill polar bears in Canada, to bring their trophies back into the United States.

I am pleased to support the reauthorization of the Marine Mammal Protection Act. I believe that this compromise legislation will continue to maintain our marine mammals, who without the protections might become extinct, while at the same time this legislation will enable our commercial fishermen to operate their businesses.

Mrs. UNSOELD. Mr. Speaker, I rise in strong support of H.R. 2760, our committee's bill to reauthorize the Marine Mammal Protection Act, and ask unanimous consent to revise and extend my remarks.

The MMPA's success in restoring marine mammal populations on the west coast is evident by the robust species of California sea lions and Pacific harbor seals that range throughout Washington, Oregon, and California. These mammals contribute much to the unique nature of our marine ecosystems, and are enjoyed by both residents and visitors alike.

This success, however, is tempered by the public's perception that there are growing problems caused by robust species. Sea lions and seals have crowded public areas, plaguing efforts to rebuild salmon and steelhead runs and closing shellfish beds due to threat of fecal contamination.

The public perception in the Northwest is that Federal and State wildlife managers are turning a blind eye to these problems because of the controversy that surrounds taking any action relating to these animals. Wildlife managers appropriately respond by pointing out that the MMPA's strictures make it virtually impossible to respond effectively to problems as they are developing. The result has been an unorganized and ad hoc response that merely delays meaningful discussion of long-term solutions.

Our committee's bill attempts to respond to these concerns with two provisions aimed at providing some structure into the identification and response to problems associated with robust species of marine mammals on the west coast.

First, to address immediate, short-term problems—whether real or perceived—our committee's bill establishes a pinniped/fishery interaction task force to advise the Secretary of Commerce on ways to minimize negative interactions. The bill also provides for States to petition the Secretary to authorize lethal removal of individually identifiable pinnipeds which are having a significant negative impact on the decline or recovery of a salmonid fishery which is or may be becoming threatened or endangered.

For the long-term, our committee's bill directs the Secretary to sit down with the States of Washington, Oregon, and California to identify problems caused by robust species of marine mammals and to develop a broad range of options for each of the problem areas. The product of these discussions would be a draft management plan that would be reviewed by the Marine Mammal Commission, independent scientists, and environmental interests. The plan, along with comments generated during the review process, would then be submitted to this committee. The cornerstone of this amendment is that any management options proposed in the Federal/State plan not already authorized by existing law would require approval by this committee and Congress before being implemented.

Mr. Chairman, I want to make it clear I do not claim that seals and sea lions are what's causing the decline of our salmon runs in the Northwest, and any attempt to make them the scapegoat is wrong. However, if our struggles with forests and fish in the Northwest have taught us anything, it's that we must act proactively in managing our resources before the endangered species listings and the crises and the devastation began.

Finally, our committee's bill represents a major step forward in minimizing the type of harmful interactions with commercial fishing operations which would threaten marine mammal populations. The new regulations which will result from the legislation stem from a long series of meetings between representatives of the animal protection community and the commercial fishing industry. These negotiations, which took several months, resulted in a joint proposal which represented compromises on both sides. However, the bottom line is that the protection of marine mammals will be greatly enhanced. These improvements do not come without some cost on the part of the fishing industry, and we are very pleased that commercial fishermen have realized that the protection and restoration of marine mammal stocks is in the long-term interest of all users of the marine environment.

The current regulatory regime under which our commercial fishing industry is operating expires at the end of this month. These regulations have already been extended by Congress once and it is imperative that we replace this stop-gap measure with permanent legislation that will provide longer term solutions to these issues.

Mr. YOUNG of Alaska. Mr. Speaker, I request permission to revise and extend my remarks.

Mr. Speaker, I rise in strong support of this bipartisan bill and urge its adoption by the House.

This bill is the result of three hearings, numerous meetings, many written comments, and literally hundreds of hours of work by the committee staff. Karen Steuer and Tod Preston of the majority staff, and Rod Moore and Tom Melius of the minority staff, have labored late into the night and around the clock on weekends to assist the members of our committee on putting together a bill that is supported by fishermen, processors, environmental groups, wildlife conservation organizations, individual States, Native Alaskans, zoos and aquariums, scientists, and the administration.

Even more important is the hard work put into this bill by the chairman of our committee, GERRY STUDDS. Chairman STUDDS has been criticized by some extreme animal rights groups for his willingness to act in a fair and reasonable manner when dealing with the many difficult issues that this bill presents. That criticism is unjustified and unfair and should be condemned.

During the 21 years that I have served in the House, I have always known Chairman STUDDS to be a leader in efforts to conserve our natural resources. Even when we have been on opposite sides of an issue, he has been willing to listen to all points of view. Many of the major resource conservation bills that our committee has seen enacted into law over the years have been the result of Chairman STUDDS' efforts. He should be applauded for those efforts.

This bill attempts to finally solve a major problem that exists in the ocean. Fishermen catch fish; so do marine mammals. Unfortunately, as much as they try to avoid it, fishermen also catch marine mammals.

When the Marine Mammal Protection Act was passed by the Congress in 1972 under the leadership of our colleague, JOHN DINGELL, the problem of interaction between fishermen and marine mammals was recognized and a permit process was included that encouraged fishermen not to catch marine mammals, but exempted them from penalties if they did. However, in 1987, a Federal court decision effectively made that process useless.

In 1988, we passed a set of amendments to the act allowing a 5-year exemption for fishermen while a new incidental take process was developed. That process is what we have in our bill today. We have provided for increased research on marine mammals stocks and the development of take-reduction plans designed to reduce—as low as possible—the number of marine mammals taken. This is a major change in the way our fishermen will be forced to operate.

In establishing this system, two things should be made clear: First, fishermen want to be part of the regulatory system and we expect the Federal Government to work with—not against—U.S. fishermen in developing take-reduction plans. Second, this system relies on providing good scientific information. We authorize the resources necessary to get this information and we expect the Federal Government to carry out its obligations.

This system will not work if Federal agencies try to ignore the input of fishermen or try to force decisions based on bad data. If we find that the Federal Government is not cooperating or is trying to use this bill to promote some other policy agenda, I promise you that we will be back in this House Chamber setting things right.

In addition to the sections of this bill dealing with fisheries, we have also included a number of amendments clarifying the respective roles of Federal agencies in regulating zoos and aquariums. These amendments are necessary to avoid excessive regulatory zeal on the part of the Federal Government, which has attempted to ignore the clear intent of Congress in the act.

Finally, the bill makes absolutely clear that nothing in the fisheries section in any way affects the rights of Alaskan Natives that were granted by section 101(b) of the act. Further, the bill authorizes the continuation of the successful comanagement agreements between the Federal Government and Alaska Native organizations regarding marine mammals and encourages the Federal Government to enter into new agreements for other species.

Mr. Speaker, this is a good, bipartisan, conservation bill. I urge all Members to support it.

Mr. CUNNINGHAM. Mr. Speaker, I rise in strong support of H.R. 2760, and ask unanimous consent to revise and extend my remarks. Mr. Speaker, the reauthorization of the Marine Mammal Protection Act has been an arduous task and I would like to thank the chairman and the ranking minority members, Mr. FIELDS and Mr. YOUNG, for their leadership and guidance throughout this process.

Since the MMPA was enacted in 1972, it has served to protect various marine mammal populations in the wild from various human threats. The act also safeguards marine mammals by managing human activities affecting them in their natural habitat.

I am aware that there are many sections of this bill that address myriad issues, but I would like to focus on one important portion of this bill that deals with the regulation of and interaction of the agencies that oversee the issue of public display. Through the years, there has been much confusion over what role each agency should play. Most recently, this confusion was demonstrated in October, when the National Marine Fisheries Service issued their proposed permit regulations.

I would like to thank the chairman and Mr. YOUNG for clarifying the confusion that this proposed rule caused, and for correcting the problem between agencies. The amendments regarding public display are intended to establish a clear public policy regarding the regulation of activities affecting marine mammals in zoological settings. Over the past 5 years, there has been much confusion in the zoological community due to overlapping jurisdictions. Permits have been delayed for unreasonable periods of time and unnecessary, burdensome, and improper conditions have been attached to such permits.

In addressing this problem, we in committee were able to reaffirm that the standards for the humane handling, care, treatment, and transportation of marine mammals are established under the Animal Welfare Act [AWA] and are developed and administered exclusively by the Animal Plant Health Inspection Service [APHIS] within the Department of Agriculture.

This was done to clarify that the National Marine Fisheries Service cannot set its own standards, by regulation or by attaching to the permits general or specific conditions relating to captive maintenance, since the National Marine Fisheries Service has no authority to do so under the Animal Welfare Act, and still does not have authority to do so under the reauthorization of the MMPA.

Rather, in deciding to issue a permit to an individual or entity that would allow them to "take;" that is, collect from the wild, or import a marine mammal for purposes of public display, the only determination that NMFS can make, from the perspective of captive maintenance, is whether the individual or entity has an APHIS license or registration. Possession of such a license automatically means that the licensee's standards for the humane handling, care, treatment, and transportation of the marine mammals to be taken and imported meet the requirements of the Animal Welfare Act.

Section 102(a) of the act has been amended by deleting the words "for any purpose or any way connected to the taking of marine mammals." The deleted words are now replaced by the words to "take or import." In addition, the words "and after" in section 104(c)(1) were deleted. The Intent of these amendments is to clarify that the conditions that the Secretary may include in a section 104(c) permit concerning the "supervision, care, and transportation that must be observed pursuant to such taking or importation" only pertain to the actual take from the wild, that is, capture and collection; or import but not to the subsequent supervision, care, and transportation of marine mammal in captivity. After the taking or importation, the standards for the care and maintenance of the marine mammal are established by the Animal Welfare Act and the regulations issued thereunder.

Further, this amendment clarifies that the act's prohibition with regard to the "take" of marine mammals refers to the collection of marine mammals from the wild. After a marine mammal is lawfully collected; for example, under a section 104 permit, the Secretary does not have the authority to regulate the subsequent captive maintenance of the animal.

It has also been clarified that NMFS may issue, as has always been the case, "one-time" permits to take or import marine mammals for purposes of public display. These permits need not be renewed by NMFS periodically once the marine mammal is taken or imported. They are, as also has been the case since the original passage of the MMPA, permits to individuals or entities in relation to the take or import of scientific marine mammals.

Once a marine mammal is taken or imported pursuant to a permit, then it, or its progeny will no longer require any additional permit or authorization in order to possessed, sold or purchased, transported, exported, or offered to be sold or purchased if the persons involved in any subsequent transaction, meet the requirements that would be necessary under the MMPA to obtain a permit for the purposes of public display, or scientific research or enhancing the survival of a species of stock.

The committee also intends by these amendments to establish the policy that determinations made by the Secretary of Commerce with regard to education or conservation programs are limited to whether programs are based on professionally recognized standards of the public display community; such as, but not limited to, standards already in place for members of the American Zoo and Aquarium Association. The Secretary does not have the authority under this provision to establish any standards or regulations regarding education or conservation programs. This amendment to the current law is consistent with the first amendment of the Constitution which essentially prohibits the Government from issuing "content-based" regulations.

The committee also believes that a person should have the same rights with respect to the progeny of a marine mammal taken or imported under section 106(c) as those rights granted for the take of a marine mammal for public display. Thus, a permit for the purposes of public display grants the possessor of the marine mammal and its progeny the right, under certain circumstances, to subsequently purchase, offer to purchase, possess, or transport, sell, export, or otherwise transfer possession of the progeny, without the need to obtain any additional permit or authorization under the MMPA.

The persons involved in any subsequent transaction must meet the requirements that would be necessary under the MMPA to obtain a permit for purposes of publicly display, scientific research, or enhancing the survival of a species or stock.

Finally, the committee intends to establish that existing permits, issued prior to the enactment of these amendments, are automatically modified to be consistent with these amendments. Thus, for example, any terms or conditions that the Secretary has incorporated into existing permits that relate to actual public display of the marine mammals; in the inspection of public display facilities and related records; or the captive maintenance or the standards for the humane handling, care, treatment, and transportation of marine mammals after they are taken or imported pursuant to a permit to take or import for purposes of public display; are null and void.

I believe the changes adopted in the Merchant Marine and Fisheries Committee will clear up the confusion over public display.

Aquariums and zoos have faced substantial ambiguity in this area, but the language before us should solve this problem.

Mr. Speaker, again, I salute Chairman STUDDS, Congressman FIELDS, and Congressman YOUNG for their hard work on this issue. H.R. 2760 is an excellent bill, with strong bipartisan support. I urge the House to pass it without delay.

Ms. SNOWE. Mr. Speaker, I would like to thank Mr. STUDDS, Mr. SAXTON, Mr. YOUNG, and the other members of the committee for including language in H.R. 2760 to create a special committee of the Pinniped-Fishery Interaction Task Force that will study the problem of seal predation on aquaculture pens in Maine. Mainers and visitors to my State very much enjoy and appreciate the healthy populations of seals living along our coast. Seals account for a significant share of coastal Maine's great appeal to people all over the world.

But unfortunately, as Maine's salmon aquaculture industry has developed in recent years, some seals have begun to invade fish pens for an easy meal, damaging the pens and releasing fish in the process. The Maine aquaculture industry estimates the cost of this damage in the millions of dollars. Not all seals exhibit this predatory behavior, but the ones that do seem to repeat their predations. Clearly, something must be done to ensure the peaceful coexistence of both seals and the aquaculture industry on the coast of Maine.

The special committee of the Pinniped-Fishery Interaction Task Force will analyze the problem in Maine, identify existing nonlethal means of mitigation, recommend research on additional means of mitigation, and examine whether limited intentional lethal takes of seals should be permitted if nonlethal alternatives do not succeed in protecting salmon pens from seals. The committee membership will include industry officials, State officials, environmentalists, and scientists from the affected region, and the bill requires the special committee to submit its report within 2 years of enactment.

The special committee idea represents a considered response to the seal-aquaculture interaction problem in Maine, and I look forward to the constructive contribution that the special committee's work will make to a responsible resolution of the problem.

Mr. Speaker, I intend to support H.R. 2760, but not without a serious reservation. Section 9 of the bill on commercial fishing operations establishes a goal of reducing by-catch for marine mammals stocks designated as strategic below the level of potential biological removal within 1 year of the completion of a take reduction plan. I fear that in the case of the harbor porpoise, this goal could be too ambitious for the Maine gillnet industry.

In New England, gillnet interactions have contributed significantly to the decline of the harbor porpoise species, which is now estimated at about 47,200 animals in the Gulf of Maine. Gillnetters in Maine with whom I have spoken express a sincere regret that harbor porpoises become entangled in their nets and drown. They respect and appreciate the harbor porpoise, as do any of us here today, and they are determined to reduce their by-catch of the species. In fact, harbor porpoise/gillnet interactions in the Gulf of Maine appear to have declined dramatically from 2,400 animals in 1990 to 900 in 1992.

Under amendment 5 to the northeast multispecies fishery management plan, gillnet fishermen will be required to substantially reduce harbor porpoise by-catch, initially through time-area closures. Harbor porpoise by-catch will almost certainly continue to decline as a result of these measures.

But if, in the future, these time-area closures expand and become too long, and the area covered too large, fishermen could be put out of business. Luckily, research conducted to date on pinger devices, which emit unpleasant sounds that deter porpoises from gillnets, has been promising. Although more research is needed, pingers could help meet the dual goals of protecting the harbor porpoise population in the Gulf of Maine while giving fishermen a chance to make a living.

I firmly believe that the Maine gillnet fleet will find a way to reduce its by-catch below PBR in a manner which enables them to keep fishing, but 1 year, as proposed in the bill, may be too short. I requested a 4-year deadline period to meet PBR, but the committee declined my request.

While I am disappointed that the committee could not accommodate the Maine gillnet fleet, I should point out that the bill only establishes a 1-year goal, not a hard compliance deadline, so I do not expect fishermen to be penalized for not meeting this ambitious goal if they are making a serious effort to reduce by-catch.

In the meantime, I appreciate the committee's strong encouragement, in the bill report, of the National Marine Fisheries Service's continued involvement with gillnet gear modification research, particularly with regard to pinger devices. This technology could provide a big part of the answer in resolving the gillnet-harbor porpoise interaction problem.

Again, I thank the committee for responding to my request on seal-aquaculture interactions in Maine, and I look forward to working with the committee in the future on the harbor porpoise/gillnet issue.

Mr. MCDERMOTT. Mr. Speaker, I commend the Merchant Marine and Fisheries Committee and, in particular, its distinguished chairman, the gentleman from Massachusetts [Mr. STUDDS], for the long hours of work dedicated to bringing this bill to the floor. From the opening days of the 103d Congress, the chairman and the committee have struggled with this complex and contentious legislation.

At the heart of the committee's quandary was the question of when, and under what circumstances, to sanction the killing of a marine mammal. Many residents of the Pacific Northwest are justifiably upset over the alarming decline of the region's anadromous fish populations. And marine mammal species that consume large numbers of weak salmon stocks understandably are targets of this frustration.

The committee's struggle mirrors one that has been ongoing in my district at the Hiram M. Chittendon Locks for more than a decade. Commonly called the Ballard Locks, this facility is the site of perhaps the most publicized and controversial encounter between marine mammals and a fish species. Each year from January to May, as they gather in the channel leading to the Locks, California sea lions are estimated to consume up to 60 percent of a Lake Washington Steelhead run now on the brink of extinction.

To be sure, the California sea lions that appear annually at the Ballard Locks are not to blame for the decline of the Lake Washington steelhead runs. That blame is more fairly attributed to the decades of urban development that has destroyed valuable spawning habitat, altered natural river courses, and poured pollution into our waters.

But it has become clear that the survival of the steelhead may depend upon the option to kill the sea lions that feed upon them at the Ballard Locks. Annually, more than 1,600 returning steelhead are needed to sustain the population, but so far this winter fewer than 50 fish have passed through the fish ladder at the locks. As the number of spawning steelhead returning from open sea declines, it becomes all the more critical to protect them from predation by sea lions at the locks. For this reason, I am not opposed to the provision in this bill which allows States to petition the Secretary of Commerce for permission to remove sea lions by lethal means.

Also, I am supportive of the task force established in this legislation to advise the Secretary on all matters related to the management and protection of marine mammals. In the long run, a task force embracing diverse opinion will improve our understanding and management of marine mammals and their interaction with fish stocks.

However, these two measures alone do not address adequately the current crisis my constituents are facing at the Ballard Locks. Last November, I formed a local task force that recommended immediate steps to be taken to protect the current run of spawning steelhead from sea lion predation. Among the recommendations was a fish tracking study to be conducted by the appropriate State and Federal fisheries agencies. This study is the first of this kind in which scientists have been able to track movement of fish through the area of predation at the locks, and it is critical that we continue to build upon the knowledge we gain from this study.

I have been working with the Merchant Marine and Fisheries Committee staff and members of the committee from the Pacific Northwest to amend the Marine Mammal Protection Act to authorize additional money for the purpose of identifying and constructing fish passage and fish ladder improvements at the Ballard Locks to aid in the recovery of salmonid fishery stocks. This authorization would help my constituents pursue any reasonable measure to protect steelhead and minimize predation upon them by sea lions. Although this authority may already exist in the abstract, congressional direction is necessary to give our efforts the high priority they merit.

Although the committee did not act upon my request for additional language, it is my steadfast belief that that language must be included in the final bill. As the bill is moving under suspension of the rules, I hope to ensure that this issue is addressed in conference. I understand that Senators MURRAY and GORTON have included language in the Senate bill similar to that which I proposed in the House. I hope that the issue can be resolved when the

House and Senate meet to reconcile their versions of the Marine Mammal Protection Act, at which point I will be pleased to support the bill.

In my efforts to resolve the conflict at the Ballard Locks, I have learned that we can overcome disagreements over management of marine mammals if we respect the values inherent in the diverse positions. No one I have encountered wants to kill sea lions for frivolous reasons. And no one wants to stand by while the Lake Washington steelhead run disappears. Having recognized the validity of the various sides, it is possible to move toward a reasonable common ground, and I appreciate the efforts of the Merchant Marine and Fisheries Committee to do so.

Mr. MANTON. Mr. Speaker, I want to compliment my distinguished colleague, Mr. STUDDS, the chairman of the Committee on Merchant Marine and Fisheries, for his leadership and diligence in bringing this important bill to the floor. As always, he has endeavored to craft a reasonable and meaningful piece of legislation which, while not necessarily to everyone's liking, effectively addresses a multitude of complex and emotional issues.

H.R. 2760, a bill to reauthorize the Marine Mammal Protection Act, is the result of many months of hard work and negotiations between Members of Congress, the administration, fisheries interests, and environmental and conservation organizations. The bill is the culmination of a bipartisan and an open, inclusive process which should serve as a model for future such undertakings.

Mr. Speaker, I understand there are some who are still not satisfied with particular provisions of this legislation, and I can understand and certainly appreciate their concerns. The complexity of this act and the emotional nature of the issues at hand virtually necessitates that not everyone is going to agree with each and every tough choice that has been made or compromise which has been hammered out in order for this legislation to reach the floor today. However, I believe they do themselves and their cause a disservice by challenging the motifs of the chairman and the open process under which this legislation was developed. I cannot think of another chairman or committee that are as willing and capable of developing a major piece of legislation in a more fair manner.

As the chairman of the Subcommittee on Fisheries Management, I am particularly pleased we are moving expeditiously on this matter. The Nation's commercial fishing interests are facing a deadline of April 1, 1994. If we do not pass and the President does not sign the reauthorization bill into law by this date, virtually all commercial fisheries in our country will be brought to a standstill. This is clearly an unacceptable situation, and I believe the passage of this legislation is the right way to proceed at this time.

Mr. Speaker, I also want to take this opportunity to address another provision of the pending legislation which is of importance to me. I believe, as we pursue these amendments to the Marine Mammal Protection Act, we must strongly reaffirm public display of marine mammals as one of the primary means of educating the public, providing much-needed research, and fostering concern for these majestic creatures of the sea. Anything less would be a disservice to the American public. I believe this legislation accomplishes this goal.

I understand that more than 105 million people a year visit the zoos, marine parks, and aquariums of the United States. These institutions have played an undeniable role in educating the public and arousing their interest in conservation and environmental issues.

Mr. Speaker, I am pleased that New York City can claim some of the Nation's most highly regarded zoos and aquariums, including the Central Park Wildlife Center and the Aquarium for Wildlife Conservation. In most instances, the people who come to the zoo or aquarium could not see wild animals in any other setting—including such relatively common marine mammals as seals and sea lions. By visiting zoos and aquariums, the average citizen has an excellent opportunity to learn about these animals and gain an appreciation for the need to protect them and their habitats.

The amendments regarding public display are intended to establish clear public policy regarding the regulation or activities affecting marine mammals in zoological settings. During the past 5 years, the zoological and scientific communities have faced a confusing and inconsistent regulatory regime which they have sought to clarify either through regulation or legislation. Many in the display community believe their permit applications have been unreasonably delayed and seemingly unnecessary and burdensome conditions have been attached to such permits.

Mr. Speaker, it is our intent by this legislation to reaffirm that the standards for the humane handling, care, treatment, and transportation of marine mammals are established under the Animal Welfare Act [AWA] and are developed and administered exclusively by the Animal Plant Health Inspection Service [APHIS] within the Department of Agriculture. These amendments to the MMPA, therefore, clearly establish that the National Marine Fisheries Service has no role or authority to regulate the captive maintenance of marine mammals.

Section 102(a) of the act has been amended by deleting the words "for any purpose or any way connected to the taking of marine mammals." The deleted words are now replaced by the words to "take or import." In addition, the words "and after" in section 104(c)(1) were deleted. The intent of these amendments is to clarify that the conditions that the Secretary may include in a section 104(c) permit concerning the "supervision, care, and transportation that must be observed pursuant to such taking or importation" only pertain to the actual take from the wild—that is, capture and collection—or import, but not to the subsequent supervision, care, and transportation of marine mammals in captivity.

The legislation also makes clear that the permits that NMFS may issue under the MMPA to take or import marine mammals for purpose of public display are, as has always been the case, one-time permits that need not be renewed by NMFS periodically once the marine mammal is taken or imported. They are, as has been the case since the original passage of the MMPA, permits to individuals or entities in relation to the take or import of specific marine mammals.

Mr. Speaker, therefore, once a marine mammal is taken or imported pursuant to a permit, then it, or its progeny, will no longer require any additional permit or authorization in order to be possessed, sold or purchased, transported, exported, or offered to be sold or purchased if the persons involved in any subsequent possession, sale, purchase, transportation, export, or offer for sale or purchase, meet the requirements that would be necessary under the MMPA to obtain a permit for purposes of public display, or scientific research or enhancing the survival of a species or stock. As such this language clarifies that any person to whom a marine mammal is transferred does not need to obtain a permit to possess that marine mammal.

We also intend by these amendments to establish the policy that determinations made by the Secretary of Commerce with regard to education or conservation programs are limited to whether programs are based on professionally recognized standards of the public display community—such as, but not limited to, standards already in place for members of the American Zoo and Aquarium Association. The Secretary does not have the authority under this provision to establish any standards or regulations regarding education or conservation programs. This amendment to the current law is consistent with the first amendment of the Constitution which essentially prohibits the Government from issuing content-based regulations.

We also believe that a person should have the same rights with respect to the progeny of a marine mammal taken or imported under section 104(c) as those rights granted for the take of a marine mammal for public display.

Finally, we intend to establish that existing permits, issued prior to the enactment of these amendments, are automatically modified to be consistent with these amendments.

Again, Mr. Speaker, I commend the gentleman, and offer my appreciation to the majority and minority staffs of the Merchant Marine and Fisheries Committee for their fine work in bringing this legislation to fruition.

Mr. FIELDS of Texas. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. STUDDS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill, H.R. 2760, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to authorize the Marine Mammal Protection Act of 1972 for 6 fiscal years, to establish a new regime to govern the incidental taking of marine mammals in the course of commercial fishing operations, and for other purposes."

A motion to reconsider was laid on the table.

BALLAST WATER MANAGEMENT ACT

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3360) to direct the Secretary of Transportation to demonstrate on vessels ballast water management technologies and practices, including vessel modification and design, that will prevent aquatic nonindigenous species from being introduced and spread in the United States waters, as amended.

The Clerk read as follows:

H.R. 3360

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 "Ballast Water Management Act".

SEC. 2. EVALUATION.

(a) Subsection 1102(a) of Public Law 101-646 (16 U.S.C. 4712(a)) is amended by adding the following new paragraph at the end—

"(4) NATIONAL BALLAST WATER MANAGEMENT EVALUATION.

"(A) Subject to the availability of appropriations, the Task Force shall contract with the Marine Board of the National Research Council to identify and evaluate ballast water management technologies and practices that prevent the introduction and spread of nonindigenous species through ballast water discharged into United States waters.

"(B) In conducting the evaluation, the Marine Board shall consider, at a minimum, ballast water management technologies and practices identified in the study prepared under paragraph (3).

"(C) In conducting the evaluation, the Marine Board shall identify, at a minimum, ballast water management technologies and practices that—

"(1) may be retrofitted on existing vessels or incorporated in new vessel designs;

"(2) are operationally practical;

"(3) are safe for vessel and crew;

"(4) are environmentally sound;

"(5) are cost effective;

"(6) the vessel operator can monitor; and

"(7) are effective against a broad range of nuisance organisms.".

(b) Subsection 1102(c) of Public Law 101-646 (16 U.S.C. 4712(c)) is amended by adding the following new paragraph at the end—

"(3) NATIONAL BALLAST WATER MANAGEMENT EVALUATION REPORT.—Not later than one year after the date of enactment of the Ballast Water Management Act, the Task Force shall submit to the appropriate Committees a report on the results of the evaluation conducted under paragraph (4) of subsection (a).".

SEC. 3. NATIONAL BALLAST WATER MANAGEMENT DEMONSTRATION PROGRAM.

(a) Section 1202 of Public Law 101-646 (16 U.S.C. 4722) is amended by—

(1) redesignating subsection (k) as subsection (l); and

(2) inserting after subsection (j) the following—

"(k) NATIONAL BALLAST WATER MANAGEMENT DEMONSTRATION PROGRAM.

"(1) AUTHORIZATION.—Following the submission of the evaluation authorized under section 1102(a)(4) and subject to the availability of appropriations under section 1301(e), the Administrator of the Maritime Administration, in consultation with the Task Force, shall conduct a national ballast water management demonstration program to test and evaluate ballast water management technologies and practices, including those identified in the evaluation authorized under paragraph 1102(a)(4), to prevent the introduction and spread of nonindigenous species through ballast water discharged into United States waters.

"(2) CRITERIA.—In carrying out the demonstration program authorized under this subsection, the Administrator of the Maritime Administration shall use vessels that are documented under chapter 121 of title 46, United States Code, including vessels operating on the Great Lakes. Any necessary ballast water management technology installation or construction on a vessel used in the demonstration program shall be performed by a United States shipyard or ship repair facility.

"(3) AUTHORITIES.—In conducting the demonstration program under this subsection, the Task Force and the Administrator of the Maritime Administration may accept donations of property and services.".

(b) Subsection 1202(l), as redesignated by this Act, is amended by adding the following new paragraph at the end—

"(3) Not later than one year after the submission of the evaluation authorized under section 1102(a)(4) and periodically as necessary to report new findings, the Administrator of the Maritime Administration, in consultation with the Task Force, shall submit to the appropriate Committees a report on the results of the demonstration program conducted under subsection (k).".

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

Section 1301 of Public Law 101-646 (16 U.S.C. 4741) is amended by adding the following new subsection at the end—

"(e) NATIONAL BALLAST WATER MANAGEMENT EVALUATION AND DEMONSTRATION PROGRAM.—There are authorized to be appropriated to the Director and the Under Secretary $150,000 for fiscal year 1995 and to the Administrator of the Maritime Administration $1,850,000 for fiscal year 1996, to remain available until expended, to carry out the evaluation authorized under section 1102(a)(4) and the demonstration program authorized under section 1202(k).".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes, and the gentleman from Texas [Mr. FIELDS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Ballast Water Management Act has a laudable goal—stopping the spread of aquatic nuisances in the Great Lakes and other U.S. waters. Ten years ago, no one has ever heard of the zebra mussel, a now quite infamous aquatic pest which entered the Great Lakes in the ballast water of vessels coming from foreign ports. Today, we have more zebra mussels in the Great Lakes than we know what to do with. They are clogging pipes and costing local economies millions if not billions of dollars to control. And they are spreading to other waterways.

Merchant Marine Subcommittee Chairman LIPINSKI has come up with an innovative proposal to help stop the proliferation of these unwanted critters by testing new vessel technologies to prevent the introduction and dispersal of aquatic nuisances. His proposal calls upon the Marine Board of the National Research Council to identify new technologies and practices that can keep aquatic nuisances from being transferred via ship ballast water. After the Marine Board completes its evaluation, the Maritime Administration will conduct a demonstration of potentially useful technologies identified by the Board on vessels which ply U.S. waters.

I support Chairman LIPINSKI's approach and urge the bill's passage by the House.

Mr. Speaker, I reserve the balance of my time.

Mr. FIELDS of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3360, the Ballast Water Management Act, authored by my friend, Chairman LIPINSKI of Illinois.

I remember when the Members of the Great Lakes delegation asked us to support their battle against the zebra mussel. We may have thought it was a bad science fiction movie, but nonindigenous species are certainly not a laughing matter.

In fact, economic losses from the zebra mussel, which hitchhiked its way into the Great Lakes via ballast water, may equal $3.4 billion. Moreover, the Office of Technology Assessment has concluded that nonnative aquatic species are a threat to the entire Nation. After the extensive flooding in the Midwest washed most of the Mississippi River and its tributaries through New Orleans, I expect to see zebra mussels and other unwanted visitors in the Gulf of Mexico any day now.

The need for further research on ballast water as a means of spreading unwanted aquatic species is clear. Ships need ballast water to ensure the safety of the vessel and its crew. However, over 15 million gallons of ballast water are discharged into U.S. waters every year. Because many of these vessels drew ballast water into their tanks in foreign ports, you can only imagine what harmful species may be lurking there waiting to take up residence in the United States. In addition, vessels which draw in infested U.S. waters can spread aquatic nuisance species to other U.S. ports and to other countries.

Chairman LIPINSKI's bill will help stop this spread of infestation. The bill builds on the existing work now being conducted by the Secretary of Transportation and the Federal Interagency Aquatic Nuisance Species Task Force under the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990. The bill mandates an evaluation of ballast water management technologies and practices and directs the Administrator of the Maritime Admin-

istration to put the most promising of these technologies and practices to the test on actual vessels so that we can gauge their effectiveness, practicality, and cost.

Both the evaluation and demonstration program are subject to the availability of appropriations. Given the current budget situation, and the charge that the Federal Government merely hands out directives to Federal agencies without providing the funding for them, I believe this is a reasonable approach.

In closing, Mr. Speaker, I urge my colleagues to vote "aye" on H.R. 3360.

Mr. KINGSTON. Mr. Speaker, on Saturday, March 5, I was honored to participate in a change of command ceremony aboard the U.S.S. *Canopus* [AS 34] which is a submarine tender assigned to the Kings Bay Naval Submarine Base in my district. As Admiral Ellis, the base commander, toured me around following the ceremony, he mentioned an activity, the cleaning and removal of aquatic nuisance biological species—including nonindigenous species—from the ballast and seawater system components of Navy ships, which I immediately thought you and our subcommittee should hear about.

During testimony on H.R. 3360 last year, I did not hear any mention of the apparently lengthy and exhaustive research which has been undertaken by the U.S. Navy in the area of prevention and control of harmful native and nonnative aquatic organisms. Yet, it would appear that the Navy has been working on this problem for more than 7 years, and has made significant progress in developing an effective control methodology.

I believe this information may have an important bearing upon our action regarding H.R. 3360. When I returned from Kings Bay, I asked my staff to find out which firms were involved with the Navy on this project, and I have since visited with one such contractor briefly. I was impressed enough to suggest that they visit with the staff of the subcommittee, and have tried to let our chairman and ranking member know of these facts which could lead to improvements in H.R. 3360 as we move on through the legislative process.

I have no desire to impede progress, and I wholeheartedly support the goals embodied in H.R. 3360. However, it would appear that we might be missing a great opportunity to make the final measure even better by not acknowledging the ongoing efforts of the Navy and its contractors and somehow taking advantage of the expertise to improve the cost effectiveness and timeliness of our evaluation and demonstration program under the bill.

Both the chairman of our subcommittee and our ranking member [Mr. FIELDS] have indicated a willingness to learn more about the Navy's research program and the technologies which have been developed. Thus, I am certain that as H.R. 3360 moves from the House to the Senate that we can anticipate the incorporation of language either in the bill or in reports which would direct the task force to confer with the Navy and its contractors in building upon their research in this important field.

Mr. FIELDS of Texas. Mr. Speaker, I yield back the balance of my time.

Mr. STUDDS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill, H.R. 3360, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to demonstrate ballast water management technologies, and practices on vessels, including vessel modification and design, that will prevent aquatic nonindigenous species from being introduced and spread in United States waters."

The motion to reconsider was laid on the table.

RECREATIONAL BOATING SAFETY IMPROVEMENT ACT OF 1994

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3786) to amend title 46, United States Code, to establish requirements to ensure safe operation of recreational vessels, to require allocation of State recreational boating safety program assistance based on State adoption of laws regarding boating while intoxicated, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3786

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 "Recreational Boating Safety Improvement Act of 1994".

SEC. 2 PERSONAL FLOTATION DEVICES REQUIRED FOR CHILDREN.

(a) PROHIBITION.—Section 4307(a) of title 46, United States Code, is amended—

(1) in paragraph (2) by striking "or" after the semicolon at the end;

(2) in paragraph (3) by striking the period and inserting "; or"; and

(3) by adding at the end the following:

"(4) operate a recreational vessel under 26 feet in length unless each individual 12 years of age or younger wears a Coast Guard approved personal flotation device when the individual is on an open deck of the vessel.".

(b) STATE AUTHORITY PRESERVED.—Section 4307 of title 46, United States Code, is further amended by adding at the end the following:

"(c) Subsection (a)(4) shall not be construed to limit the authority of a State to establish requirements relating to the wearing of personal flotation devices on recreational vessels that are more stringent than that subsection.".

SEC. 3. ALLOCATION OF FUNDS BASED ON STATE ADOPTION OF LAWS REGARDING BOATING WHILE INTOXICATED.

Section 13103 of title 46, United States Code, is amended—

(1) by redesignating subsections (a), (b), and (c) in order as subsections (b), (c), and (d);

(2) by inserting before subsection (b) (as so redesignated) the following new subsection:

"(a)(1) Beginning in fiscal year 1998, of the amounts transferred to the Secretary each fiscal year pursuant to section 4(b) of the Act of August 9, 1950 (16 U.S.C. 777c(b)), the Secretary shall allocate for State recreational boating safety programs $10,000,000 as follows:

"(A) One-half shall be allocated in accordance with paragraph (2) among eligible States that—

"(i) prohibit operation of a recreational vessel by an individual who is under the influence of alcohol or drugs; and

"(ii) establish a blood alcohol concentration limit of .10 percent or less.

"(B) One-half shall be allocated in accordance with paragraph (2) among eligible States that—

"(i) prohibit operation of a recreational vessel by an individual who is under the influence of alcohol or drugs; and

"(ii) establish an implied consent requirement that specifies that an individual is deemed to have given their consent to evidentiary testing for their blood alcohol concentration or presence of other intoxicating substances.

"(2) Of the amount allocated under subparagraph (A) or (B) of paragraph (1) each fiscal year—

"(A) one-half shall be allocated equally among all eligible States receiving an allocation under that subparagraph for the fiscal year; and

"(B) one-half shall be allocated among those eligible States so that each such State receives an amount bearing the same ratio to the total amount allocated under that subparagraph for the fiscal year as the number of vessels numbered in that State under a system approved under chapter 123 of this title bears to the total number of vessels numbered under approved systems of all States receiving an allocation under that subparagraph for the fiscal year.";

(3) in subsection (b) (as so redesignated) in the matter preceding paragraph (1) by inserting "the balance of remaining" after "allocate"; and

(4) by adding at the end the following new subsection:

"(e) A State shall not be ineligible for an allocation under subsection (a) because of the adoption by the State of any requirement relating to the operation of a recreational vessel while under the influence of alcohol or drugs that is more stringent than the requirements for receiving the allocation.".

SEC. 4. MARINE CASUALTY REPORTING.

(a) SUBMISSION OF PLAN.—Not later than one year after enactment of this Act, the Secretary of Transportation shall, in consultation with appropriate State agencies, submit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a plan to increase reporting of vessel accidents to appropriate State law enforcement officials.

(b) PENALTIES FOR VIOLATING REPORTING REQUIREMENTS.—Section 6103(a) of title 46, United States Code, is amended by inserting "or 6102" after "6101" the second place it appears.

SEC. 5. REQUIRING VIOLATORS TO TAKE RECREATIONAL BOATING SAFETY COURSE.

(a) NEGLIGENT OPERATION.—Section 2302 of title 46, United States Code, is amended by adding at the end the following:

"(e) An individual operating a recreational vessel in violation of this section shall complete a boating safety course approved by the Secretary.".

"(b) OTHER VIOLATIONS.—Section 4311 of title 46, United States Code, is amended by adding at the end the following:

"(h) A person who operates a recreational vessel in violation of this chapter or a regulation prescribed under this chapter may be ordered to complete a recreational boating safety course approved by the Secretary.".

SEC. 6. TECHNICAL CORRECTIONS.

Section 13108(a)(1) of title 46, United States Code, is amended by—

"(1) striking "proceeding" and inserting "preceding"; and

"(2) striking "Secertary" and inserting "Secretary".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes, and the gentleman from Texas [Mr. FIELDS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, recreational boating safety is one of those areas where legislation Congress passed has actually worked. Since the Federal Boat Safety Act was enacted in 1971, the national recreational boating fatality rate has declined five-fold, from over 20 fatalities per 100,000 boats in 1971 to 4 per 100,000 in 1992.

However, a recent National Transportation Safety Board [NTSB] study of recreational boating accidents identified several areas where more could be done. For example, over half of all boating accidents involve alcohol and only nine States have comprehensive boating-while-intoxicated laws. Second, 85 percent of the persons who drowned in boating accidents were not wearing lifejackets. Third, no more than 22 percent of first time boat operators have taken even a basic boating safety course. Finally the NTSB found that accident reporting is poor and that the reports submitted are incomplete.

This bill addresses these four problems. First, to increase the use of personal floatation devices, the bill requires children 12 years old and under to wear lifejackets on the open deck of vessels 26 feet or less in length. Second, to reduce boating accidents involving alcohol, the bill provides financial incentives for States to adopt comprehensive boating-while-intoxicated laws. Third, to improve the safety record of boaters, the bill requires boat operators who are convicted of drunk boating or negligent operations to take a Coast Guard-approved boating safety course. Finally, to improve accident reporting, the bill establishes a penalty for boaters who do not report accidents to appropriate State officials.

This is a good bill. It enjoys the support of the boating public, and I urge all Members to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. FIELDS of Texas. Mr. Speaker, I yield myself such time as I may consume.

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Mr. Speaker, I rise in strong support of H.R. 3786, the Recreational Boating Safety Improvement Act of 1994. This bill contains the most important requirements of my bill, H.R. 2812, the Recreational Boating Safety Act of 1993.

I am pleased that the House is acting on this important legislation today, and I hope that the President will have an opportunity to sign the bill into law before the summer boating season. I want to thank the distinguished chairman of the Merchant Marine and Fisheries Committee for his cooperation and hard work in expediting consideration of this important piece of legislation.

Boating deaths are the second-largest category of transportation fatalities, exceeded only by highway deaths. Alcohol is a contributing factor in at least half of all boating accidents. Nearly 85 percent of all persons who drown in recreational boating accidents are not wearing lifejackets, and only 37 States require individuals aboard recreational vessels to wear lifejackets.

I believe that we must act now to require our children to wear lifejackets to protect them from drowning in boating accidents. H.R. 3786 requires children 12 years and younger to wear a lifejacket or other Coast Guard-approved floatation device aboard recreational vessels under 26 feet in length. Second, we must crack down on violators of boating-while-intoxicated [BWI] laws, and encourage the States to enact tougher BWI laws. H.R. 3786 requires individuals who commit serious boating law violations to take a boating safety course, and provides $10 million in additional boating safety funds for States that enact tough BWI laws.

One of the most important safety issues not mentioned in this bill concerns the approval of fully inflatable lifejackets by the Coast Guard. I will be following the Coast Guard's action on fully inflatables in the future to ensure that the Coast Guard has made satisfactory progress toward approval of fully inflatable lifejackets for use by the boating public.

Unfortunately, Mr. Speaker, the President has proposed to cut the State boating safety grant program as part of his fiscal year 1995 budget. That program is fully funded by the fuel taxes paid by recreational boaters, and it is wrong to ask recreational boaters to pay the tax without the benefits of State boating safety programs.

I think that we should spend more, not less, of the fuel tax paid by recreational boaters for the important boating safety purpose for which it is collected. Boating safety should be a Coast Guard priority, and targeting more fuel tax dollars in this area will ensure that boating safety issues get the attention they deserve.

Mr. Speaker, this legislation will save lives and reduce the number of injuries that occur on America's waterways each year. H.R. 3786 has been endorsed by the American Academy of Pediatrics, the National Association of State Boating Law Administrators, and the National Marine Manufacturers Association. I urge my colleagues to vote "aye" on this important legislation.

Mr. TAUZIN. Mr. Speaker, I rise today to urge the passage of H.R. 3786, the Recreational Boating Safety Improvement Act of 1994, as amended. I introduced H.R. 3786 after combining the most important provisions of two previous bills which I and the distinguished ranking member of the Committee on Merchant Marine and Fisheries, the Honorable JACK FIELDS of Texas, introduced last year to improve recreational boating safety.

I would also like to thank the distinguished chairman of the Committee on Merchant Marine and Fisheries, the Honorable GERRY STUDDS, for his leadership, endorsement, and prompt consideration of H.R. 3786. This comprehensive, bipartisan bill is the result of a concerted effort by many organizations involved in boating safety to improve Federal laws and funding.

Mr. Speaker, H.R. 3786 will create a Federal requirement for the mandatory wearing of lifejackets for children, encourage States to adopt important boating-while-intoxicated laws, require the Secretary of Transportation to submit a plan to increase the reporting of vessel accidents to State law enforcement officials, and require boating safety violators to take a boating safety course.

Boating can be a safe and enjoyable experience if certain minimum steps are taken, such as requiring lifejackets for children and having general boating safety knowledge. In July 1993, a boating accident occurred in Arkansas which tragically illustrated the problem. Five of the seven victims were children ranging in age from 18 months to 10 years, none of whom were wearing lifejackets. Lifejackets could have saved these innocent lives.

H.R. 3786 will significantly improve the ability of States and the Coast Guard to protect the safety of thousands of Americans who enjoy boating on our Nation's waterways, such as children who are often less skilled, physically and emotionally immature, and generally unable to care for themselves. As a strong supporter of boating safety, I am confident that passage of this new legislation will save countless children's lives, take drunk boaters off the water, provide for better accident reporting, and educate those who violate our boating safety laws.

Mr. FIELDS of Texas. Mr. Speaker, I yield back the balance of my time.

Mr. STUDDS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill, H.R. 3786, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

AMENDING BOUNDARIES OF THE FLOWER GARDEN BANKS NATIONAL MARINE SANCTUARY

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3886) to amend the boundaries of the Flower Garden Banks National Marine Sanctuary, as amended.

The Clerk read as follows:

H.R. 3886

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FLOWER GARDEN BANKS BOUNDARY MODIFICATION.

(a) MODIFICATION.—Notwithstanding section 304 of the National Marine Sanctuaries Act (16 U.S.C. 1434), the boundaries of the Flower Garden Banks National Marine Sanctuary, as designated by Public Law 102-251, are amended to include the area described in subsection (d), popularly known as Stetson Bank. This area shall be part of the Flower Garden Banks National Marine Sanctuary and shall be managed and regulated as though it had been designated by the Secretary of Commerce under the National Marine Sanctuaries Act.

(b) DEPICTION OF SANCTUARY BOUNDARIES.—The Secretary of Commerce shall—

(1) prepare a chart depicting the boundaries of the Flower Garden Banks National Marine Sanctuary, as modified by this section; and

(2) submit copies of this chart to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(c) APPLICATION OF REGULATIONS.—Regulations issued by the Secretary of Commerce to implement the designation of the Flower Garden Banks National Marine Sanctuary shall apply to the area described in subsection (d) unless modified by the Secretary. This subsection shall take effect 45 days after the date of enactment of this Act.

(d) AREA DESCRIBED.—

(1) IN GENERAL.—Except as provided in paragraph (2), the area referred to in subsections (a), (b), and (c) is the area that is—

(A) generally depicted on the Department of the Interior, Minerals Management Service map titled "Western Gulf of Mexico, Lease Sale 143, September 1993, Biologically Sensitive Areas, Map 3 of 3, Final";

(B) labeled "Stetson" on the High Island Areas South Addition diagram on that map; and

(C) within the 52 meter isobath.

(2) MINOR BOUNDARY ADJUSTMENTS.—The Secretary of Commerce may make minor adjustments to the boundaries of the area described in paragraph (1) as necessary to protect the living coral resources of Stetson Bank or to simplify administration of the Flower Garden Banks National Marine Sanctuary.

(e) PUBLICATION OF NOTICE.—

(1) IN GENERAL.—The Secretary of Commerce shall, as soon as practicable after the date of the enactment of this Act, publish in the Federal Register a notice describing—

(A) the boundaries of the Flower Garden Banks National Marine Sanctuary, as modified by this section, and

(B) any modification of regulations applicable to that Sanctuary that are necessary to implement that modification of the boundaries of the Secretary.

(2) TREATMENT AS NOTICE REQUIRED UNDER NATIONAL MARINE SANCTUARIES ACT.—A notice published under paragraph (1) shall be considered to be the notice required to be published under section 304(b)(1) of the National Marine Sanctuaries Act (16 U.S.C. 1434).

SEC. 2. TRANSFER.

Of amounts appropriated by Public Law 103-139 to the Department of the Navy for Shipbuilding and Conversion, Navy, the Secretary of the Navy shall transfer $8,000,000 not later than April 15, 1994, to the Administrator of the Maritime Administration for the Conversion of the USNS CHAUVENET to a training ship for the Texas Maritime Academy's Training Program.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes, and the gentleman from Texas [Mr. FIELDS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3886 amends the boundaries of the Flower Garden Banks National Marine Sanctuary to include a small area known as Stetson Bank.

The gentleman from Texas [Mr. ORTIZ] who admirably serves as the chairman of our Oceanography Subcommittee, was the sponsor of the original legislation that established Flower Garden Banks as a national marine sanctuary. He introduced H.R. 3886 to provide the same protection for Stetson Bank by making it a part of the sanctuary. He is to be commended for both actions.

This sanctuary was established in 1992 to protect the northernmost coral reef on the U.S. continental shelf. A nearby area, Stetson Bank, is a three-quarter square mile shoal know for a spectacular array of marine life. However, damage to that marine life from anchoring, shell collecting, and spearfishing led to calls from scientists and the sport diving community to protect the area.

This bill provides that protection. This is a wise, cost-effective effort to protect vital marine resources in the Gulf of Mexico and I urge the House to adopt this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. FIELDS of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of this bill introduced by my friend and colleague, chairman SOLOMON ORTIZ.

The bill expands the boundaries of the Flower Garden Banks National Marine Sanctuary, located approximately 110 miles offshore Galveston, TX, to include Stetson Bank. The Stetson Bank area is part of the northernmost coral reef in the continental shelf of North America. It is blanketed with hard corals, sponges, 253 known invertebrate species, and its is home for scores of tropical fish, giant sea turtles, hammerhead sharks, and manta rays.

This abundant sea life is an important underwater ecosystem but, regrettably, in recent years certain irresponsible individuals have inflicted great harm on these marine resources. Although mooring buoys are installed in the bank, corals and sponges are being crushed by anchors from large vessels using nearby shipping channels. Spearfishing is decimating the fish populations and coral is being removed by divers.

In recognition of this growing problem, forward-thinking Gulf of Mexico diving groups, as well as the manager of the Flower Garden Banks Sanctuary, believe that folding this .75-acre site into the existing sanctuary would effectively protect these resources for future generations. Stetson Bank has been designed by the Minerals Management Service as a no activity zone, and the area is not used by commercial fishermen. I know of no opposition to this measure, and Chairman ORTIZ should be commended for his ongoing and outstanding leadership in seeking to protect the Stetson Bank.

Mr. Speaker, I urge adoption of this measure and hope that we will be able to have it enacted before the diving season begins this summer to afford Stetson Bank the full protection of the law.

Mr. ORTIZ. Mr. Speaker, I ask unanimous consent to revise and extend my remarks.

Mr. Speaker, H.R. 3886 amends the boundaries of the Flower Garden Banks Marine Sanctuary to include a nearby bank known as Stetson Bank. The Flower Garden Banks Sanctuary was established by Congress in 1992 and has been a model for the entire National Marine Sanctuary Program.

The Sanctuary Program has demonstrated our ability to preserve and protect valuable marine resources, such as the coral reefs of the Flower Garden Banks, while sustaining the important multiple uses of the surrounding marine environment.

H.R. 3886 will add to the existing sanctuary a small coral bank of less than 1 square mile known as Stetson Bank. This bank is renown for its spectacular array of fish and invertebrates and is a common destination for scuba divers.

However, its value has caused it to come under increasing pressure from anchor damage, spearfishing, and shell collectors. In response, local scientists and sport diving groups have led an effort to put the bank under protection.

Including Stetson Bank within the sanctuary boundary will place the bank under the existing sanctuary management plan. This will provide the same protections for Stetson Bank as are in place for the existing Flower Gardens Bank Sanctuary.

These protections will ensure that the valuable resources of Stetson Bank are preserved and that the bank will continue to be a popular site for the recreational dive industry.

Mr. Speaker, I especially want to thank Chairman STUDDS and the ranking member, Mr. FIELDS, and their respective staffs for all the help they have provided on this matter.

I believe this is a small but significant piece of legislation, and I urge my colleagues to support it.

Mr. Speaker, I yield back the balance of my time.

Mr. FIELDS of Texas. Mr. Speaker, I yield back the balance of my time.

Mr. STUDDS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill, H.R. 3886, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION GREAT LAKES IMPROVEMENTS ACT

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1394) to improve coordination of National Oceanic and Atmospheric Administration Great Lakes activities, as amended.

The Clerk read as follows:

H.R. 1394

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 "National Oceanic and Atmospheric Administration Great Lakes Improvements Act".

SEC. 2. GREAT LAKES OFFICE.

(a) ESTABLISHMENT.—The Under Secretary may establish and maintain within the Administration a Great Lakes Office in the Washington, District of Columbia area.

(b) PURPOSE.—The purpose of the Great Lakes Office shall be to promote and coordinate Administration research, monitoring, and assessment work in the Great Lakes region consistent with the goals of the Great Lakes Water Quality Agreement.

(c) DIRECTOR.—The Director of the Great Lakes Office shall be an individual with extensive knowledge and expertise in the Great Lakes ecosystem, and with appropriate administrative experience.

SEC. 3. GREAT LAKES REPORT.

(a) CONTENTS.—Subject to the availability of appropriations under section 5 of this Act, the Under Secretary, in consultation with the Director of the Great Lakes Office if established, shall prepare and submit to Congress an annual Great Lakes Report. The Report shall provide information relating to Great Lakes ecosystem research, monitoring, and assessment, including—

(1) the individual activities, projects, or proposals conducted by the Administration in the previous fiscal year, including a summary of funds expended in support of these activities, projects, or proposals;

(2) the amount of funds received from the Administration by each State or local government unit bordering the Great Lakes;

(3) the amount of funds received by individuals or institutions residing or located within a State bordering the Great Lakes;

(4) an inventory of Administration facilities and personnel located in a State bordering the Great Lakes or in the Great Lakes used to conduct or support Administration-funded activities, projects, or proposals in the Great Lakes, including vessels;

(5) the proposed Administration activities, projects, and proposals to benefit the Great Lakes ecosystem for the current fiscal year, including requested funds; and

(6) a proposal for increasing the presence of the Administration in the Great Lakes, and improving the coordination of research within the Administration and with other entities, including the Government of Canada.

(b) DEADLINE.—Subject to the availability of appropriations under section 5 of this Act, the Under Secretary shall submit the Great Lakes Report to Congress by October 1 of 1995, 1996, 1997, and 1998.

SEC. 4. DEFINITIONS.

In this Act—

(1) the term "Administration" means the National Oceanic and Atmospheric Administration;

(2) the term "Great Lakes" means—

(A) Lake Erie, Lake Huron, Lake Michigan, Lake Ontario, and Lake Superior;

(B) their connecting waters, including the St. Marys River, the St. Clair River, Lake St. Clair, the Detroit River, and the Niagara River; and

(C) the St. Lawrence River;

(3) the term "Great Lakes Water Quality Agreement" means the bilateral agreement between the United States and Canada which was signed in 1978 and amended by the Protocol of 1987; and

(4) the term "Under Secretary" means the Under Secretary of Commerce for Oceans and Atmosphere.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Under Secretary to carry out this Act $100,000 for each of the fiscal years 1994, 1995, 1996, 1997, and 1998.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes, and the gentleman from Texas [Mr. FIELDS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1394 was introduced by Mr. STUPAK to establish, within the National Oceanic and Atmospheric Administration [NOAA], a Great Lakes Office in the Washington, DC area.

One may ask why a Great Lakes Office in Washington, DC? Would not Kalamazoo be better? In a word, no. The purpose of this office would be to promote and coordinate activities of national programs that conduct research, monitoring, and environmental assessment in the Great Lakes region. These programs at NOAA and other agencies are managed from the national capitol area. The bill also requires an annual report to Congress on NOAA activities in the Great Lakes.

This bill unanimously passed the Merchant Marine and Fisheries Committee last week, and I urge the House to adopt it.

Mr. Speaker, I reserve the balance of my time.

Mr. FIELDS of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in qualified support of this bill.

While I concede that the Great Lakes are a tremendous national and international resource—almost on a par with the Gulf of Mexico—I do not feel that a Washington, DC-based regional office to coordinate and promote the Great Lakes work of the National Oceanic and Atmospheric Administration [NOAA] is necessary.

When Congressman Bob Davis introduced an identical measure in 1991, I understand he was expressing his frustration that NOAA had failed to establish a Great Lakes Research Office as required under section 118 of the Clean Water Act. However, NOAA established this office in January 1993, at the Great Lakes Environmental Research Laboratory in Ann Arbor. Therefore, the need for the office is much less pressing.

I also question the costs involved. The President's fiscal year 1995 budget cuts NOAA's coastal and ocean programs significantly. In fact, two programs specific to the Great Lakes, the Great Lakes Environmental Research Laboratory and the National Sea Grant College zebra mussel initiative, are sliced by over $3.6 million. I think our first priority is to restore these programs and ensure that valuable research, environmental assessment, and navigation aids continue in the Great Lakes. The money would be better spent there than on desks and paper clips in Washington, DC.

However, the version of the bill reported from the Merchant Marine and Fisheries Committee is much improved. It leaves to the NOAA Administrator the decision to establish a Great Lakes Office. This is an appropriate exercise of executive authority. In addition, the detailed NOAA Great Lakes report to Congress is now subject to appropriations and limited to 4 years. Given the proliferation of reporting requirements, and NOAA's spotty track record for producing timely and useful reports, I believe these are fair limitations.

With these changes, I ask my colleagues to support H.R. 1394 as reported by the Committee on Merchant Marine and Fisheries.

Mr. STUPAK. Mr. Speaker, I rise today in support of H.R. 1394, a bill to improve the coordination of National Oceanographic and Atmospheric Administration Great Lakes activities. I would like to thank the House leadership, as well as Chairmen ORTIZ and STUDDS, for moving expeditiously to have this bill considered in the Subcommittee on Oceanography, the full Merchant Marine and Fisheries Committee, and finally on the floor of the House.

H.R. 1394 would create a Washington, DC,-based NOAA Great Lakes office to coordinate and promote Great Lakes activities within

NOAA. The creation of such an office would improve NOAA's credibility with the Great Lakes scientific and resource management communities and provide a much needed focus on the unique aquatic environmental problems confronting the Great Lakes. Other agencies such as the Environmental Protection Agency and the U.S. Fish and Wildlife Service have such coordinating offices for the Great Lakes. Given NOAA's important role in the basin, I believe the creation of such an office is long overdue.

The Great Lakes region faces a number of important challenges which require direct attention. These problems include toxic pollution of the water, contaminated sediments, fish and wildlife abnormalities, fluctuating water levels, and the infestation of exotic aquatic species such as sea lamprey, zebra mussels and the European ruffe.

The moneys associated with this proposal are minimal and the benefits that would result from enactment of this bill are substantial. Mr. Speaker, it is time for the Great Lakes to receive the attention they deserve. I urge the House to pass H.R. 1394 and allow NOAA to more efficiently tackle the problems that confront the Great Lakes.

Mr. ORTIZ. Mr. Speaker, I ask unanimous consent to revise and extend my remarks.

Mr. Speaker, H.R. 1394, the NOAA Great Lakes Improvement Act, authorizes NOAA to establish a Great Lakes office in Washington. The purpose of this office would be to promote and coordinate Federal research, monitoring, and assessment work in the Great Lakes region. The bill also directs NOAA to submit to Congress an annual report providing information relating to Great Lakes ecosystem research, monitoring, and assessment.

I have worked closely on this matter with the author of the bill, Mr. STUPAK, and I want to commend the gentleman for his spirit of cooperation in this regard, and I urge my colleagues to support the bill.

Mr. Speaker, I yield back the balance of my time.

Mr. FIELDS of Texas. Mr. Speaker, I yield back the balance of my time.

Mr. STUDDS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill, H.R. 1394, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

□ 1300

NATIONAL COASTAL RESOURCES DEVELOPMENT ACT OF 1993

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2063) to amend existing law relating to the National Coastal Resources Research and Development Institute.

The Clerk read as follows:

H.R. 2063

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 "National Coastal Resources Development Act of 1993".

SEC. 2. AMENDMENTS RELATING TO NATIONAL COASTAL RESOURCES RESEARCH AND DEVELOPMENT INSTITUTE.

(a) ADMINISTRATION OF INSTITUTE.—Section 201(a) of the Act entitled "An Act to authorize appropriations to carry out the Marine Mammal Protection Act of 1972 for fiscal years 1985 through 1988, and for other purposes" (16 U.S.C. 1463b(a)) is amended by striking "by the Oregon State Marine Science Center" and inserting "by the Oregon State System of Higher Education".

(b) FUNCTIONS OF INSTITUTE.—Section 201(b) of such Act (16 U.S.C. 1463b(b)) is amended to read as follows:

"(b) The Institute shall promote the economic growth and prosperity of the United States by transferring research and technology into applications to improve the economic, environmental, and social well-being of the Nation's coastal communities and the competitiveness of coastal businesses.".

(c) MEMBERSHIP OF BOARD OF GOVERNORS.—Section 201(c)(1) of such Act (16 U.S.C. 1463b(c)(1)) is amended to read as follows:

"(c)(1) The policies of the Institute shall be determined by a Board of Governors composed of—

"(A) 1 representative appointed by the Chancellor of the Oregon State System of Higher Education; and

"(B) 1 representative of each of the following regions, appointed jointly by Governors of the States comprising that region:

"(i) The Alaska region, consisting of Alaska.

"(ii) The Northwest Pacific Coast region, consisting of Oregon and Washington.

"(iii) The Southwest Pacific Coast region, consisting of California.

"(iv) The Pacific Islands region, consisting of Hawaii, American Samoa, and Guam.

"(v) The Great Lakes region, consisting of Pennsylvania, Ohio, Michigan, Indiana, Illinois, Wisconsin, and Minnesota.

"(vi) The Gulf Coast region, consisting of Texas, Louisiana, Mississippi, and Alabama.

"(vii) The South Atlantic and Caribbean region, consisting of South Carolina, Georgia, Florida, Puerto Rico, and the U.S. Virgin Islands.

"(viii) The Mid-Atlantic region, consisting of Delaware, Maryland, Virginia, and North Carolina.

"(ix) The North Atlantic region, consisting of New Jersey, New York, Connecticut, Rhode Island, Massachusetts, New Hampshire, and Maine.".

(d) ADVISORY COUNCIL.—Section 201(d)(1) of such Act (16 U.S.C. 1463b(d)(1)) is amended by inserting "and leaders in coastal communities and businesses" after "community".

(e) CONFORMING AMENDMENT.—Section 201(e) of such Act (16 U.S.C. 1463b(e)) is amended by striking "Oregon Board of Higher Education" and inserting "Oregon State System of Higher Education".

(f) REPORTS.—Section 201(g) of such Act (16 U.S.C. 1463b(g)) is amended to read as follows:

"(g) The Institute shall report to the Congress on its activities annually, and shall report to the Secretary of Commerce in a like manner biennially.".

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to the rule, the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes, and the gentleman from Texas [Mr. FIELDS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2063 was introduced by our colleague, Ms. FURSE, to fine tune the mission of the National Coastal Resources Research and Development Institute [NCRI]. Since 1984, NCRI has supported research, education, and technology transfer to promote the responsible development of coastal resources.

The bill seeks to emphasize the role of the Institute in promoting the economic and environmental well-being of coastal communities through research and technology transfer. NCRI currently is overseen by a Board of Governors that represents only Pacific coastal States. H.R. 2063 requires a Board with representation from all the coastal regions of the United States, making the program truly national in scope. In addition, the bill improves oversight of the Institute by adding a requirement for it to report annually to Congress on its activities.

Let me emphasize that we are not creating a new program here; we are simply making improvements to an existing one. The Institute has done fine work in Massachusetts and around the country. The bill is not controversial and I urge the House to support its adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. FIELDS of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, while I will not object to H.R. 2063, I must admit that I remain unconvinced as to the justification and overall need for the National Coastal Resources Research and Development Institute.

In the last ten years, the Institute has kept a low profile, funding small projects which took basic coastal research conducted under other Federal programs and applying it in the real world, with an emphasis on economic invigoration of our coasts. The program has been criticized, though, as lacking a clear focus and restricting its funds to the Pacific Northwest.

Therefore, I applaud the changes stipulated in Congresswoman FURSE's bill. H.R. 2063 reconstitutes the Board of Governors, which sets the policies of the Institute and gives final approval of any projects, to include representatives from nine coastal regions. Current Board membership is limited to six persons appointed by the Governors of Alaska, California, Hawaii, Oregon, and Washington. This change recognizes that the program is a national one despite its Oregon base. I know

that the Institute has funded several recent aquaculture and tourism projects in Gulf States, although unfortunately none were located in Texas. It is my hope that with a seat on the Board, this can be remedied in the future.

I also support two other changes to the existing program made by H.R. 2063. The first tightens the language setting forth the purposes of the Institute to emphasize the need for economic growth of coastal communities and improving the competitiveness of coastal businesses. These are areas now overlooked by Federal research and development programs, and clearly differentiate the Institute's role in coastal issues from that of the National Sea Grant College Program.

The second brings coastal community and business leaders into the Advisory Council, which advises the Board of Governors on funding proposals. Because the focus of the Institute's program is really on real-world coastal economic development, these are the people who really should be involved in the decision-making process, rather than those from the academic field who now make up the Council.

Mr. Speaker, I urge the bill's adoption and I reserve the balance of my time.

Mr. STUDDS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Oregon, [Ms. FURSE], for a brief and concise statement by the author of the bill.

Ms. FURSE. Mr. Speaker, I would like to express my sincere appreciation to Chairman STUDDS and Chairman ORTIZ for their assistance in guiding this important piece of legislation through committee and bringing it to the House floor.

The subject of H.R. 2063 is the National Coastal Resources Research and Development Institute, more commonly referred to as NCRI. Created by Congress in 1984, NCRI's mission is to help strengthen and diversify coastal economies through partnerships between local businesses and the scientific community. My bill will expand and strengthen the work of this important Institute.

Since its creation, NCRI has invested more than $6 million in 81 projects throughout 25 coastal States. These projects apply and evaluate innovative technologies and economic strategies in a aquaculture, business and community development, coastal tourism and recreation, commercial fisheries, and marine and seafood technology and product development. Examples of NCRI projects along Oregon's coast include creating a spring chinook fishery in Young's Bay, using new approaches for water front revitalization in Warrenton, creating new products from Pacific whiting, and advancing a new, cost effective welding technology for ship repair. NCRI has been similarly useful elsewhere in the coastal United States, through such projects as the evaluation of harvesting techniques needed to support a sustainable urchin fishery in the Gulf of Maine, the creation of a self-sustaining tourism marketing program for rural Louisiana communities, and the development of a management framework for the Chesapeake Bay aquaculture industry.

Extrapolating from those past successes, every dollar invested in NCRI can be expected to yield an estimated $400 increase in coastal revenues within a 10 to 15 year period. In this time of tight budgets, that's the kind of cost effective assistance businesses and communities want and need.

I introduced H.R. 2063, the National Coastal Resources Development Act of 1993, last May to strengthen and broaden the services that NCRI provides. Specifically, my bill will clarify the Institute's mission: broaden its Board of Directors to include a more national membership; expand its advisory Council to include coastal community leaders and businesses; direct NCRI to report periodically to Congress and the Secretary of Commerce on its activities; and make several technical corrections.

By making these changes, H.R. 2063 will allow NCRI to more effectively accomplish its important mission throughout all of coastal America.

Today's consideration of H.R. 2063 is very timely—last week we received the devastating news that there will not be any commercial salmon fishery season this year along the northern Oregon and Washington coastline due to our rapidly dwindling salmon populations. This is particularly bad news when our coastal communities are already struggling to cope with ongoing cutbacks in the fishing and timber industries. I know the Northwest experience is not unique and that other coastal regions are facing similar declines in their fisheries. More than ever, our coastal communities need the assistance that programs like NCRI's can provide—to help them diversify their economies, adopt innovative technologies and develop new products.

I urge my colleagues to join me in supporting NCRI's work and our Nation's coastal businesses and residents by voting "yes" for H.R. 2063.

Mr. ORTIZ. Mr. Speaker, I ask unanimous consent to revise and extend my remarks.

Mr. Speaker, H.R. 2063, the National Coastal Resources Development Act amends existing law relating to the National Coastal Resources Research and Development Institute. The Institute provides grants to transfer marine research and technology to the commercial sector.

The bill clarifies the Institute's mission and expands the membership of the Board of Governors and the Advisory Council. The effect of the bill is to make the Institute more national in scope by having a Board of Governors with nationwide membership.

I think that H.R. 2063 is a good bill. I congratulate my colleague from Oregon, Ms. FURSE, for her efforts in this regard, and I urge the House to support the bill.

Mr. Speaker, I yield back the balance of my time.

Ms. FURSE. Mr. Speaker, I would like to express my sincere appreciation to Chairman Studds and Chairman Ortiz for their assistance in guiding this important piece of legislation through committee and bringing it to the House floor.

The subject of H.R. 2063 is the National Coastal Resources Research and Development Institute, more commonly referred to as NCRI. Created by Congress in 1984, NCRI's mission is to help strengthen and diversify coastal economies through partnerships between local businesses and the scientific community. My bill will expand and strengthen the work of this important Institute.

Since its creation, NCRI has invested more than $6 million in 81 projects throughout 25 coastal States. Based on a competitive review process, NCRI funds projects which apply and evaluate innovative technologies and economic strategies in a aquaculture, business and community development, coastal tourism and recreation, commercial fisheries, and marine and seafood technology and product development. Examples of NCRI projects along Oregon's coast include creating a spring chinook fishery in Young's Bay, using new approaches for waterfront revitalization in Warrenton, creating new products from Pacific whiting, and advancing a new, cost effective welding technology for ship repair. NCRI has been similarly useful elsewhere in the coastal United States, through such projects as the evaluation of harvesting techniques needed to support a sustainable urchin fishery in the Gulf of Maine, the creation of a self-sustaining tourism marketing program for rural Louisiana communities, and the development of a management framework for the Chesapeake Bay aquaculture industry.

Extrapolating from these past successes, every dollar invested by NCRI can be expected to yield an estimated $400 increase in coastal revenues within a 10 to 15 year period. In this time of tight budgets, that's the kind of cost effective assistance businesses and communities want and need.

I introduced H.R. 2063, the National Coastal Resources Development Act of 1993, last May to strengthen and broaden the services that NCRI provides. Specifically, my bill will:

Clarify the Institute's mission;

Broaden its Board of Directors to include a more national membership;

Expand its Advisory Council to include coastal community leaders and businesses;

Direct NCRI to report periodically to Congress and the Secretary of Commerce on its activities; and

Make several technical corrections.

By making these changes, H.R. 2063 will allow NCRI to more effectively accomplish its important mission throughout all of coastal America.

NCRI's program is unique. While other Federal programs, such as the National Sea Grant Program's Marine Advisory Service, fund applied marine research projects, NCRI is the only program that takes new laboratory-devel-

oped technologies and evaluates their commercial feasibility in a real world setting through partnerships with private industry and scientists. NCRI is practical and result-oriented where other programs are only theoretical.

Today's consideration of H.R. 2063 is very timely—last week we received the devastating news that there will not be any commercial salmon fishery season this year along the northern Oregon and Washington coastline due to our rapidly dwindling salmon populations. This is particularly bad news when our coastal communities are already struggling to cope with ongoing cutbacks in the fishing and timber industries. I know the Northwest experience is not unique and that other coastal regions are facing similar declines in their fisheries. More than ever, our coastal communities need the assistance that programs like NCRI's can provide—to help them diversify their economies, adopt innovative technologies and develop new products.

I urge my colleagues to join me in supporting NCRI's work and our Nation's coastal businesses and residents by voting yes for H.R. 2063.

Mr. FIELDS of Texas. Mr. Speaker, I yield back the balance of my time.

Mr. STUDDS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill, H.R. 2063.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

CONVEYING TO THE STATE OF MINNESOTA THE NEW LONDON NATIONAL FISH HATCHERY PRODUCTION FACILITY

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3664) to direct the Secretary of the Interior to convey to the State of Minnesota the New London National Fish Hatchery production facility.

The Clerk read as follows:

H.R. 3664

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONVEYANCE OF NEW LONDON NATIONAL FISH HATCHERY PRODUCTION FACILITY.

(a) CONVEYANCE AUTHORIZED.—Notwithstanding any other provision of law and within 180 days after the date of the enactment of this Act, the Secretary of the Interior shall convey to the State of Minnesota without reimbursement all right, title, and interest of the United States in and to the property comprising New London National Fish Hatchery production facility, located outside of downtown New London, Minnesota, including—

(1) all easements and water rights relating to the property, and

(2) all land, improvements, and related personal property comprising that production facility.

(b) USE OF PROPERTY.—All property and interests conveyed under this section shall be used by the Minnesota Department of Natural Resources for the fishery resources management program.

(c) REVERSIONARY INTEREST.—All right, title, and interest in and to all property and interests conveyed under this section shall revert to the United States on any date on which any of the property or interests are used other than for the Minnesota fishery resources management program.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes, and the gentleman from Texas [Mr. FIELDS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3664, introduced by the gentleman from Minnesota [Mr. MINGE] directs the Secretary of the Interior to convey ownership of the New London National Fish Hatchery in New London, MN, to the State of Minnesota.

The hatchery is part of the National Fish Hatchery Program of the U.S. Fish and Wildlife Service. Its primary function is to raise sportfish, like walleye, bass, channel catfish, and muskie—and I don't mean Ed—for State stocking programs. Although considered a part of the Federal program, New London Hatchery operations have been funded and administered by the Minnesota Department of Natural Resources since 1983 at a cost of $75,000 a year. Once the property has been transferred, the State would continue to assume these costs as well as the costs of any repairs or upgrades to the facility that may be necessary, resulting in a cost savings to the Federal Government.

Should the State decide at some time in the future that it no longer wants or needs to operate the hatchery or wants to use the facility for some other purpose, ownership of the facility and the land would revert back to the Federal Government.

The bill is supported by both the State of Minnesota and the U.S. Fish and Wildlife Service, and I urge Members to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. FIELDS of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, while the Merchant Marine and Fisheries Committee has not held any hearings on H.R. 3664, I have no objection to this legislation.

This bill would transfer the title of the New London National Fish Hatchery facility from the U.S. Fish and Wildlife Service to the State of Minnesota's Department of Natural Resources. The legislation conveys all rights, title, and interest of the United States to the State of Minnesota. This includes all property, buildings, water rights, and easements of the New London facility.

It is my understanding that the hatchery has been operated by the Minnesota Department of Natural Resources for the Fish and Wildlife Service under a memorandum of agreement [MOA] since 1983. This MOA, which was extended in 1993, expires in 1998.

The hatchery facility is actually located on two separate pieces of land. One is located outside the town of New London and is owned by the Fish and Wildlife Service. The other is located within the town of New London; the State had owned the property but transferred it to the Fish and Wildlife Service in 1939.

Finally, the bill stipulates that this property will revert back to the Federal Government if the State of Minnesota decides it no longer wishes to operate the property as a fishery resource management facility.

Mr. Speaker, it is my understanding that the Fish and Wildlife Service supports this transfer, and that this transfer would actually save the Federal Government money.

Mr. MINGE. Mr. Speaker, I rise today in support of H.R. 3664, a bill to transfer ownership of the New London National Fish Hatchery production facility to the State of Minnesota.

In 1983, the Minnesota Department of Natural Resources began leasing the New London facility from the U.S. Fish and Wildlife Service. In doing so, the State of Minnesota assumed responsibility for all operational costs, maintenance, and liability. However, without legal ownership of the fish hatchery, the State was limited in its ability to make needed improvements. In fact, no major maintenance or upgrades to the production facility have been made in 10 years. The transfer of this fish production facility to Minnesota will allow the State to make necessary fish culture improvements, conduct annual maintenance as needed, and ultimately improve the quality of Minnesota's fisheries program.

The passage today of this needed legislation will be a good example of how State and Federal Government can cut through bureaucratic gridlock and get work done.

Mr. FIELDS of Texas. Mr. Speaker, I yield back the balance of my time.

Mr. STUDDS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill, H.R. 3664.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

NATIONAL FISH AND WILDLIFE FOUNDATION IMPROVEMENT ACT OF 1994

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the Senate

bill (S. 476) to reauthorize and amend the National Fish and Wildlife Foundation Establishment Act, as amended.

The Clerk read as follows:

S. 476

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—AMENDMENTS TO NATIONAL FISH AND WILDLIFE FOUNDATION ESTABLISHMENT ACT

SEC. 101. SHORT TITLE.

This title may be cited as the "National Fish and Wildlife Foundation Improvement Act of 1994".

SEC. 102. COOPERATIVE PROGRAMS WITH NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.

Section 2(b) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3701) is amended by inserting "and the National Oceanic and Atmospheric Administration" after "the United States Fish and Wildlife Service".

SEC. 103. MEMBERSHIP OF BOARD OF DIRECTORS OF FOUNDATION.

(a) CONSULTATIONS REGARDING APPOINTMENTS.—

(1) IN GENERAL.—Section 3(b) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3702(b)) is amended by adding at the end the following: "The Secretary of the Interior shall consult with the Under Secretary of Commerce for Oceans and Atmosphere before appointing any Director of the Board.".

(2) APPLICATION.—The amendment made by paragraph (1) shall apply to appointments of Directors of the Board of Directors of the National Fish and Wildlife Foundation made after the date of the enactment of this Act.

(b) EXPANSION OF BOARD.—Section 3(a) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3702(a)) is amended—

(1) in the matter preceding paragraph (1) by striking "nine" and inserting "15"; and

(2) in paragraph (2) by striking "three" and inserting "4".

(c) INITIAL TERMS.—Of the Directors on the Board of Directors of the National Fish and Wildlife Foundation first appointed pursuant to the amendment made by subsection (b)(1), notwithstanding the second sentence of section 3(b) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3702(b))—

(1) 2 shall be appointed to a term of 2 years;

(2) 2 shall be appointed to a term of 4 years; and

(3) 2 shall be appointed to a term of 6 years;

as specified by the Secretary of the Interior at the time of appointment.

(d) COMPLETION OF APPOINTMENTS.—The Secretary of the Interior shall appoint the additional members of the Board of Directors of the National Fish and Wildlife Foundation authorized by the amendment made by subsection (a), by not later than 60 days after the date of the enactment of this Act.

(e) AUTHORITY OF BOARD NOT AFFECTED.—The authority of the Board of Directors of the National Fish and Wildlife Foundation to take any action otherwise authorized by law shall not be affected by reason of the Secretary of the Interior not having completed the appointment of Directors of the Board of Directors of the National Fish and Wildlife Foundation pursuant to the amendment made by subsection (b)(1).

SEC. 104. REAUTHORIZATION OF NATIONAL FISH AND WILDLIFE FOUNDATION ESTABLISHMENT ACT.

(a) REAUTHORIZATION.—Section 10 of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3709) is amended—

(1) in subsection (a) by striking "not to exceed $15,000,000" and all that follows through the end of the sentence and inserting "$25,000,000 for each of fiscal years 1994, 1995, 1996, 1997, 1998."; and

(2) by adding at the end the following:

"(c) ADDITIONAL AUTHORIZATION.—The amounts authorized to be appropriated under this section are in addition to any amounts provided or available to the Foundation under any other Federal law.".

(b) CLERICAL AMENDMENT.—Section 10(b)(1) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3709(b)(1)) is amended by striking "paragraphs (2) and (3)", and inserting "paragraph (2),".

SEC. 105. CONVEYANCE OF SENECAVILLE NATIONAL FISH HATCHERY.

(a) CONVEYANCE AUTHORIZED.—Notwithstanding any other provision of law and within 180 days after the date of the enactment of this Act, the Secretary of the Interior shall convey to the State of Ohio without reimbursement all right, title, and interest of the United States in and to the property known as the Senecaville National Fish Hatchery, located in Senecaville, Ohio, including—

(1) all easements and water rights relating to that property, and

(2) all land, improvements, and related personal property comprising that hatchery.

(b) USE OF PROPERTY.—All property and interests conveyed under this section shall be used by the Ohio Department of Natural Resources for the Ohio fishery resources management program.

(c) REVERSIONARY INTEREST.—All right, title, and interest in and to all property and interests conveyed under this section shall revert to the United States on any date on which any of the property or interests are used other than for the Ohio fishery resources management program.

TITLE II—BROWNSVILLE WETLANDS POLICY CENTER

SEC. 201. SHORT TITLE.

This title may be cited as the "Brownsville Wetlands Policy Act of 1994".

SEC. 202. ESTABLISHMENT OF WETLANDS POLICY CENTER AT THE PORT OF BROWNSVILLE, TEXAS.

(a) ESTABLISHMENT OF CENTER.—For purposes of utilizing grants made by the United States Fish and Wildlife Service there may be established in accordance with this title, on property owned or held in trust by the Brownsville Navigation District at the Port of Brownsville, Texas, a wetlands policy center which shall be known as the "Brownsville Wetlands Policy Center at the Port of Brownsville, Texas" (in this title referred to as the "Center"). The Center shall be operated and maintained by the Port of Brownsville with programs to be administered by the University of Texas at Brownsville.

(b) MISSION OF THE CENTER.—The primary mission of the Center shall be to utilize the unique wetlands property at the Port of Brownsville and adjacent waters of South Texas to focus on wetland matters for the purposes of protecting, restoring, and maintaining the Lagoon Ecosystems of the Western Gulf of Mexico Region.

(c) BOARD OF DIRECTORS.—The Center shall be governed by a Board of Directors to oversee the management and financial affairs of the Center. The Board of Directors shall be cochaired by the Port of Brownsville, the University of Texas at Brownsville, and the designee of the Director of the Fish and Wildlife Service, and shall include as members other representatives considered appropriate by those cochairs.

(d) OVERSIGHT OF THE CENTER.—

(1) ANNUAL REPORT.—The Board of Directors of the Center shall prepare an annual report and submit it through the Director of the United States Fish and Wildlife Service to the Congress.

(2) CONTENTS.—Annual reports under this subsection shall cover the programs, projects, activities, and accomplishments of the Center. The reports shall include a review of the budget of the Center, including all sources of funding received to carry out Center operations.

(3) AVAILABILITY OF INFORMATION.—The Board of Directors of the Center shall make available all pertinent information and records to allow preparation of annual reports under this subsection.

(4) GENERAL ACCOUNTING OFFICE.—The Comptroller General of the United States shall periodically submit to the Congress reports on the operations of the Center.

SEC. 203. GRANTS.

The Director of the United States Fish and Wildlife Service shall, subject to the availability of appropriations, make grants to the Center for use for carrying out activities of the Center.

SEC. 204. LEASE.

The Director of the United States Fish and Wildlife Service, subject to the availability of appropriations, may enter into a long-term lease with the Port of Brownsville for use by the Center of wetlands property owned by the Port of Brownsville. Terms of the lease shall be negotiated, and the lease shall be signed by both parties, prior to the disposal of any Federal funds pursuant to this title. The lease shall include a provision authorizing the Director to terminate the lease at any time.

SEC. 205. OTHER REQUIREMENTS.

As conditions of receiving assistance under this title—

(1) the University of Texas at Brownsville shall make available to the Center for fiscal years 1994, 1995, 1996, and 1997—

(A) administrative office space;

(B) classroom space; and

(C) other in-kind contributions for the Center, including overhead and personnel; and

(2) the Port of Brownsville shall make available up to 7,000 acres of Port Property for the programs, projects, and activities of the Center.

The Board of Directors of the Center shall include in their annual report under section 202(d) a statement of whether these conditions have been met.

SEC. 206. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Director of the United States Fish and Wildlife Service $5,000,000 for fiscal year 1994, $4,000,000 for fiscal year 1995, $4,000,000 for fiscal year 1996; and such sums as may be necessary for fiscal year 1997, for making grants to the Center under section 203, including for use for the establishment, operation, maintenance, and management of the Center.

SEC. 207. RELATIONSHIP OF CENTER WITH THE CENTER FOR ENVIRONMENTAL STUDIES AND SERVICES, CORPUS CHRISTI, TEXAS.

None of the funds appropriated pursuant to this title may be used to relocate any of the administrative operations of the United States Fish and Wildlife Service from the

Center for Environmental Studies and Services Building on the campus of Corpus Christi State University, to the Brownsville Wetlands Policy Center at the Port of Brownsville, Texas, established pursuant to this title.

TITLE III—WALTER B. JONES CENTER FOR THE SOUNDS AT THE POCOSIN LAKES NATIONAL WILDLIFE REFUGE

SEC. 301. FINDINGS.

The Congress finds the following:

(1) The Pocosin Lakes National Wildlife Refuge, located in northeastern North Carolina, provides unique opportunities for observing and interpreting the biological richness of the region's estuaries and wetlands.

(2) Although there are 10 national wildlife refuges in eastern North Carolina, not one has an educational or interpretative center for visitors.

(3) The State of North Carolina, Tyrrell County, the town of Columbia, the Conservation Fund, and private citizens have proposed to enter into a partnership with the United States Fish and Wildlife Service to establish an educational and interpretative facility to be known as the Center for the Sounds.

(4) Establishment of the Center for the Sounds would bestow economic benefits upon Tyrrell County and the town of Columbia.

(5) The Federal Government has designated the Albemarle-Pamlico estuary system of northeastern North Carolina as an estuary of national concern.

(6) Throughout his congressional career, the Honorable Walter B. Jones was a strong supporter of the National Wildlife Refuge System.

(7) During his years of service in the House of Representatives, Walter B. Jones supported the establishment and expansion of National Wildlife Refuges in eastern North Carolina; these include 6 new National Wildlife Refuges established in his district, including the Alligator River National Wildlife Refuge and the Pocosin Lakes National Wildlife Refuge, which are respectively the third largest and fifth largest National Wildlife Refuges east of the Mississippi River.

(8) Walter B. Jones helped increase refuge acreage in his district by over 303,000 acres, thus ensuring the protection of these lands for wildlife habitat and public recreation.

(9) Walter B. Jones' support for reintroducing endangered red wolves into the wild at Alligator River National Wildlife Refuge was a major factor in securing public acceptance of, and support for, this first successful effort to reintroduce endangered predators into formerly occupied habitat.

(10) Walter B. Jones devoted much of his congressional career, including his years as Chairman of the Merchant Marine and Fisheries Committee, to the conservation of fish and wildlife, for the benefit of the Nation and the people of North Carolina.

(11) Walter B. Jones should most appropriately be recognized for his work on behalf of fish and wildlife conservation by having the Center for the Sounds at the Pocosin Lakes National Wildlife Refuge System named in his honor.

SEC. 302. AUTHORITY TO CONSTRUCT AND OPERATE FACILITY.

The Secretary of the Interior may, subject to the availability of appropriations, construct and operate a facility at the Pocosin Lakes National Wildlife Refuge in Tyrrell County, North Carolina, which shall be known as the "Walter B. Jones Center for the Sounds", for the following purposes:

(1) Providing public opportunities, facilities, and resources to study the natural history and natural resources of northeastern North Carolina.

(2) Offering a variety of environmental educational programs and interpretive exhibits.

(3) Fostering an awareness and understanding of the interactions among wildlife, estuarine and wetland ecosystems, and human activities.

(4) Providing office space and facilities for refuge administration, research, education, and related activities.

SEC. 303. DESIGN.

The Secretary of the Interior shall ensure that the design, size, and location of a facility constructed under this title are consistent with the cultural and natural history of the area with which the facility will be concerned.

SEC. 304. COST SHARING.

The Secretary of the Interior may accept contributions of funds from non-Federal sources to pay the costs of operating and maintaining the facility authorized under this title, and shall take appropriate steps to seek to obtain such contributions.

SEC. 305. REPORT.

Not later than 6 months after the date of the enactment of this Act, the Secretary of the Interior shall submit a report to the Congress on progress made in designing and constructing a facility under this title, including steps taken under section 304 to obtain contributions and any such contributions that have been pledged to or received by the United States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes, and the gentleman from Texas [Mr. FIELDS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of S. 476, the National Fish and Wildlife Foundation Improvement Act of 1994.

Since it was established by legislation from the Committee on Merchant Marine and Fisheries in 1984, the National Fish and Wildlife Foundation has funded almost 800 conservation projects in literally every corner of our Nation. By using a partnership approach, $90 million worth of conservation projects have been funded with only $28 million in Federal appropriations.

This bill applies the adage, "if it ain't broke, don't fix it." It makes only minor changes to this legislation: it expands the Foundation's Board of Directors from 9 members to 15; it gives explicit authority for the Foundation to work with the National Oceanic and Atmospheric Administration on marine conservation projects; and it authorizes Federal appropriations at the current level of $25 million per year for the next 5 years.

This bill also contains two other provisions. It authorizes the establishment of the Brownsville Wetlands Policy Center at the Port of Brownsville and directs the Secretary of the Interior to convey the Senecaville National Fish Hatchery to the State of Ohio. All of these provisions are identical to those contained in H.R. 2684, which overwhelmingly passed the House by a vote of 368 to 59 on November 3, last year. However, it does not include the section that authorizes the Secretary of the Interior to construct and operate the Walter B. Jones Center for the Sounds in North Carolina. The amendment that we are sending back to the Senate includes the Walter B. Jones Center which I understand has now been cleared in the other body.

Mr. Speaker, the provisions of this bill would enhance fish and wildlife research and management. I urge the Members to continue their strong support for these goals and pass this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. FIELDS of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 476, a bill to reauthorize and improve the National Fish and Wildlife Foundation. I would note that this bill was adopted by the House in November 1993.

When legislation establishing the National Fish and Wildlife Foundation was adopted by this House almost a decade ago, we were all hopeful that the Foundation would be successful in forming partnerships to improve our country's ability to conserve our natural resources. I doubt any of us expected it to be as successful as it has been.

The Foundation has done an outstanding job of combining federally appropriated funds with private contributions. Since its creation in 1984, the Foundation has achieved a match ratio of between $2 to $4 for every Federal dollar appropriated. This has resulted in more than 873 grants, worth more than $108 million, for conservation projects throughout the United States and in 16 other countries.

We are all aware of the need to prioritize Federal spending. This legislation provides us with the opportunity to reauthorize a program that is exemplary in its use of Federal money and serves the valuable functions of promoting habitat conservation, environmental education, and natural resources management.

Under the terms of this legislation, the Fish and Wildlife Foundation would be reauthorized for 5 years at its current authorization level and their Board of Directors would be increased from 9 to 15 members.

Mr. Speaker, I also support the committee amendment to the bill. The language adds to the text a non-controversial fish and wildlife bill recognizing the years of service of the late Walter B. Jones of North Carolina. This language was previously adopted by the House, but inadvertently dropped by

the Senate. This amendment corrects this situation.

Mr. Speaker, I support the adoption of this important legislation and urge my colleagues to support this bill as well.

Mr. Speaker, if I could, I would also like to point out to my colleagues that we on the Committee on Merchant Marine and Fisheries feel that we serve as an example to the House where Members of disparate ideologies and different philosophies can sit down and work with reason and promote and pass good and sound pieces of legislation, which we have done today.

Mr. Speaker, I yield back the balance of my time.

Mr. STUDDS. Mr. Speaker, I want to heartily second the observations of my distinguished ranking member, and also add that the provisions with regard to our late colleague, Walter Jones, have now been cleared of their previously inexplicable hurdle in the Senate, and I think the bill is now on its way. And once again I echo the very warm remarks of the gentleman from Texas.

Mr. LANCASTER. Mr. Speaker, I support S. 476, a bill to reauthorize the National Fish and Wildlife Foundation. It also authorizes the Walter B. Jones Center for the Sounds at the Pocosin Lakes National Wildlife Refuge in eastern North Carolina.

Walter B. Jones was our former colleague and chairman of the House Merchant Marine and Fisheries Committee. This bill authorizes the Secretary of the Interior to construct and operate the Walter B. Jones Center for the Sounds, which will serve as the headquarters for the Pocosin Lakes National Wildlife Refuge in Tyrrell County in eastern North Carolina.

This center will provide public opportunities and facilities so that children and adults may study the region's natural history and resources. It will offer environmental education programs and exhibits, and it will provide office space for the operation of the refuge. Any Federal spending will be subject to future appropriations, but we anticipate significant cost-sharing between the Department of the Interior and local and State governments. The exact cost of the center is not certain, although previous centers of this type have cost in the range of $2 million to $5 million. After the center is designed, we will be able to determine its cost more exactly.

Congressman Jones introduced in the 102d Congress legislation which would establish this center, but unfortunately, his death in 1992 intervened before it could be enacted. It was amended that year so that the center would become a memorial to him, and it subsequently was passed in the House of Representatives, but there was no action in the Senate before adjournment. This Congress, I introduced H.R. 2961, and it was approved by the House on September 21 by a vote of 425–0. Subsequently, similar language was included in H.R. 2684 which was approved by the House on November 3 by a vote of 368–59. So, during the 103d Congress, the House has already approved this language twice.

Walter B. Jones was chairman of the Committee on Merchant Marine and Fisheries for 12 years, but served on the committee for the entire 26 years of this career in Congress. He was an especially strong advocate for the National Wildlife Refuge System and during this term in Congress the Pocosin Lakes National Wildlife Refuge and several other refuges were established in his district. Over 303,000 acres in his district were added to refuges, in the then First District of North Carolina. Now, much of that lies within my district, the Third District.

There are 10 national wildlife refuges in eastern North Carolina, but not one has a visitors' center or educational facility.

The Pocosin Lakes Refuge was established with over 110,000 acres but through a land donation from the Conservation Fund, so that no Federal funds to this point have gone into acquisition of lands for this refuge.

This acreage extends over a wide area in parts of three counties, in one of the poorest regions of North Carolina. These counties, along with others in the region, have formed a consortium called the Partnership for the Sounds, to develop ecotourism as a draw to that region and as a source of economic growth for the region.

While many counties object to taking property out of their tax base to establish wildlife refuges, Tyrrell County, where the bulk of this wildlife refuge is located, has enthusiastically embraced wildlife refuges and the role that they in ecotourism. Officials there are pursuing a strategy to put that small county on the map as a center for study of ecology and the coastal estuaries and streams of eastern North Carolina. The Fish and Wildlife Service needs to recognize and reward such a positive attitude by the local officials. Establishment of the Center for the Sounds would do so.

We believe this is important legislation that will not only honor our former colleague and friend, Walter B. Jones, but will serve as an important educational tool for the people who will visit this region, and also as a headquarters for the refuge.

Mr. ORTIZ. Mr. Speaker, 3 years ago, I began to search for a legislative vehicle which would accomplish three basic objectives: to expand educational opportunities for young Hispanics; to study ways to preserve the delicate wetlands environment, particularly around industrial complexes along the border; and to find actual wetlands for scientists and students to examine in conjunction with academic pursuits.

First, I sought out the Port of Brownsville to see if they had an interest in moving forward a project with so many goals in mind. In an act of monumental generosity, the Port committed over 7,000 acres of valuable wetlands property adjacent to the Port Authority industrial complex—land which students and scientists could examine to discover the effects of industry on the fragile ecosystems of the wetlands in south Texas.

I wanted to create a center under which a consortium of colleges and universities could establish programs to provide research, training, and academic classes for minority undergraduate and graduate students in the field of wetlands environmental science, engineering, management, and policy. The natural partner for this enterprise was the University of Texas at Brownsville [UT–B].

From the beginning, we believed that academic institutions and scientists from other countries would become involved in the consortium. The participation of UT–B is important because it is an institution which already has an international component, as well as a student exchange program. Anticipating the passage and implementation of the North American Free-Trade Agreement [NAFTA], I felt that collaboration efforts on the study of wetlands by both the scientific community and the Governments of the United States and Mexico would be especially important.

I introduced the bill we call the Brownsville Wetlands Policy Center Act in the House Merchant Marine and Fisheries Committee, on which I serve, in July 1991. It was referred to a variety of committees, and the House did not act on it that year. I introduced a more focused version of the bill in August of 1992, and it was referred only to the Merchant Marine and Fisheries Committee. The committee passed the bill quickly, a compliment to all the time and energy of the people who helped develop the foundation for the bill.

In the fall of 1992, the House of Representatives passed the bill. The Senate did not have the opportunity to deal with the bill before Congress adjourned, so I introduced the bill again last year in the new Congress. When it was introduced this time, the only change we made was to make explicit the strength of the commitments by the Port of Brownsville and UT–B in terms of land, educational facilities, personnel, and other costs.

The new administration, particularly the U.S. Fish and Wildlife Service, was very helpful to me and my staff as we wrote the bill. The Fish and Wildlife Service was anxious both to help with the bill and participate in the science of studying the land. Senator HUTCHISON graciously agreed to sponsor the bill in the Senate, and the help and support of both she and Senator GRAMM guaranteed the congressional passage of this bill.

The Brownsville Wetlands Policy Center Act was eventually wrapped into a larger bill which incorporated a number of noncontroversial proposals approved by the Merchant Marine and Fisheries Committee—National Fish and Wildlife Foundation Improvement Act of 1993—and passed by the House in November 1993. The Senate passed the bill in March of this year, and it will be signed shortly by the President and become law.

The scope and the importance of the bill have grown since the passage of NAFTA. As more people show a genuine interest in preserving or cleaning up the environment in an age when our economic interests demand it, the Brownsville Wetlands Policy Center Act is a bold step in taking the lead to discover how best to accomplish that end. The field of environmental engineering has expanded for Hispanics, many of whom probably never thought that breaking into the field would be a matter of timing centered on international economic policy.

But with the attention of the Nation touching occasionally on environmental policy during the heat of the NAFTA debate, those of us who live along the international border with Mexico have a prime opportunity to create a better climate for improving the conditions of those who live here. Hispanics, particularly

those who have lived along the border, have a firsthand knowledge of the language, customs, and traditions of their Mexican counterparts similarly involved in the study and improvement of the border environment.

This center will accomplish all the original purposes we set out to achieve—it will expand educational opportunities for young Hispanics; it will enable the study and preservation of the wetlands environment close to industrial complexes along the border; and, most importantly, it provides actual wetlands as an outdoor laboratory resource for scientists and students to examine in an industrial setting. This center, I believe, will attract scientists from all over the world to Brownsville for the study of wetlands preservation.

I am proud of what the good people of south Texas can do when we put our minds to it. I thank the Port of Brownsville, UT–B, the U.S. Fish and Wildlife Service, Senators HUTCHISON and GRAMM, Merchant Marine and Fisheries Committee Chairman GERRY STUDDS, Democrat of Massachusetts, and Congressman JACK FIELDS, Republican of Texas, the ranking minority member of the committee—all of whom were a great help in crafting the bill. But most of all, I thank the people in the community who saw a need, designed a solution, then saw it through to the end. The rewards of this endeavor will benefit the valley, and the rest of the border area, for a very long time.

Mr. STUDDS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the Senate bill, S. 476, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

The title of the Senate bill was amended so as to read: "A bill to reauthorize and amend the National Fish and Wildlife Foundation Establishment Act, and for other purposes.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. STUDDS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the several bills just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

NEW JERSEY COASTAL HERITAGE TRAIL ROUTE AUTHORIZATION

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1574) to authorize appropriations for the Coastal Heritage Trail Route in the State of New Jersey; and for other purposes.

The Clerk read as follows:

S. 1574

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6 of Public Law 100–515 (16 U.S.C. 1244 note) is amended—

(1) by striking "There" and inserting "(a) There"; and

(2) by adding at the end the following:

"(b)(1) Notwithstanding the provisions of subsection (a), there are hereby authorized to be appropriated to the Secretary to carry out the purposes of this Act $1,000,000, which is in addition to any sums appropriated for such purposes for use during fiscal years ending on or before September 30, 1993.

"(2) Funds appropriated pursuant to this subsection to carry out the purposes of this Act shall be used solely for technical assistance and the design and fabrication of interpretive materials, devices and signs. In addition to the limitation on funds contained in subsection (a), no funds made available under this subsection shall be used for operation, maintenance, repair or construction except for construction of interpretive exhibits.

"(3) The Federal share of any project carried out with funds appropriated pursuant to this subsection may not exceed 50 percent of the total cost for that project and shall be provided on a matching basis. The non-Federal share of such cost may be in the form of cash, materials or in-kind services fairly valued by the Secretary.

"(c) The authorities provided to the Secretary under this Act shall terminate five years after the date of enactment of this subsection.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 1574, which passed the Senate on November 20, 1993, is a bill sponsored by Senator BRADLEY to raise the authorization ceiling for the New Jersey Coastal Heritage Trail Route. An identical bill (H.R. 3377) was introduced on the House side by Representative BILL HUGHES.

In 1988, legislation was enacted to authorize the Secretary of the Interior to designate the New Jersey Coastal Heritage Trail Route to enhance the public's understanding and appreciation of the New Jersey coast and its heritage. This vehicular tour route extends 275 miles along existing public roads from Perth Amboy in the north to Cape May in the south and northwest along the Delaware Bay shoreline. The National Park Service recently completed an implementation guide which presents the strategy for developing the trail route. The 1988 legislation limited the Federal financial contribution to $250,000 for this project. However, that amount has been exceeded and no additional funds can be appropriated unless the authorization is amended.

The Committee on Natural Resources adopted an amendment in the nature of a substitute to S. 1574 which made several changes in the bill to address concerns about the scope and cost of this project. The committee amendment limits future appropriations to $1 million in addition to the $1.2 million that has already been appropriated. Second, it limits the use of funds to those intended by the original legislation which are technical assistance for planning and for the design and construction of interpretive exhibits. Third, it requires that Federal funds be matched in the form of cash, materials, or in-kind services from non-Federal sources. The original legislation envisioned a partnership approach for developing the trail route and this match is in keeping with this partnership approach. Finally, the substitute terminates the role of the National Park Service 5 years after the date of enactment.

The substitute amendment provides an appropriate level of involvement for the National Park Service consistent with the original legislation. That legislation envisioned a limited short-term role for the National Park Service and not a permanent ongoing presence. The National Park Service has done a good job in completing an inventory of the natural and cultural resources and drafting an implementation guide for trail route. They will continue to be involved for up to 5 more years but their efforts will phase out and the long-term operation and interpretation should be left up to the State and local entities.

Mr. Speaker, S. 1574, as amended, would provide for a limited but important role for the National Park Service in this project. I urge Members to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I rise in support of S. 1574.

Mr. THOMAS of Wyoming. Mr. Speaker, I rise in support of S. 1574, the Coastal Heritage Trail Route in the State of New Jersey. I appreciate Chairman VENTO'S efforts on this measure. We were able to agree on significant amendments that will both limit the amounts authorized to be spent over the next 5 years and the purposes for which those funds can be spent. Another very important amendment is the sunset provision, which will terminate the National Park Service's involvement in this project in 5 years from enactment. As the chairman knows, our side of the aisle is concerned about the extent of involvement of the Park Service and Federal dollars in these types of heritage areas.

Mr. Speaker, I urge enactment of S. 1574.

Mr. HUGHES. Mr. Speaker, I rise today in support of S. 1574, legislation to reauthorize the New Jersey Coastal Heritage Trail Route. This measure is similar to H.R. 3377, legislation I introduced the House of Representatives last session.

The New Jersey Coastal Heritage Trail was established by an act of Congress in October 1988 that was sponsored in the Senate by my colleague Senator BRADLEY, and in the House by myself, Congressman SAXTON, and our friend, the late Jim Howard. The purpose of that legislation was to highlight the many points of scenic and natural beauty along the New Jersey coast, and to identify sites of historic and cultural interest. In fact, the distinguished chairman of the National Parks Subcommittee, Mr. VENTO, was instrumental in helping that legislation become law.

The trail starts in the north at Sandy Hook and extends south to Cape May, where it swings west into the Delaware Bay region. The trail includes such resources as wildlife refuges, marine mammal sanctuaries, sailing and fishing communities, historic sites and lighthouses, forts and battlefields, national monuments, abandoned shipwrecks, scenic routes, such as Ocean Drive in Cape May County, and entire communities, like Smithville, Salem, Bridgeton, Ocean Grove, and Cape May. Many of these sites are of significance not only to New Jersey, but are part of the national heritage of all Americans.

S. 1574 is more than a simple funding reauthorization. As reported by the Natural Resources Committee, this legislation establishes guidelines that will help direct the project through completion. Although the State of New Jersey has already contributed substantially to the project, this legislation would cement that commitment by requiring that each Federal dollar is matched by State funds or services.

I believe that it is important for my colleagues to note that the trail does not require the acquisition, taking, or purchase of property. Its purpose is to identify the famous, as well as the little-known or underutilized attractions for the benefits of residents and visitors to the State of New Jersey.

Last year, Interior Appropriations Subcommittee Chairman YATES saw fit to include funding for part support in the fiscal year 1994 Interior appropriations legislation. Unfortunately we soon realized that the funding we had asked for exceeded the authorization limit included in the original act. That money was understandably dropped from the final House-passed version of the Interior appropriations legislation due to a lack of authorization. However, the need for funding has only increased since that time.

By approving this legislation we will give the Appropriations Committee the authority to provide the money necessary to help draw well-deserved attention to the points of scenic natural beauty that grace my State, encourage tourism, and build greater public support of the preservation of important and irreplaceable resources. This issue is of great importance to me and the State of New Jersey and I am certain that the small Federal expenditures needed to maintain this trail will be more than compensated by the return to the public.

I would like to thank Chairman VENTO and Mr. HANSEN, as well as Chairman MILLER, and Mr. YOUNG, for moving this legislation expeditiously. Enactment of this bill will assure the continued success of the New Jersey Coastal Heritage Trail which in turn will build greater public support for the identification and preservation of other important cultural, historical, and ecological treasures throughout the country.

I urge my colleagues to pass this measure.

Mr. YOUNG of Alaska. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time. I ask for support of the legislation and I yield back the balance of our time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate bill, S. 1574, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

□ 1310

INCREASING HIGHWAY AUTHORIZATION FOR CHICKAMAUGA AND CHATTANOOGA NATIONAL MILITARY PARK IN GEORGIA

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3516) to increase the amount authorized to be appropriated for assistance for highway relocation regarding the Chickamauga and Chattanooga National Military Park in Georgia, as amended.

The Clerk read as follows:

H.R. 3516

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCREASE IN AUTHORIZATION OF APPROPRIATIONS.

Section 1(c) of the Act entitled "An Act to authorize and direct the National Park Service to assist the State of Georgia in relocating a highway affecting the Chickamauga and Chattanooga National Military Park in Georgia", approved December 24, 1987 (101 Stat. 1442), is amended by striking "$30,000,000" and inserting "$45,000,000".

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3516, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3516, introduced by my colleague on the Natural Resources Committee, Representative NATHAN DEAL, increases the level of funding authorized to assist the State of Georgia in relocating a highway corridor currently crossing the Chickamauga and Chattanooga National Military Park. A hearing was held on this measure by the Subcommittee on National Parks, Forests and Public Lands on February 8, 1994, and the Committee on Natural Resources approved H.R. 3516 with an amendment on March 9, 1994.

The park, which was established in 1890, was the first of the national military parks, and has been closely maintained in its original state. Most of the historic road system that existed in 1863 remains largely intact with the exception of LaFayette Road—a crucial artery of the battle which has since become better known as Highway 27, a major north-south commuter route.

Legislation enacted with the 100th Congress (Public Law 100–211) authorized $30 million in Federal funds to assist the State of Georgia in relocating the stretch of highway to an area outside the park, with the Federal contribution totaling 75 percent of the total cost of the project. H.R. 3516, as amended, would increase that amount to $45 million. Since enactment of Public Law 100–211, $23.5 million has been appropriated for the relocation project. The National Park Service, in consultation with the Federal Highway Administration and the Georgia Department of Transportation, now estimates the total cost of the project at $57.5 million, thus the Federal contribution, under the current 75–25 percent cost sharing arrangement, would total $43.2 million. This legislation accommodates the new figures and raises the authorized level to $45 million.

The 3.7 miles of the highway located within the park continues to present a significant impediment to visitor safety and enjoyment of the park, and its increasing use threatens the park's resources. This project is well underway—the planning process is virtually complete. I urge my colleagues to support the increase in authorization so that the bypass can be constructed and the park's resources preserved.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3516, a measure to increase by $15 million the authorization for construction of a highway bypass around Chickamauga and Chattanooga National Military Park.

Chairman VENTO has adequately explained this measure. The need for this project has been identified in the park

plan and it is the highest priority construction project at the park.

Construction of this bypass road will have a positive impact on the visitor experience at the park and I urge my colleagues to join me in supporting it.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia [Mr. DEAL], a member of the committee and a sponsor of the bill.

Mr. DEAL. Mr. Speaker, I would like to begin by thanking Mr. VENTO and Mr. MILLER for their continued support for this project. I especially would like to thank my fellow colleague from Georgia, Mr. DARDEN, for his involvement in this project. He and I have a similar interest in this park and bypass in that they were previously in his district and the initial funding was made available through his efforts.

Mr. Speaker, I rise today in support of H.R. 3516. As Mr. VENTO stated, H.R. 3516 is a bill to increase the authorization of appropriations for the National Park Service to assist Georgia in relocating a highway affecting the Chickamauga and Chattanooga National Military Park.

The Chickamauga and Chattanooga National Military Park was established in 1890 to commemorate the Civil War military engagements which took place there and to allow opportunities for future study of these historic battles. The park was administered by the War Department until 1933 when jurisdiction was transferred to the National Park Service. In addition to its inspirational and commemorative values, the park is also used for military instruction, although this military activity was substantially curtailed following its transfer to the National Park Service. Today, the Army Command General Staff continues to bring field classes here to study the military strategies used during the battles.

Specifically, this project reroutes a 3.7-mile section of U.S. Highway 27, which passes through the park, by way of a 7-mile-long bypass around the western boundary. This rerouting is necessary to protect the natural and historic resources within the park from damages caused by heavy traffic.

Highway 27 is a major north-south highway through the center of Chickamauga National Military Park connecting Chattanooga, TN to Florida. It is a well traveled commuter route between northwest Georgia and Chattanooga. On average, 16,200 vehicles pass through the park each day by way of Highway 27.

U.S. Highway 27 serves as a vital north-south link among the three States and its renewal is a top priority of the Georgia DOT. Highway 27 presently is undergoing construction from end to end to upgrade the highway for substantial commercial usage. At this point, the State of Georgia has allocated $71.7 million to the full length of the highway. In fiscal year 1993, Georgia DOT appropriated $12.4 million for the project, and for fiscal year 1994 through fiscal year 1999 it has authorized and will receive $353.4 million for completion of the project. When complete, Highway 27 will be a four-lane highway through rural areas of Georgia and will include five-lane bypass sections around urban areas with limited access.

The matching funds for this project are 75 percent Federal to 25 percent State. Total appropriated Federal funds for this project now stand at $23,456,000. Revised cost estimates by the Federal Highway Administration [FHWA], based on the Georgia Department of Transportation's actual average bid prices, increase the total cost of this project to $57.53 million. This increases the Federal share to $43.2 million. This amount exceeds the total funds authorized under Public Law 100–211 by $13.2 million. Therefore, this project needs to be reauthorized to reflect the appropriate dollar amounts.

Mr. Speaker, this is a worthwhile project for the State of Georgia. The people of the Ninth District of Georgia thank the House for its consideration of this bill.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia [Mr. DARDEN], the architect of this bill from the 100th Congress, as he continues his hard work in terms of support of this important project.

Mr. DARDEN. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in very strong support of H.R. 3516. As the chairman, the gentleman from Minnesota [Mr. VENTO], has explained, this bill would provide authorization necessary to complete the task of protecting the Chickamauga and Chattanooga National Military Battlefield by constructing a highway bypass around the park.

I commend the chairman and also the gentleman from Georgia [Mr. DEAL] for their diligent efforts in bringing this important ongoing project in the State of Georgia before this body today.

Mr. Speaker, we have heard a lot about unfunded mandates and situations in which the Federal Government imposes rules and regulations on States without picking up the cost of the mandates that they pass on to us. This situation is different, however, because when the Federal Government properly ruled, the National Park Service, the highway could not be widened within the park, this would have placed an undue amount of expense on the State and the counties to bring this parkway around this very historic national park.

Working with the Committee on the Interior staff several years ago and specifically the staff director, Dale Crane, we worked out a formula of 75 percent Federal and 25 percent State participation so we could assure that the extra cost brought about by the Federal Government's ruling would, in fact, be borne by the Federal Government, with the State participating up to 25 percent. This is a good compromise.

It is a good bill. It is necessary to raise the ceiling on the authorization, and I want to thank everyone involved for their strong support of this and ask that the House pass this legislation overwhelmingly.

Mr. Speaker, I rise in strong support of H.R. 3516. As Chairman VENTO has explained, this bill will provide the authorization necessary to complete the task of protecting the Chickamauga and Chattanooga National Military Battlefield Park by constructing a highway bypass around the park. I commend the Chairman and Congressman DEAL for their diligent efforts in bringing this important, ongoing project in the State of Georgia before this body today.

Mr. Speaker, the need for the highway bypass around the Chickamauga and Chattanooga National Military Battlefield Park in Walker and Catoosa County, GA, is clear. The Committee on Natural Resources' report on this project concludes that without relocation of a portion of U.S. Highway 27 from its current route through the park, important sections of the park will be damaged by the negative effects of heavy automobile traffic.

Mr. Speaker, the Chickamauga and Chattanooga National Military Park, which was first established in 1890, is the oldest and largest national military park in the Nation. This area was the site of battles over the course of several months in the fall of 1863. These engagements involved the soldiers of many States, including Wisconsin, Indiana, Alabama, Massachusetts, Ohio, Illinois, and my home State of Georgia. This park is an historical site of significance that touches our entire nation.

Mr. Speaker, over the past several years the Congress has supported the effort to protect the Chickamauga and Chattanooga Military Park. I urge my colleagues to continue this support by approving H.R. 3516 which will allow this project to move forward to a successful completion.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, I commend both of the sponsors, the gentlemen from Georgia [Mr. DEAL] and [Mr. DARDEN], for this important bill and for their interest and dedication to this policy path.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. THOMAS of Wyoming. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 3516, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

URBAN RECREATION AND AT-RISK YOUTH ACT OF 1994

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4034) to amend the Urban Park and Recreation Recovery Act of 1978 to authorize grants for the expansion of recreation opportunities for at-risk youth in urban areas with a high prevalence of crime, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4034

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 "Urban Recreation and At-Risk Youth Act of 1994".

SEC. 2. FINDINGS.

Section 1002 of the Urban Park and Recreation Recovery Act of 1978 is amended by striking "and" at the end of subsection (d), by striking the period at the end of subsection (e) and inserting ";" and by adding the following at the end thereof:

"(f) the quality of life in urban areas has suffered because of decline in the availability of park and recreation and systems, including land, facilities, and services;

"(g) the deterioration of urban park and recreation facilities is due in part to the underfunding of Federal grant programs intended to assist in the revitalization of urban recreation facilities and allow us to take back our parks from crime, vandalism, and dilapidation;

"(h) the urban neighborhoods eligible for assistance under this title have deteriorated, in part, due to the rapid increase in violent crime among youth;

"(i) accessible, well-maintained recreational facilities and services have been shown to significantly decrease the incidence of violent crime among youth and can be an effective tool in efforts to prevent crime, increase public safety and improve the quality of life of urban residents; and

"(j) urban sport and recreation programs teach important value and life skills including teamwork, individual responsibility, respect, leadership, and self-esteem which help prevent young people from engaging in criminal behavior"."

SEC. 3. PURPOSE OF ASSISTANCE.

Section 1003 of the Urban Park and Recreation Recovery Act of 1978 is amended by adding the following at the end thereof: "It is further the purpose of this title to improve recreation facilities and expand recreation services in urban areas with a high incidence of crime and to help deter crime through the expansion of recreation opportunities for at-risk youth. It is the further purpose of this section to increase the security of urban parks and to promote collaboration between local agencies involved in parks and recreation, law enforcement, youth social services, and the juvenile justice system."

SEC. 4. DEFINITIONS.

Section 1004 of the Urban Park and Recreation Recovery Act of 1978 is amended by inserting the following new subsection after subsection (c) and by redesignating subsections (d) through (j) as (e) through (k) respectively:

"(d) 'at-risk youth recreation grants' means—

"(1) rehabilitation grants,

"(2) innovation grants, or

"(3) matching grants for continuing program support for programs of demonstrated value or success in providing constructive alternatives to youth at risk for engaging in criminal behavior, including grants for operating, or coordinating recreation programs and services;

in neighborhoods and communities with a high prevalence of crime, particularly violent crime or crime committed by youthful offenders; in addition to the purposes specified in subsection (b), rehabilitation grants referred to in paragraph (1) of this subsection may be used for the provision of lighting, emergency phones or other capital improvements which will improve the security of urban parks;".

SEC. 5. CRITERIA FOR SELECTION.

Section 1005(c) of the Urban Park and Recreation Recovery Act of 1978 is amended by striking "and" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting "; and" and by adding the following at the end thereof:

"(8) in the case of at-risk youth recreation grants, the Secretary shall give a priority to each of the following criteria:

"(A) Programs which are targeted to youth who are at the greatest risk of becoming involved in violence and crime.

"(B) Programs which teach important values and life skills, including teamwork, respect, leadership, and self-esteem.

"(C) Programs which offer tutoring, remedial education, mentoring, and counseling in addition to recreation opportunities;

"(D) Programs which offer services during late night or other non-school hours.

"(E) Programs which demonstrate collaboration between local park and recreation, juvenile justice, law enforcement, and youth social service agencies and nongovernmental entities, including the private sector and community and nonprofit organizations.

"(F) Programs which leverage public or private recreation investments in the form of services, materials, or cash.

"(G) Programs which show the greatest potential of being continued with non-Federal funds or which can serve as models for other communities.".

SEC. 6. PARK AND RECREATION ACTION RECOVERY PROGRAMS.

Section 1007(b) of the Urban Park and Recreation Recovery Act of 1978 is amended by adding the following at the end thereof: "In order to be eligible to receive 'at-risk youth recreation grants' a local government shall amend its 5-year action program to incorporate the goal of reducing crime and juvenile delinquency and to provide a description of the implementation strategies to achieve this goal. The plan shall also address how the local government is coordinating its recreation programs with crime prevention efforts of law enforcement, juvenile corrections, and youth social service agencies.".

SEC. 7. MISCELLANEOUS AND TECHNICAL AMENDMENTS.

(a) PROGRAM SUPPORT.—Section 1013 of the Urban Park and Recreation Recovery Act of 1978 is amended by inserting "(a) IN GENERAL.—" after "1013." and by adding the following new subsection at the end thereof:

"(b) PROGRAM SUPPORT.—Not more than 25 percent of the amounts made available under this title to any local government maybe used for program support.".

(b) EXTENSION.—Section 1003 of the Urban Park and Recreation Recovery Act of 1978 is amended by striking "for a period of five years" and by striking "short-term".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4034, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I stand here today instead of the chairman, the gentleman from California [Mr. MILLER], who along with myself had advanced this idea and expanded the park and recreation opportunities in this bill for at-risk youth in high crime urban areas.

Mr. Speaker, I think it is clear to most of us that there are severe problems in terms of youth in our Nation today. Probably the statistic that is most appalling is that which indicates 1 in 5 children, nearly 1 in 5 children, or over 1 in 5 children, about 23 percent, in fact, live below the poverty level.

The bill, of course, attempts to try and provide some investment in these troubled communities in a small way. The bill recognizes the important role that urban recreation programs play in developing positive values for young people and keeping them away from crime. In fact, of course, it is this young population that is most likely to be the actors in terms of crime.

In fact, crime activities peak between the ages of 10 and 20, demographically, in our population.

The bill, and especially this legislation, tries to address that by providing some crime prevention dollars in terms of recreation facilities and programs. This program has long been in existence, since the late 1970's but has been woefully underfunded and has had little attention paid to it. In fact, while the authorization has existed, we are really expanding the authorization.

All one has to do, of course, is look at the relative costs in terms of the consequences of crime where we can document that an individual incarcerated, a juvenile incarcerated, we spend nearly $30,000 a year in terms of incarceration.

So a small investment in terms of trying to prevent that and providing some positive alternatives in our troubled communities, many times in urban communities, is, I think, a very sound investment.

Mr. Speaker, we held a lengthy hearing on this matter and had just a long list of public officials, of police, of park

directors, and others that are working privately, the nonprofit sector, the boys' and girls' club, the midnight basketball leagues, many others that came from troubled communities to testify in favor of the desperate need for the types of funds that we are talking about in this legislation.

Mr. Speaker, I think it has become characteristic to look at an urban setting and the rusty basketball hoop made with metal as emblematic of what has happened in some of our troubled communities and urban areas.

The history of providing a built environment of recreation alternatives within our urban areas, within troubled communities and cities has long been a part of the planning that has gone into sound cityscapes. In fact, of course, in the 1850's, it is pointed out that New York and many other cities in the East began setting aside park areas, open-space areas such as Central Park and many others, but today those facilities are becoming and continue to be deteriorating.

Here we are only dealing with a small number of these areas, the areas that provide the recreation and organized opportunities to attract and respond to some of the very serious needs and the very serious needs for positive alternatives for young people in our society.

□ 1320

This is, I think, a very good measure in the sense that we can expand on an idea that is proven, there is an administration in place, there is a grant and application process in place, and all that is lacking is some flexibility in terms of how we can use these funds. And of course, the appropriations that go with it.

Whatever the outcome of the crime bill, I hope that is has a goodly amount of prevention, of alternative efforts to provide the opportunities for people to follow a different path in terms of their behavior.

These dollars for a particular program, we think, would be especially helpful in those instances, based on the hearing record that came forth; it provides flexibility, it requires eligible cities to submit plans, it uses administrative resources in place, it leverages additional resources by requiring a small match of 30 percent local match and also requires that they coordinate these activities with law enforcement personnel in the communities.

Very often, of course, the police and law enforcement officials themselves are the volunteers who do some of the coaching. It is interesting that they see the relationship between the positive activities like this and the reduction of what they face on the streets under more adverse conditions.

In fact, as an example, the midnight basketball type activity has this activity exactly at the time when incidents of violent crime are at the highest in our communities, urban communities. So, providing this activity provides them the opportunity, it takes people out of an orientation where they might be a perpetrator of an illegal action and puts them in a positive setting.

This is a commonsense notion, one I am sure that all Members of the House can endorse. Based upon our budget priorities, I hope this will gain a higher priority; based on the flexibility of this legislation, I hope it gains renewed interest and usefulness in the communities in which we are focusing.

I want to pay great credit to the gentleman from California [Mr. MILLER]. Chairman MILLER, as Members know, chaired the Youth and Families Select Committee prior to assuming the Natural Resources Committee. He has been a great friend of education, a great friend of recreation and other programs addressing the needs of youth across this Nation.

I think this is a great testament to his support, his forceful support for this measure. I hope it enlists the support of all the Members of this House and this will receive the renewed type of support it deserves.

Mr. Speaker, we intend to offer this as an amendment, if we have a broad crime bill presented to us in the near future; we hope to offer this measure as an amendment to it to make certain it becomes part of that package and does not get lost in the Senate.

But in terms of providing some recognition for this bill today and providing the policy changes so that Members can look at it more closely, I am pleased to present the bill and ask the Members for their support on the House floor.

H.R. 4034 is legislation introduced by Natural Resources Committee chairman GEORGE MILLER and myself to expand park and recreation opportunities for at-risk youth in high crime urban areas. The bill recognizes the important role that urban recreation programs play in developing positive values in our young people and in keeping them away from crime. The bill has 30 cosponsors and has been endorsed by the U.S. Conference of Mayors, the Boys and Girls Clubs of America, the National Association of Police Athletic Leagues, major league baseball, the National Recreation and Park Association, and 30 other organizations.

Crime, especially violent crime, is the No. 1 concern of the American people. Later this week, we will take up comprehensive crime control legislation on the House floor. We will debate how many billions should go into the building of prisons and bootcamps and the hiring of more police. The bill before us today recognizes that prevention is an essential tool in our struggle against violent crime in this country. H.R. 4034 expands the prevention side of the crime equation. In addition to our action here today, Chairman MILLER and I intend to offer this bill as an amendment to the crime bill.

Recently, the Natural Resources Committee held a lengthy hearing on crime and the role that recreation can play in crime prevention. We heard testimony from city park directors, policemen, boys and girls clubs, midnight basketball leagues, and others who are on the front lines of providing recreation services in crime-infested neighborhoods. We learned that recreation works as a crime prevention measure and that it is less expensive than spending the $29,000 a year it costs to incarcerate each juvenile offender. We learned that many young people in urban areas have little or no access to sports and recreation because of badly deteriorated facilities or because of program cutbacks. Unfortunately, we also learned that recreation has been grossly neglected as a national priority over the last decade.

The reason why urban park and recreation programs are so vital to anticrime efforts is because they target the age group most prone to crime—our youth. Fifty to sixty percent of all crime in the United States is committed by people 10 to 20 years of age. The incidence of crime peaks between the ages of 16 to 18 and quickly drops after age 21. If we can reach young people through sport and recreation programs before they turn to a life of crime, we will save dollars and lives.

Urban park and recreation programs have been around since the creation of New York's Central Park in the 1850's. Even then, it was recognized that young people need safe places to play and constructive activities to occupy their time so they don't turn to antisocial behaviors. The wisdom of this approach is more true now than ever. Urban dwellers, especially those in economically distressed communities, are the most dependent on having public parks and recreation programs. Low-income residents don't have the time or financial resources to travel to distant parks for recreation purposes.

In 1978 Congress enacted a program to help distressed urban areas develop recreation opportunities. The Urban Park and Recreation Recovery [UPARR] Program provides matching grants to economically distressed cities for repair of park and recreation facilities and for innovative recreation-based programs for youth. While the UPARR Program has proven to be effective, it has suffered from a lack of stable funding. UPARR received no funding from 1985 to 1990, and the past 2 years it has received only $5 million annually. The number of requests from cities which have matching funds ready to go is two to three times what the UPARR Program is able to fund.

H.R. 4034 would amend the UPARR Act to promote the expansion of recreation opportunities in urban areas with a high prevalence of crime. The bill authorizes a new category of UPARR grants called at-risk youth recreation grants. Grants would be for rehabilitation projects and programs in urban neighborhoods and communities with a high prevalence of crime. Funding would be authorized to increase the security of urban parks through capital improvements such as lighting and security phones.

The bill has been drafted to maximize cost efficiency and program effectiveness. First, it uses the administrative resources and procedures of the existing UPARR Program in order to minimize costs and bureaucracy. Second, it leverages additional resources by requiring a 30 percent local match. Third, it requires park

and recreation officials to coordinate their efforts with law enforcement, social service agencies, and nonprofit community organizations involved in youth crime prevention. Fourth, it is flexible enough to allow nonprofit organizations such as boys and girls clubs, police athletic leagues, and midnight basketball programs to receive funding assistance. Fifth, it requires eligible cities to submit a plan which states how they intend to improve recreation opportunities in crime ridden neighborhoods over the long term. Finally, it requires facilities which have been improved as a result of this grant program to remain open for public recreation uses in perpetuity.

Congress has previously recognized the importance of recreation in preventing crime and delinquency. Amendments to the Juvenile Justice and Delinquency Prevention Act in 1992 and the National Affordable Housing Act have specifically included authorization for recreation programs. The crime bills making their way through the House and Senate also mention recreation, although some of the provisions are duplicative of existing programs or create new bureaucracies. H.R. 4034 is a cost-effective approach because it builds on a successful existing program. We don't need to create new programs and bureaucracies to stimulate recreation programs when we already have an effective one on the books which has been underfunded.

Mr. Speaker, I urge Members to vote in favor of this important measure to help deter crime and promote the positive development of our Nation's youth.

NATIONAL RECREATION
AND PARK ASSOCIATION,
Arlington, VA, March 21, 1994.

Hon. GEORGE MILLER,
Chairman, Committee on Natural Resources, Washington, D.C.

DEAR MR. CHAIRMAN: We write to commend your committee for its recent hearing on recreation and crime prevention and the timely consideration of legislation to amend the urban park and recreation recovery program, first authorized in 1978. The result of that event was the induction of H.R. 4034 whose passage we strongly support, with the further recommendation that it also be incorporated as an element of anti-crime legislation expected to be considered later this week.

The March 10 hearing was, to the best of our knowledge, the first and certainly the most comprehensive to explore the relationship between quality recreation opportunities for children, youth and families and prevention of delinquency and crime. The hearing was critical, too, in exposing the relationship between recreation as a social phenomenon and the imperative for access to a wide range of well maintained public facilities and lands. Public park and recreation systems encompass over 5,000 municipal and county entities which manage over 85,000 park and recreation sites. Another 20,000 sites are managed by state and interstate units of government. The proven importance of these systems—public services and resources—have thus far been substantially understated in the Congress's debate on crime control and prevention.

H.R. 4034 would focus resources on those places in most critical need of help. It would invest public funds in public places and services, while continuing present authority to collaborate with private entities where the public interest is best served by that approach. H.R. 4034 recognizes the record and potential of public park and recreation systems nationwide. It would allow, if funded, the initiation or expansion of scores of other programs. Consider for example, the impact of the following examples which could be replicated:

Dallas, Texas Parks and Recreation Department coordinates a city-wide gang intervention program in conjunction with public and private groups, including the police department, social services and juvenile justice system.

The Texas Park and Wildlife Department's "Buffalo Soldiers" volunteer program interprets the legacy of African-Americans in the West. In two years 30,000 youth have benefited from this public-private outreach program.

Phoenix, Arizona's Parks, Recreation and Library Department impacts 1.7 million youth. Enhanced recreation programs have reduced calls for police assistance up to 55 percent in some areas.

Mesa, Arizona's coalition of community leadership, public agency and private organization gang prevention steering committee collaborates on strategies to prevent and suppress gang activity, placing high priority on recreation opportunities for your and families.

Rialto, California's Recreation Department and a Task Force on Youth have expanded after-school youth services in high-risk neighborhoods to combat drugs and gangs; 70–80 people participate daily.

Richmond, Virginia Department of Recreation and Parks coordinates a R.E.A.D.Y. (Recreation and Education Activities Designed for Youth) collaborative program reaching over 7,000 youth.

Mobile facilities and "late night" programs in hundreds of jurisdictions bring services and qualified staff to underserved communities and populations.

We commend the committee for its initiative and urge the strong support of the House.

Thank you for your continuing leadership.

Sincerely,

R. DEAN TICE,
Executive Director.

Mr. Speaker, I reserve the balance of my time.

Mr. MILLER of California. Mr. Speaker, the issue of crime, and especially juvenile crime, has understandably angered and outraged our Nation. Today, perhaps 60 percent of violent crimes are committed by young people between the ages of 10 and 20 years old.

For millions of these young people, the only social network and family structure they know are the urban gangs that deal drugs, foster crime, and slaughter each other in our Nation's streets.

Today, we are considering H.R. 4034, the Urban Recreation and At Risk Youth Act, which was introduced as a means of providing young people with constructive, supportive alternatives to street life and gangs.

We seek to build on an existing, effective, but undersupported program, not to create new mandates, new policies, or new administrative costs.

The Urban Park and Recreation Recovery Program offers matching grants to cities to rehabilitate and repair parks, recreation centers, playing fields, and other facilities. Matching grants also are available for programs that use recreation as a tool to teach young people the kind of skills they need to build constructive, positive lives.

When UPARR has been funded it has been enormously successful—hundreds of parks, rec centers, pools, and other facilities that otherwise would have been unable to meet the needs of their neighborhoods or simply closed their doors have been at work in their communities.

These programs, run by cities, police departments, schools or nonprofit entities like the boys and girls clubs bring at-risk youth in contact with caring adult mentors who teach them the kind of personal skills and job skills they need to stay out of the gangs and in school.

In its 15 years, more than 500 cities across America have benefited from UPARR. Neighborhoods in big cities like New York, Chicago, and Los Angeles, but also small- and medium-sized cities like Huntsville, AL, and Oxnard, CA, and Shreveport, LA, New Britain, CT, and Pontiac, MI, have been grant recipients.

Yet, since 1979, only $192 million of the $750 million authorized for UPARR has been spent. Despite a record of success and a huge backlog of applications that typically ran many times the number of grants approved, nothing at all was spent on UPARR from 1985 to 1990 as urban poverty and crime, and especially youth poverty and youth crime, skyrocketed.

And we have not been doing much better since then, with only $5 million appropriated in 1991 and 1992. These meager amounts mean that program grants must remain small and on a one-time only basis, vastly limiting the effectiveness of the program. Many worthy applications are turned down for lack of funding; others are not even submitted for consideration.

H.R. 4034 builds on the proven record of success of the Urban Parks and Recreation Recovery Act.

The bill incorporates new findings that make clear the relationship between urban parks and recreation and programs to help youth avoid a life of crime. It makes clear that urban neighborhoods with a high crime rate are to receive priority consideration in grant decisions, as well as programs that target at-risk youth, collaborate with nonprofit and police groups and leverage non-Federal resources.

For the first time, it allows the Secretary to make multiyear program grants, instead of one-time-only start up grants. And finally, it requires cities to update their recreation recovery plans to reflect the need to target at-risk youth.

These changes are modest because UPARR already has demonstrated its ability to quickly and effectively provide the places cities need to provide recreation for its residents and give teachers of all kinds a place to teach children. But these changes also are needed to help UPARR better respond to those needs and meet new priorities.

Mr. Speaker, it is my hope that when the House considers the omnibus crime bill it will have an opportunity to incorporate H.R. 4034. Many of us in the House recognize that a bill that deals only with the aftermath of crime by building more jails and imposing longer sentences is doomed if we do not do something to get young people off the track that puts them on a collision course with police, courts, and prisons in the first place.

Some provisions in the Senate and House Judiciary Committee bills recognize this vital

fact. Programs like ounce of prevention, midnight basketball, and community schools are important, necessary steps in the right direction.

I strongly believe that the updated urban park program we are discussing today is highly compatible with and even necessary to these other laudable efforts. The UPARR Program provides places where these vital programs can be located. In fact, recreation centers, whether they are in buildings owned by schools, municipalities or nonprofits, are magnets to young people like no other kind of place.

Moreover, UPARR already has the structure, the network and the working relationships to get millions of much-needed new money literally on the streets and serving our young people in no more than 4 months. This is crucial.

Mr. Speaker, the extraordinary outpouring of support in just a few days is impressive testimony to the simple common sense of this approach. The U.S. Conference of Mayors, the National Association for Sport and Physical Education, the National Police Athletic League, the Boys and Girls Clubs of America, Major League Baseball and the National Hockey League endorse this legislation. So do Nike, Reebok, Wilson, Spalding, Avia, Coleman, the Sporting Goods Manufacturing Association, the 20,000-member National Sporting Goods Association, and major regional retailers as well as parks and environmental organizations.

Mr. Speaker, this is the right thing to do. The mayors know it, the police know it, the kids know it.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as with all Members of this House, I am very concerned about the growing violent crime in this country. For that reason, I support strong anticrime measures similar to the one that was passed by the other body last year on a bipartisan basis. I hope that the leadership of this House will permit a strong measure to come before the House.

H.R. 4034, as described by Chairman VENTO, authorizes the expenditure of Federal funds for recreation programs targeted at at-risk youth in urban areas through the Urban Park and Recreation Renewal Program.

While there is evidence that some youth recreation programs can be effective, an effective alternative to violence, there is some question as to whether or not this should be the highest priority for the use of limited Federal funds available for fighting violence on the streets in this country.

Further, it does not appear that this measure authorizes any new programs that do not already appear in the 1978 law. The appropriations for this program have gone down from substantial appropriations early to very little activity of late.

I note that recent administrations of both parties have only funded this program at a minimal level. Frankly, I expect that that would remain unchanged unless, of course, you are successful in getting it into the crime bill, which would force, I suppose, some appropriation. And that is what this exercise is about, I imagine.

At any rate, this bill does not lead to the establishment of any new Federal programs nor any additional expenditures of Federal dollars, and I do not intend to oppose it.

Mr. Speaker, I reserve the balance of my time.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. MARTINEZ], a subcommittee chairman of the Committee on Education and Labor and a supporter of the bill.

Mr. MARTINEZ. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in strong support of H.R. 4034 and I would like to offer my thanks to Chairman MILLER and Chairman VENTO for bringing this measure to the floor.

As noted, this bill amends current authorizing legislation to provide a new category of competitive grants under the urban park and recreation recovery program.

In my congressional district, I have found that current law is insufficient to ensure that local efforts are able to achieve success, even where local activities have garnered wide support, both in terms of volunteers and funding to undertake projects to reclaim recreational sites to be used to provide sites for activities designed to lessen incidences of gang and other criminal activities by at-risk youth.

The city of El Monte, in my district, raised over $130,000 in matching funds for projects under UPARR, and filed a request for Federal funding under the act.

Even though their application was a model under the program, they were denied funding because of a lack of available Federal funding.

I believe that, as we begin to consider prevention of crime in our cities this week, it is unconscionable that we cannot fund these critical programs.

I support H.R. 4034, and trust that my colleagues will vote in favor of this bill.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume. I do so in order to point out that I have received a list of some 36 organizations supporting the Urban Recreation and At-Risk Youth Act of 1994. It does substantively change the basic law that we wrote, written actually by a mentor of the gentleman from California [Mr. MILLER] and myself, the former chairman of the subcommittee at that time, the gentleman from California, Mr. Phil Burton.

I think that Congressman THOMAS—and I appreciate his support for this—he points out rightly that if we do not get appropriations, good laws, good policies do not serve their desired ends. But at least I think with the type of reawakening that is occurring in terms of the recognition of youth and their relationship to violent crime, which has come to grip our society, that we have an opportunity to do some investments, some seed money with programs like this which will have a great return in terms of saving money at the other end of the spectrum when in fact we are dealing with people on the streets and dealing with the violence.

So I think trying to keep this going, it sounds like such a commonsense notion, one that has simply eluded many of our urban areas. Our urban areas are having difficulty meeting their budgets because of the lack of income, the lack of manufacturing jobs and employment which has occurred, and the property and tax base erosion which they are experiencing.

But these 36 organizations, including at the top of the list the U.S. Conference of Mayors, a group which is obviously concerned with the urban America and towns and cities they represent, and the Boys' and Girls' Clubs of America. I mention them because, again, they are active in these communities, providing the type of counseling necessary. It goes on with 36 other groups, some companies, some of which actually sell sporting goods and have an interest here, but more often the public-interest and others, all interested in the prevention of crime, this law can work, and should be given new emphasis in the 1995 crime legislation.

□ 1330

Mr. Speaker, I hope that our colleagues, we will all join together and try to put a priority in terms of funding a program of this nature, which has, I think, tremendous potential with the new flexibility, and then, too, I think there is a concern that we somehow commit funds, a trust fund as it were, for the crime bill that is being considered. I do not know if that is going to come to pass. I think that is a different debate. But if it does, I would hope that some of these dollars, some substantial amounts of them, would be put into this crime-prevention type of initiative that we have before us on the floor today.

So, Mr. Speaker, I will put this in the RECORD and ask my colleagues to strongly support this, and again I commend the gentleman from California [Mr. MILLER], chairman of the Committee on Natural Resources, for the outstanding work that he has done on urban youth and recreation programs and throughout his service in Congress, especially now chairing the Committee on Natural Resources, and I would ask that his statement be made part of the RECORD.

Mr. Speaker, I am going to put this list of supporters into the RECORD:

ORGANIZATIONS SUPPORTING H.R. 4034, URBAN RECREATION AND AT-RISK YOUTH ACT OF 1994

U.S. Conference of Mayors.
Boys and Girls clubs of America.
National Association of Service and Conservation Corps.
National Association of State Outdoor Recreation Liaison Officers.
National Association for Sport and Physical Education.
National Police Athletic League.
City of New York Department of Parks and Recreation.
National Hockey League.
Major League Baseball.
Inner City Games.
Soccer in the Streets.
The Recreation Roundtable.
Sporting Goods Manufacturing Association.
National Sporting Goods Association.
Outdoor Recreation Coalition of America.
Levi Strauss & Co.
Nike, Inc.
Spalding.
Porter Athletic.
Reebok.
Avia.
Wilson Sporting Goods.
Shutt Sports Group.
Oshman's Sporting Goods.
Sports, Inc.
FootAction.
Koenig Sporting Goods.
Sportmart.
Hibbett Sporting Goods.
Coleman Company.
Inner City Sportsgear.
National Recreation and Park Association.
The Trust for Public Land.
The Wilderness Society.
American Recreation Coalition.
Rails to Trails Conservancy.
Los Angeles Conservation Corps.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am, of course, interested, as the gentleman from Minnesota [Mr. VENTO] is, in urban areas and the crime there. I just guess I would like to make the point that we do not all come from urban areas, and, when we talk about Federal programs, Mr. Speaker, we see, it seems to me, more and more of a tilt constantly, whether it is education, crime, whatever, toward urban areas. I think there has to be some fairness and equity.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. THOMAS of Wyoming. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, the language of this bill refers to urban areas, but I have come to recognize, working on serious social problems, that they know no bounds, and so I have come, when I have worked on homlessness, come to use the term "troubled communities" as an alternative because they, too, have the same problems that some urban areas or some troubled urban areas have, so the use of the words "troubled communities" seems to fit. But it is a case in terms of problems with cities, even though one may live in a suburb or they may live someplace else, but it is the trouble at the core that emanates out, and I understand the gentleman, coming from the ranching and rural communities, and that we so often are discussing issues that affect them in a different vein. But certainly I think we have to find ways to deal with the pockets of problems that exist in these areas. We have done that successfully, Mr. Speaker, as the gentleman knows.

During my service on the Committee on Natural Resources, and I also serve on the Committee on Banking, Finance and Urban Affairs, but very often the programs that we have written have been responsive, and I would hope that this also could meet the very special needs that exist in the ranches and rural areas, the pockets of problems, the pockets of poverty, the pockets of troubled communities in those areas. Wyoming is a great State, but I am certain some of these issues do manifest themselves.

Mr. THOMAS of Wyoming. Mr. Speaker, I thank the gentleman from Minnesota [Mr. VENTO]. I just wanted to make certain.

Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. GOSS].

Mr. GOSS. Mr. Speaker, sadly, the problem is familiar: children are being seduced by drugs, crime, and guns because they have little hope of escaping the poverty, despair, and violence of their daily lives.

Faced with this destructive trend, southwest Florida communities are fighting back—and winning. The success through academic and recreational support program [STARS] is an innovative approach to providing at-risk children between the ages of 8 and 14 with alternatives to juvenile crime, drugs, and violence.

STARS gives kids a place to go after schools where learning, friendly athletic competition, and positive role models replace street corners, drug trading, and gangs. This program is the product of an unprecedented alliance between the city of Fort Myers, an independent county school board, the school district of Lee County, the State of Florida, the Federal Government, private nonprofit organizations, and the private-corporate sector of the local community. STARS, an urban recreational and academic program like those envisioned by H.R. 4034, has been so successful that it is justly credited with the steady decline of juvenile crime in the city of Fort Myers. The positive achievements of the STARS Program can be directly credited to the hard work, dedication, and cooperation of Florida's leaders, including Fort Myers Mayor Wilbur Smith, Fort Myers Police Chief Donna Hansen, and U.S. Senator CONNIE MACK. I am proud to identify STARS as a role model for other urban cities in search of effective programs to combat teen crime, drugs, illiteracy, and poverty.

Mr. Speaker, we are talking about a landscape that is littered with failure, failed programs that did not work, and so I am offering this little bit of a success story, and I am very apt to report that the original seed tax money, those tax dollars in this case, were well invested and well spent, and I think that is a test that every program should be submitted to, and, if they come up as well as this one, we will be doing our job very well.

Mr. Speaker, I thank the gentleman from Wyoming [Mr. THOMAS] for having yielded this time to me.

Mrs. MINK of Hawaii. Mr. Speaker, the youth of our Nation are crying out for help. Threats of gang warfare are escalating and becoming more violent in our inner cities. Violence in parks, vandalism of school buildings and torment of many of our citizens mark the daily choices of activity a large proportion of youth pick to occupy their free time. We must help our younger generations to find healthy, productive ways to spend their free hours.

The Urban Park and At Risk Youth Act is a good bill which will do just that. Improved recreational facilities will give youth the pride of being able to step onto sparkling courts to shoot some hoops or onto clean and trimmed fields to score a few home runs. Let's improve our rundown parks and allow our youngsters to play with new equipment.

This cooperative effort will bring together law enforcement and social service agencies and park and recreation officials to positively combat juvenile crime.

Non-profits which care for at risk youth such as the Boys and Girls Clubs of America will be able to apply for funding through this bill. In the State of Hawaii, very successful late night basketball leagues will also be able to receive funds to ensure the continuation of these programs. The Honolulu Police Department noted a reduction in the rates of juvenile crime during league activities.

It's sad to see our children sitting around after school with nothing to do. Let's give them all a chance at friendly competition in sports activities. Every child should have an opportunity to say they're No. 1.

Ms. NORTON. Mr. Speaker, I am pleased to rise in support of this thoughtful and urgently-needed legislation. I extend my thanks to the crafters of this bill, particularly full committee Chairman GEORGE MILLER and subcommittee Chairman BRUCE VENTO, who, like many of us in this body, recognize that one of the many challenges we face as a nation working within the constraints of an ever-tightening budget is providing recreational resources and alternatives for the young people who can least afford them and who are at greatest risk if they don't get them.

The Urban Recreation At-Risk Youth Act would add a new category of competitive grants under the Urban Park and Recreation Recovery Program, established in 1978. The new category of "At-Risk Youth Grants" seeks to address the realities of our times—that crime has a chokehold on most of the Nation's urban areas and that the criminals are getting younger and younger. The matching grant

funds that would be authorized under this bill would go to the Nation's urban crime hotspots for rehabilitating deteriorating urban recreational facilities and developing recreational programs run by State and local governments as well as non-profit organizations.

The bill's focus on urban areas with high crime rates is especially critical since many of our cities are producing a new generation of criminals—younger, tougher, and remorseless. The more assistance we give to our cities in reaching out to youth, even if only with matching grants, the more we do to aid cities in combatting our Nation's rising juvenile crime rate.

The District of Columbia provides a prime example of what happens when money for recreational facilities and programs evaporates. In our city, many of the neighborhoods with the highest crime rates are those where the facilities are rusted, broken, or non-existent. A dozen years of neglect are yielding a decade of soaring crime rates and overcrowded prisons. Thus, it is too late for many. Trying juvenile offenders as adults at younger and younger ages has not worked, and neither has imprisoning them for longer periods of time. Isn't it time we supported the alternatives to crime that kids have shown they embrace?

The older folk used to say, "An idle mind is the devil's workshop." In modern times we witness the truth of this axiom every day, particularly in cities full of children and adolescents who have no constructive, safe and fun outlets once the school day ends. Extracurricular recreation programs, be they in our Nation's parks, schools, community centers, provide an ideal outlet for properly directing youthful energy so that it will not become destructive. We certainly owe our young people opportunities and resources to enjoy this time in their lives and to prepare for a productive adult life. H.R. 4034 won't do all we need to do, certainly not nearly as much what our youth deserve. But it is a thoughtful and well-crafted effort in these budget-conscious times. I am proud to be a cosponsor of this bill and I urge its passage.

Miss COLLINS of Michigan. Mr. Speaker, I want to commend the Interior Committee for bringing to us today the Urban Recreation and At-Risk Youth Act. I will cast an enthusiastic "aye" vote.

This bill would create a new grant program for projects to improve recreational facilities and expand recreational services in urban communities that have a high crime rate. Grantees could, for example, rehabilitate existing facilities or install lights and security telephones. Importantly, grants could be awarded for programs to prevent young people from entering the criminal justice system and priority must be given to youth at greatest risk.

As one who represents an urban district, a district in which unemployment among minority adults is almost 20 percent and among some African-American males is 40 percent, I welcome this new initiative. Adolescents, we all know, are very vulnerable. What parent has not worried about what his or her child is doing after school. Most children in America today are raised in homes with two working parents or by a single working parent. One study found that 27 percent of eighth graders spend two or more hours at home alone every day.

With 60 percent of their time devoted to essential activities, young people have a large chunk of discretionary time. Yet most communities are hard strapped to provide quality after-school programs. Faced with boredom and neglect, some of our young people stray into unproductive activities and delinquency. One authority has said that 25 percent of youngsters aged 10 to 17 are at serious risk of not achieving productive adulthood.

It is long past time for us to recognize that we must give our young people alternatives to the street. By doing so, we are less likely to pay the societal bills for crime, delinquency, substance abuse, teen pregnancies, welfare and health care. And our young people deserve this kind of support and opportunity.

Mr. THOMAS of Wyoming. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I, too, yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 4034, as amended.

The question was taken.

Mr. VENTO. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

CONFERENCE REPORT ON S. 1284, DEVELOPMENTAL DISABILITIES ASSISTANCE AND BILL OF RIGHTS ACT AMENDMENTS OF 1994

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and agree to the conference report on the Senate bill (S. 1284) to amend the Developmental Disabilities Assistance and Bill of Rights Act to expand or modify certain provisions relating to programs for individuals with developmental disabilities, Federal assistance for priority area activities for individuals with developmental disabilities, protection and advocacy of individual rights, university affiliated programs, and projects of national significance, and for other purposes.

The Clerk read the title of the Senate bill.

(For conference report and statement, see prior proceedings of the House of today.)

The SPEAKER pro tempore. Pursuant to rule, the gentleman from California [Mr. WAXMAN] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all members may have 5 legislative days in which to revise and extend their remarks on S. 1284.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the principal purpose of S. 1284 is to revise and extend the Developmental Disabilities Assistance and Bill of Rights Act. The act authorizes four programs designed to assist individuals with developmental disabilities to live more productive lives in communities and institutions: the State developmental disability councils; the protection and advocacy programs; the university affiliated programs; and projects of national significance. These four programs are authorized for a total of $117 million in fiscal year 1994, which is also the current appropriations level, and such sums as may be necessary for fiscal years 1995 and 1996.

The compromise legislation worked out with the Senate includes resolution of the issues brought to our attention on the needs of individuals living in the community and in institutions.

The legislation enjoys broad support on both sides of the aisle. I would especially like to thank my colleagues, Mr. DINGELL, Mr. BLILEY, Mr. GREENWOOD, and Mr. BROWN for their hard work in bringing us to consensus on this legislation. I would also like to thank my colleagues on the Education and Labor Committee for their interest and valuable input into this process.

Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on S. 1284.

Mr. Speaker, developmental disabilities are severe, chronic disabilities, either physical, mental, or a combination, which manifest themselves before a person reaches age 22. These disabilities result in substantial limitations in three or more major life areas, such as learning, mobility, and capacity for independent living. There are currently about 3 million individuals with developmental disabilities in the United States.

The developmental disabilities assistance and bill of rights act authorizes four programs: The State grant program; protection and advocacy systems; university affiliated programs; and projects of national significance. These programs work to support the development of a comprehensive system of services and support for people with developmental disabilities.

I am very pleased that language addressing the concerns of the voice of the retarded were incorporated in the conference report. I understand that

the original House report language caused concern among several groups in the field. I am pleased that in clarifying this language we retained the language which states: "The goals expressed in this act to promote the greatest possible integration and independence for individuals with developmental disabilities may not be read as a Federal policy supporting the closure of residential institutions."

I am also pleased that all the funding levels in the bill are those that were in the House bill and that several of the concerns of some Governors were addressed.

I support the conference report and urge my colleagues to join me.

□ 1340

Mr. WAXMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and agree to the conference report on the Senate bill, S. 1284.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the conference report was agreed to.

A motion to reconsider was laid on the table.

RECESS

The SPEAKER pro tempore. Pursuant to the provisions of clause 12, rule I, the Chair declares the House in recess until 2:30 p.m.

Accordingly (at 1 o'clock and 42 minutes p.m.), the House stood in recess until 2:30 p.m.

□ 1430

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. COLEMAN] at 2 o'clock and 31 minutes p.m.

CONFERENCE REPORT ON H.R. 1804, GOALS 2000: EDUCATE AMERICA ACT

Mr. KILDEE submitted the following conference report and statement on the bill (H.R. 1804) to improve learning and teaching by providing a national framework for education reform; to promote the research, consensus building, and systemic changes needed to ensure equitable educational opportunities and high levels of educational achievement for all students; to provide a framework for reauthorization of all Federal education programs; to promote the development and adoption of a voluntary national system of skill standards and certifications; and for other purposes:

CONFERENCE REPORT (H. REPT. 103-446)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the amendment of the Senate to the bill (H.R. 1804), to improve learning and teaching by providing a national framework for education reform; to promote the research, consensus building, and systemic changes needed to ensure equitable educational opportunities and high levels of educational achievement for all students; to provide a framework for reauthorization of all Federal education programs; to promote the development and adoption of a voluntary national system of skill standards and certifications; and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act (other than titles V and IX) may be cited as the "Goals 2000: Educate America Act".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Purpose.
Sec. 3. Definitions.

TITLE I—NATIONAL EDUCATION GOALS

Sec. 101. Purpose.
Sec. 102. National education goals.

TITLE II—NATIONAL EDUCATION REFORM LEADERSHIP, STANDARDS, AND ASSESSMENTS

PART A—NATIONAL EDUCATION GOALS PANEL

Sec. 201. Purpose.
Sec. 202. National Education Goals Panel.
Sec. 203. Duties.
Sec. 204. Powers of the Goals Panel.
Sec. 205. Administrative provisions.
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PART B—NATIONAL EDUCATION STANDARDS AND IMPROVEMENT COUNCIL

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PART C—LEADERSHIP IN EDUCATIONAL TECHNOLOGY

Sec. 231. Purposes.
Sec. 232. Federal leadership.
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PART D—AUTHORIZATION OF APPROPRIATIONS

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TITLE III—STATE AND LOCAL EDUCATION SYSTEMIC IMPROVEMENT

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Sec. 302. Purpose.
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Sec. 310. Availability of information and training.
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Sec. 313. Technical and other assistance regarding school finance equity.
Sec. 314. National leadership.
Sec. 315. Assistance to the outlying areas and to the Secretary of the Interior.
Sec. 316. Clarification regarding State standards and assessments.
Sec. 317. State planning for improving student achievement through integration of technology into the curriculum.
Sec. 318. Prohibition on Federal mandates, direction, and control.
Sec. 319. State and local government control of education.

TITLE IV—PARENTAL ASSISTANCE

Sec. 401. Parental information and resource centers.
Sec. 402. Applications.
Sec. 403. Uses of funds.
Sec. 404. Technical assistance.
Sec. 405. Definitions.
Sec. 406. Reports.
Sec. 407. General provision.
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TITLE V—NATIONAL SKILL STANDARDS BOARD

Sec. 501. Short title.
Sec. 502. Purpose.
Sec. 503. Establishment of National Board.
Sec. 504. Functions of the National Board.
Sec. 505. Deadlines.
Sec. 506. Reports.
Sec. 507. Authorization of appropriations.
Sec. 508. Definitions.
Sec. 509. Sunset provision.

TITLE VI—INTERNATIONAL EDUCATION PROGRAM

Sec. 601. International Education Program.

TITLE VII—SAFE SCHOOLS.

Sec. 701. Short title; statement of purpose.
Sec. 702. Safe schools program authorized.
Sec. 703. Eligible applicants.
Sec. 704. Applications and plans.
Sec. 705. Use of funds.
Sec. 706. National activities.
Sec. 707. National cooperative education statistics system.
Sec. 708. Reports.
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TITLE VIII—MINORITY-FOCUSED CIVICS EDUCATION

Sec. 801. Short title.
Sec. 802. Purposes.
Sec. 803. Grants authorized; authorization of appropriations.
Sec. 804. Definitions.
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TITLE IX—EDUCATIONAL RESEARCH AND IMPROVEMENT

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Sec. 902. Findings.

PART A—GENERAL PROVISIONS REGARDING THE OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT
Sec. 911. Repeal.
Sec. 912. Office of Educational Research and Improvement.
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Sec. 914. Savings provision.
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PART B—NATIONAL EDUCATIONAL RESEARCH POLICY AND PRIORITIES BOARD
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PART G—OFFICE OF COMPREHENSIVE SCHOOL HEALTH EDUCATION
Sec. 971. Office of Comprehensive School Health Education.
PART H—FIELD READERS
Sec. 981. Field readers.
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TITLE X—MISCELLANEOUS
PART A—MISCELLANEOUS PROVISIONS
Sec. 1011. School prayer.
Sec. 1012. Funding for the Individuals with Disabilities Education Act.
Sec. 1013. National Board for professional teaching standards.
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PART B—GUN-FREE SCHOOLS
Sec. 1031. Short title.
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PART D—MIDNIGHT BASKETBALL LEAGUE TRAINING AND PARTNERSHIP
Sec. 1051. Short title.
Sec. 1052. Grants for midnight basketball league training and partnership programs.
Sec. 1053. Public housing midnight basketball league programs.

SEC. 2. PURPOSE.

The purpose of this Act is to provide a framework for meeting the National Education Goals established by title I of this Act by—

(1) promoting coherent, nationwide, systemic education reform;

(2) improving the quality of learning and teaching in the classroom and in the workplace;

(3) defining appropriate and coherent Federal, State, and local roles and responsibilities for education reform and lifelong learning;

(4) establishing valid and reliable mechanisms for—

(A) building a broad national consensus on American education reform;

(B) assisting in the development and certification of high-quality, internationally competitive content and student performance standards;

(C) assisting in the development and certification of opportunity-to-learn standards; and

(D) assisting in the development and certification of high-quality assessment measures that reflect the internationally competitive content and student performance standards;

(5) supporting new initiatives at the Federal, State, local, and school levels to provide equal educational opportunity for all students to meet high academic and occupational skill standards and to succeed in the world of employment and civic participation;

(6) providing a framework for the reauthorization of all Federal education programs by—

(A) creating a vision of excellence and equity that will guide all Federal education and related programs;

(B) providing for the establishment of high-quality, internationally competitive content and student performance standards and strategies that all students will be expected to achieve;

(C) providing for the establishment of high quality, internationally competitive opportunity-to-learn standards that all States, local educational agencies, and schools should achieve;

(D) encouraging and enabling all State educational agencies and local educational agencies to develop comprehensive improvement plans that will provide a coherent framework for the implementation of reauthorized Federal education and related programs in an integrated fashion that effectively educates all children to prepare them to participate fully as workers, parents, and citizens;

(E) providing resources to help individual schools, including those serving students with high needs, develop and implement comprehensive improvement plans; and

(F) promoting the use of technology to enable all students to achieve the National Education Goals;

(7) stimulating the development and adoption of a voluntary national system of skill standards and certification to serve as a cornerstone of the national strategy to enhance workforce skills; and

(8) assisting every elementary and secondary school that receives funds under this Act to actively involve parents and families in supporting the academic work of their children at home and in providing parents with skills to advocate for their children at school.

SEC. 3. DEFINITIONS.

(a) TITLES I, II, III, AND X.—As used in titles I, II, III, and X of this Act—

(1) the terms "all students" and "all children" mean students or children from a broad range of backgrounds and circumstances, including disadvantaged students and children, students or children with diverse racial, ethnic, and cultural backgrounds, American Indians, Alaska Natives, Native Hawaiians, students or children with disabilities, students or children with limited-English proficiency, school-aged students or children who have dropped out of school, migratory students or children, and academically talented students and children;

(2) the term "Bureau", unless otherwise provided, means the Bureau of Indian Affairs;

(3) the terms "community", "public", and "advocacy group" include representatives of organizations advocating for the education of American Indian, Alaska Native, and Native Hawaiian children and Indian tribes;

(4) the term "content standards" means broad descriptions of the knowledge and skills students should acquire in a particular subject area;

(5) the term "Governor" means the chief executive of the State;

(6) the terms "local educational agency" and "State educational agency" have the meaning given such terms in section 1471 of the Elementary and Secondary Education Act of 1965;

(7) the term "opportunity-to-learn standards" means the criteria for, and the basis of, assessing the sufficiency or quality of the resources, practices, and conditions necessary at each level of the education system (schools, local educational agencies, and States) to provide all students with an opportunity to learn the material in voluntary national content standards or State content standards;

(8) the term "outlying areas" means Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, Palau (until the effective date of the Compact of Free Association with the Government of Palau), the Republic of the Marshall Islands, and the Federated States of Micronesia;

(9) the term "performance standards" means concrete examples and explicit definitions of what students have to know and be able to do to demonstrate that such students are proficient in the skills and knowledge framed by content standards;

(10) the term "related services" has the same meaning given such term under section 602 of the Individuals with Disabilities Education Act;

(11) the term "State assessment" means measures of student performance which include at least 1 instrument of evaluation, and may include other measures of student performance, for a specific purpose and use which are intended to evaluate the progress of all students in the State toward learning the material in State content standards in 1 or more subject areas;

(12) the term "school" means a public school that is under the authority of the State educational agency or a local educational agency or, for the purpose of carrying out section 315(b), a school that is operated or funded by the Bureau;

(13) the term "Secretary", unless otherwise provided, means the Secretary of Education; and

(14) the term "State", unless otherwise provided, means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and each of the outlying areas.

(b) TITLES IV, V, VI, VII, VIII, AND IX.—For the purpose of titles IV, V, VI, VII, VIII, and IX—

(1) except as provided in paragraph (3) and unless otherwise provided, the terms used in such titles have the same meanings given such terms in section 1471 of the Elementary and Secondary Education Act of 1965;

(2) the term "Bureau", unless otherwise provided, means the Bureau of Indian Affairs; and

(3) the term "Secretary", unless otherwise provided, means the Secretary of Education

TITLE I—NATIONAL EDUCATION GOALS

SEC. 101. PURPOSE.

The purpose of this title is to establish National Education Goals.

SEC. 102. NATIONAL EDUCATION GOALS.

The Congress declares that the National Education Goals are the following:

(1) SCHOOL READINESS.—(A) By the year 2000, all children in America will start school ready to learn.

(B) The objectives for this goal are that—

(i) all children will have access to high-quality and developmentally appropriate preschool programs that help prepare children for school;

(ii) every parent in the United States will be a child's first teacher and devote time each day to helping such parent's preschool child learn, and parents will have access to the training and support parents need; and

(iii) children will receive the nutrition, physical activity experiences, and health care needed to arrive at school with healthy minds and bodies, and to maintain the mental alertness necessary to be prepared to learn, and the number of low-birthweight babies will be significantly reduced through enhanced prenatal health systems.

(2) SCHOOL COMPLETION.—(A) By the year 2000, the high school graduation rate will increase to at least 90 percent.

(B) The objectives for this goal are that—

(i) the Nation must dramatically reduce its school dropout rate, and 75 percent of the students who do drop out will successfully complete a high school degree or its equivalent; and

(ii) the gap in high school graduation rates between American students from minority backgrounds and their non-minority counterparts will be eliminated.

(3) STUDENT ACHIEVEMENT AND CITIZENSHIP.—(A) By the year 2000, all students will leave grades 4, 8, and 12 having demonstrated competency over challenging subject matter including English, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography, and every school in America will ensure that all students learn to use their minds well, so they may be prepared for responsible citizenship, further learning, and productive employment in our Nation's modern economy.

(B) The objectives for this goal are that—

(i) the academic performance of all students at the elementary and secondary level will increase significantly in every quartile, and the distribution of minority students in each quartile will more closely reflect the student population as a whole;

(ii) the percentage of all students who demonstrate the ability to reason, solve problems, apply knowledge, and write and communicate effectively will increase substantially;

(iii) all students will be involved in activities that promote and demonstrate good citizenship, good health, community service, and personal responsibility;

(iv) all students will have access to physical education and health education to ensure they are healthy and fit;

(v) the percentage of all students who are competent in more than one language will substantially increase; and

(vi) all students will be knowledgeable about the diverse cultural heritage of this Nation and about the world community.

(4) TEACHER EDUCATION AND PROFESSIONAL DEVELOPMENT.—

(A) By the year 2000, the Nation's teaching force will have access to programs for the continued improvement of their professional skills and the opportunity to acquire the knowledge and skills needed to instruct and prepare all American students for the next century.

(B) The objectives for this goal are that—

(i) all teachers will have access to preservice teacher education and continuing professional development activities that will provide such teachers with the knowledge and skills needed to teach to an increasingly diverse student population with a variety of educational, social, and health needs;

(ii) all teachers will have continuing opportunities to acquire additional knowledge and skills needed to teach challenging subject matter and to use emerging new methods, forms of assessment, and technologies;

(iii) States and school districts will create integrated strategies to attract, recruit, prepare, retrain, and support the continued professional development of teachers, administrators, and other educators, so that there is a highly talented work force of professional educators to teach challenging subject matter; and

(iv) partnerships will be established, whenever possible, among local educational agencies, institutions of higher education, parents, and local labor, business, and professional associations to provide and support programs for the professional development of educators.

(5) MATHEMATICS AND SCIENCE.—(A) By the year 2000, United States students will be first in the world in mathematics and science achievement.

(B) The objectives for this goal are that—

(i) mathematics and science education, including the metric system of measurement, will be strengthened throughout the system, especially in the early grades;

(ii) the number of teachers with a substantive background in mathematics and science, including the metric system of measurement, will increase by 50 percent; and

(iii) the number of United States undergraduate and graduate students, especially women and minorities, who complete degrees in mathematics, science, and engineering will increase significantly.

(6) ADULT LITERACY AND LIFELONG LEARNING.—(A) By the year 2000, every adult American will be literate and will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

(B) The objectives for this goal are that—

(i) every major American business will be involved in strengthening the connection between education and work;

(ii) all workers will have the opportunity to acquire the knowledge and skills, from basic to highly technical, needed to adapt to emerging new technologies, work methods, and markets through public and private educational, vocational, technical, workplace, or other programs;

(iii) the number of quality programs, including those at libraries, that are designed to serve more effectively the needs of the growing number of part-time and midcareer students will increase substantially;

(iv) the proportion of the qualified students, especially minorities, who enter college, who complete at least two years, and who complete their degree programs will increase substantially;

(v) the proportion of college graduates who demonstrate an advanced ability to think critically, communicate effectively, and solve problems will increase substantially; and

(vi) schools, in implementing comprehensive parent involvement programs, will offer more adult literacy, parent training and life-long learning opportunities to improve the ties between home and school, and enhance parents' work and home lives.

(7) SAFE, DISCIPLINED, AND ALCOHOL- AND DRUG-FREE SCHOOLS.—

(A) By the year 2000, every school in the United States will be free of drugs, violence, and the unauthorized presence of firearms and alcohol and will offer a disciplined environment conducive to learning.

(B) The objectives for this goal are that—

(i) every school will implement a firm and fair policy on use, possession, and distribution of drugs and alcohol;

(ii) parents, businesses, governmental and community organizations will work together to ensure the rights of students to study in a safe and secure environment that is free of drugs and crime, and that schools provide a healthy environment and are a safe haven for all children;

(iii) every local educational agency will develop and implement a policy to ensure that all schools are free of violence and the unauthorized presence of weapons;

(iv) every local educational agency will develop a sequential, comprehensive kindergarten through twelfth grade drug and alcohol prevention education program;

(v) drug and alcohol curriculum should be taught as an integral part of sequential, comprehensive health education;

(vi) community-based teams should be organized to provide students and teachers with needed support; and

(vii) every school should work to eliminate sexual harassment.

(8) PARENTAL PARTICIPATION.—

(A) By the year 2000, every school will promote partnerships that will increase parental involvement and participation in promoting the social, emotional, and academic growth of children.

(B) The objectives for this Goal are that—

(i) every State will develop policies to assist local schools and local educational agencies to establish programs for increasing partnerships that respond to the varying needs of parents and the home, including parents of children who are disadvantaged or bilingual, or parents of children with disabilities;

(ii) every school will actively engage parents and families in a partnership which supports the academic work of children at home and shared educational decisionmaking at school; and

(iii) parents and families will help to ensure that schools are adequately supported and will hold schools and teachers to high standards of accountability.

TITLE II—NATIONAL EDUCATION REFORM LEADERSHIP, STANDARDS, AND ASSESSMENTS

PART A—NATIONAL EDUCATION GOALS PANEL

SEC. 201. PURPOSE.

It is the purpose of this part to establish a bipartisan mechanism for—

(1) building a national consensus for education improvement;

(2) reporting on progress toward achieving the National Education Goals; and

(3) reviewing the voluntary national content standards, voluntary national student performance standards and voluntary national opportunity-to-learn standards certified by the National Education Standards and Improvement Council, as well as the criteria for the certification of such standards, and the criteria for the certification of State assessments certified by the National Education Standards and Improvement Council, with the option of disapproving such standards and criteria not later than 90 days after receipt from such Council.

SEC. 202. NATIONAL EDUCATION GOALS PANEL.

(a) ESTABLISHMENT.—There is established in the executive branch a National Education Goals Panel (hereafter in this title referred to as the "Goals Panel") to advise the President, the Secretary, and the Congress.

(b) COMPOSITION.—The Goals Panel shall be composed of 18 members (hereafter in this part referred to as "members"), including—

(1) 2 members appointed by the President;

(2) 8 members who are Governors, 3 of whom shall be from the same political party as the President and 5 of whom shall be from the opposite political party of the President, appointed by the Chairperson and Vice Chairperson of the

National Governors' Association, with the Chairperson and Vice Chairperson each appointing representatives of such Chairperson's or Vice Chairperson's respective political party, in consultation with each other;

(3) 4 Members of the Congress, of whom—

(A) 1 member shall be appointed by the Majority Leader of the Senate from among the Members of the Senate;

(B) 1 member shall be appointed by the Minority Leader of the Senate from among the Members of the Senate;

(C) 1 member shall be appointed by the Majority Leader of the House of Representatives from among the Members of the House of Representatives; and

(D) 1 member shall be appointed by the Minority Leader of the House of Representatives from among the Members of the House of Representatives; and

(4) 4 members of State legislatures appointed by the President of the National Conference of State Legislatures, of whom 2 shall be of the same political party as the President of the United States.

(c) SPECIAL APPOINTMENT RULES.—

(1) IN GENERAL.—The members appointed pursuant to subsection (b)(2) shall be appointed as follows:

(A) If the Chairperson of the National Governors' Association is from the same political party as the President, the Chairperson shall appoint 3 individuals and the Vice Chairperson of such association shall appoint 5 individuals.

(B) If the Chairperson of the National Governors' Association is from the opposite political party as the President, the Chairperson shall appoint 5 individuals and the Vice Chairperson of such association shall appoint 3 individuals.

(2) SPECIAL RULE.—If the National Governors' Association has appointed a panel that meets the requirements of subsections (b) and (c), except for the requirements of paragraph (4) of subsection (b), prior to the date of enactment of this Act, then the members serving on such panel shall be deemed to be in compliance with the provisions of such subsections and shall not be required to be reappointed pursuant to such subsections.

(3) REPRESENTATION.—To the extent feasible, the membership of the Goals Panel shall be geographically representative and reflect the racial, ethnic, and gender diversity of the United States.

(d) TERMS.—The terms of service of members shall be as follows:

(1) PRESIDENTIAL APPOINTEES.—Members appointed under subsection (b)(1) shall serve at the pleasure of the President.

(2) GOVERNORS.—Members appointed under paragraph (2) of subsection (b) shall serve for 2-year terms, except that the initial appointments under such paragraph shall be made to ensure staggered terms with one-half of such members' terms concluding every 2 years.

(3) CONGRESSIONAL APPOINTEES AND STATE LEGISLATORS.—Members appointed under paragraphs (3) and (4) of subsection (b) shall serve for 2-year terms.

(e) DATE OF APPOINTMENT.—The initial members shall be appointed not later than 60 days after the date of enactment of this Act.

(f) INITIATION.—The Goals Panel may begin to carry out its duties under this part when 10 members of the Goals Panel have been appointed.

(g) VACANCIES.—A vacancy on the Goals Panel shall not affect the powers of the Goals Panel, but shall be filled in the same manner as the original appointment.

(h) TRAVEL.—Each member may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for each day the member is engaged in the performance of duties for the Goals Panel away from the home or regular place of business of the member.

(i) CHAIRPERSON.—

(1) IN GENERAL.—The members shall select a Chairperson from among the members.

(2) TERM AND POLITICAL AFFILIATION.—The Chairperson of the Goals Panel shall serve a 1-year term and shall alternate between political parties.

(j) CONFLICT OF INTEREST.—A member of the Goals Panel who is an elected official of a State which has developed content, student performance, or opportunity-to-learn standards may not participate in Goals Panel consideration of such standards.

(k) EX OFFICIO MEMBER.—If the President has not appointed the Secretary as 1 of the 2 members the President appoints pursuant to subsection (b)(1), then the Secretary shall serve as a nonvoting ex officio member of the Goals Panel.

SEC. 203. DUTIES.

(a) IN GENERAL.—The Goals Panel shall—

(1) report to the President, the Secretary, and the Congress regarding the progress the Nation and the States are making toward achieving the National Education Goals established under title I of this Act, including issuing an annual report;

(2) report on State opportunity-to-learn standards and strategies and the progress of States that are implementing such standards and strategies to help all students meet State content standards and State student performance standards;

(3) submit to the President nominations for appointment to the National Education Standards and Improvement Council in accordance with subsections (b) and (c) of section 212;

(4) after taking into consideration the public comments received pursuant to section 216 and not later than 90 days after receipt, review the—

(A) criteria developed by the National Education Standards and Improvement Council for the certification of State content standards, State student performance standards, State assessments, and State opportunity-to-learn standards; and

(B) voluntary national content standards, voluntary national student performance standards and voluntary national opportunity-to-learn standards certified by the National Education Standards and Improvement Council,

except that the Goals Panel shall have the option of disapproving such criteria and standards by a two-thirds majority vote of the membership of the Goals Panel not later than 90 days after receipt of such criteria and standards;

(5) report on promising or effective actions being taken at the national, State, and local levels, and in the public and private sectors, to achieve the National Education Goals; and

(6) help build a nationwide, bipartisan consensus for the reforms necessary to achieve the National Education Goals.

(b) REPORT.—

(1) IN GENERAL.—The Goals Panel shall annually prepare and submit to the President, the Secretary, the appropriate committees of Congress, and the Governor of each State a report that shall—

(A) report on the progress of the United States toward achieving the National Education Goals;

(B) identify actions that should be taken by Federal, State, and local governments to enhance progress toward achieving the National Education Goals and to provide all students with a fair opportunity-to-learn; and

(C) report on State opportunity-to-learn standards and strategies and the progress of States that are implementing such standards and strategies to help all students meet State content standards and State student performance standards.

(2) FORM; DATA.—Reports shall be presented in a form, and include data, that is understandable to parents and the general public.

SEC. 204. POWERS OF THE GOALS PANEL.

(a) HEARINGS.—

(1) IN GENERAL.—The Goals Panel shall, for the purpose of carrying out this part, conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Goals Panel considers appropriate.

(2) REPRESENTATION.—In carrying out this part, the Goals Panel shall conduct hearings to receive reports, views, and analyses of a broad spectrum of experts and the public on the establishment of voluntary national content standards, voluntary national student performance standards, voluntary national opportunity-to-learn standards, and State assessments described in section 213(f).

(b) INFORMATION.—The Goals Panel may secure directly from any department or agency of the United States information necessary to enable the Goals Panel to carry out this part. Upon request of the Chairperson of the Goals Panel, the head of a department or agency shall furnish such information to the Goals Panel to the extent permitted by law.

(c) POSTAL SERVICES.—The Goals Panel may use the United States mail in the same manner and under the same conditions as other departments and agencies of the United States.

(d) USE OF FACILITIES.—The Goals Panel may, with consent of any agency or instrumentality of the United States, or of any State or political subdivision thereof, use the research, equipment, services, and facilities of such agency, instrumentality, State, or subdivision, respectively.

(e) ADMINISTRATIVE ARRANGEMENTS AND SUPPORT.—

(1) IN GENERAL.—The Secretary shall provide to the Goals Panel, on a reimbursable basis, such administrative support services as the Goals Panel may request.

(2) CONTRACTS AND OTHER ARRANGEMENTS.—The Secretary, to the extent appropriate, and on a reimbursable basis, shall make contracts and other arrangements that are requested by the Goals Panel to help the Goals Panel compile and analyze data or carry out other functions necessary to the performance of such responsibilities.

SEC. 205. ADMINISTRATIVE PROVISIONS.

(a) MEETINGS.—The Goals Panel shall meet on a regular basis, as necessary, at the call of the Chairperson of the Goals Panel or a majority of its members.

(b) QUORUM.—A majority of the members shall constitute a quorum for the transaction of business.

(c) VOTING AND FINAL DECISION.—

(1) VOTING.—No individual may vote, or exercise any of the powers of a member, by proxy.

(2) FINAL DECISIONS.—

(A) In making final decisions of the Goals Panel with respect to the exercise of its duties and powers the Goals Panel shall operate on the principle of consensus among the members of the Goals Panel.

(B) Except as otherwise provided in this part, if a vote of the membership of the Goals Panel is required to reach a final decision with respect to the exercise of its duties and powers, then such final decision shall be made by a three-fourths vote of the members of the Goals Panel who are present and voting.

(d) PUBLIC ACCESS.—The Goals Panel shall ensure public access to its proceedings (other than proceedings, or portions of proceedings, relating to internal personnel and management matters) and make available to the public, at reasonable cost, transcripts of such proceedings.

SEC. 206. DIRECTOR AND STAFF; EXPERTS AND CONSULTANTS.

(a) DIRECTOR.—The Chairperson of the Goals Panel, without regard to the provisions of title 5, United States Code, relating to the appointment and compensation of officers or employees of the United States, shall appoint a Director to be paid at a rate not to exceed the rate of basic pay payable for level V of the Executive Schedule.

(b) APPOINTMENT AND PAY OF EMPLOYEES.—

(1) IN GENERAL.—(A) The Director may appoint not more than 4 additional employees to serve as staff to the Goals Panel without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

(B) The employees appointed under subparagraph (A) may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, but shall not be paid a rate that exceeds the maximum rate of basic pay payable for GS–15 of the General Schedule.

(2) ADDITIONAL EMPLOYEES.—The Director may appoint additional employees to serve as staff to the Goals Panel in accordance with title 5, United States Code.

(c) EXPERTS AND CONSULTANTS.—The Goals Panel may procure temporary and intermittent services of experts and consultants under section 3109(b) of title 5, United States Code.

(d) STAFF OF FEDERAL AGENCIES.—Upon the request of the Goals Panel, the head of any department or agency of the United States may detail any of the personnel of such agency to the Goals Panel to assist the Goals Panel in its duties under this part.

SEC. 207. EARLY CHILDHOOD ASSESSMENT.

(a) IN GENERAL.—The Goals Panel shall support the work of its Resource and Technical Planning Groups on School Readiness (hereafter in this section referred to as the "Groups") to improve the methods of assessing the readiness of children for school that would lead to alternatives to currently used early childhood assessments.

(b) ACTIVITIES.—The Groups shall—

(1) develop a model of elements of school readiness that address a broad range of early childhood developmental needs, including the needs of children with disabilities;

(2) create clear guidelines regarding the nature, functions, and uses of early childhood assessments, including assessment formats that are appropriate for use in culturally and linguistically diverse communities, based on model elements of school readiness;

(3) monitor and evaluate early childhood assessments, including the ability of existing assessments to provide valid information on the readiness of children for school; and

(4) monitor and report on the long-term collection of data on the status of young children to improve policy and practice, including the need for new sources of data necessary to assess the broad range of early childhood developmental needs.

(c) ADVICE.—The Groups shall advise and assist the Congress, the Secretary, the Goals Panel, and others regarding how to improve the assessment of young children and how such assessments can improve services to children.

(d) REPORT.—The Goals Panel shall provide reports on the work of the Groups to the appropriate committees of the Congress, the Secretary, and the public.

PART B—NATIONAL EDUCATION STANDARDS AND IMPROVEMENT COUNCIL

SEC. 211. PURPOSE.

It is the purpose of this part to establish a mechanism to—

(1) certify and periodically review voluntary national content standards and voluntary national student performance standards that define what all students should know and be able to do;

(2) certify State content standards and State student performance standards submitted by States on a voluntary basis, if such standards are comparable or higher in rigor and quality to the voluntary national content standards and voluntary national student performance standards certified by the National Education Standards and Improvement Council;

(3) certify and periodically review voluntary national opportunity-to-learn standards that describe the conditions of teaching and learning necessary for all students to have a fair opportunity to achieve the knowledge and skills described in the voluntary national content standards and the voluntary national student performance standards certified by the National Education Standards and Improvement Council;

(4) certify opportunity-to-learn standards submitted by States on a voluntary basis, if such standards are comparable or higher in rigor and quality to the voluntary national opportunity-to-learn standards certified by the National Education Standards and Improvement Council; and

(5) certify State assessments submitted by States or groups of States on a voluntary basis, if such assessments—

(A) are aligned with and support State content standards certified by such Council; and

(B) are valid, reliable, and consistent with relevant, nationally recognized, professional and technical standards for assessment when used for their intended purposes.

SEC. 212. NATIONAL EDUCATION STANDARDS AND IMPROVEMENT COUNCIL.

(a) ESTABLISHMENT.—There is established in the executive branch a National Education Standards and Improvement Council (hereafter in this part referred to as the "Council").

(b) COMPOSITION.—

(1) IN GENERAL.—The Council shall be composed of 19 members (hereafter in this part referred to as "members") who shall be appointed as follows:

(A) The President shall appoint 7 individuals to the Council from among nominations received from the Secretary under subsection (c)(1)(B)(i), of whom—

(i) 2 shall be from each of the categories described in clause (i), (iii), or (iv) of subsection (c)(1)(A); and

(ii) 1 shall be from the category described in clause (ii) of subsection (c)(1)(A).

(B) The President shall appoint 12 individuals to the Council, of whom—

(i) 4 individuals shall be from nominations received from the Speaker of the House of Representatives, of whom 1 individual shall be from each of the categories described in clauses (i) through (iv) of subsection (c)(1)(A);

(ii) 4 individuals shall be from nominations received from the Majority Leader of the Senate, of whom 1 individual shall be from each of the categories described in clauses (i) through (iv) of subsection (c)(1)(A); and

(iii) 4 individuals shall be from nominations received from the Goals Panel, of whom 1 individual shall be from each of the categories described in clauses (i) through (iv) of subsection (c)(1)(A).

(2) SPECIAL RULES.—From among nominations received pursuant to subparagraphs (A) and (B) of paragraph (1) the President shall appoint to the Council—

(A) 1 individual representative of post-secondary educational institutions;

(B) 1 individual representative of organized labor; and

(C) 1 individual who is representative of business and is a member of the National Skill Standards Board established under title V.

(c) APPOINTMENT RULES AND QUALIFICATIONS.—

(1) APPOINTMENT CATEGORIES.—(A) The members of the Council shall be appointed from among the following categories of individuals:

(i) Professional educators, including elementary and secondary classroom teachers, preschool educators, related services personnel, and other school-based professionals, State or local educational agency administrators, and other educators.

(ii) Representatives of business and industry, organized labor, and postsecondary educational institutions.

(iii) Representatives of the public, including representatives of advocacy, civil rights and disability groups, parents, civic leaders, State or local education policymakers (including members of State, local, or tribal school boards).

(iv) Education experts, including experts in measurement and assessment, curriculum, school finance and equity, and school reform.

(B)(i) The Secretary shall nominate 21 individuals for membership on the Council, of whom—

(I) 3 individuals shall be nominated from the category described in subparagraph (A)(i); and

(II) 6 individuals shall be nominated from each of the categories described in clauses (ii) through (iv) of subparagraph (A).

(ii) The Speaker of the House of Representatives, in consultation with the Majority Leader and Minority Leader of the House of Representatives, shall nominate 12 individuals for membership on the Council, of whom 3 individuals shall be nominated from each of the categories described in clauses (i) through (iv) of subparagraph (A).

(iii) The Majority Leader of the Senate, in consultation with the Minority Leader of the Senate, shall nominate 12 individuals for membership on the Council, of whom 3 individuals shall be nominated from each of the categories described in clauses (i) and (iv) of subparagraph (A).

(iv) The Goals Panel shall nominate 12 individuals for membership on the Council, of whom 3 individuals shall be nominated from each of the categories described in clauses (i) and (iv) of subparagraph (A).

(2) REPRESENTATION.—To the extent feasible, the membership of the Council shall be geographically representative of the United States and reflect the diversity of the United States with regard to race, ethnicity, gender, and disability characteristics.

(3) EXPERTISE OR BACKGROUND.—Not less than one-third of the individuals nominated and appointed under subsection (b) shall have expertise or background in the educational needs of children who are from low-income families, from minority backgrounds, have limited-English proficiency, or have disabilities.

(4) DIVISION BETWEEN POLITICAL PARTIES.—To the extent feasible, the individuals nominated and the individuals appointed to the Council shall be equally divided between the 2 major political parties.

(d) TERMS.—

(1) IN GENERAL.—Members shall be appointed for 3-year terms, with no member serving more than 2 consecutive terms.

(2) STAGGERING.—(A) The Council shall establish initial terms for members of 1, 2, or 3 years in order to establish a rotation in which one-third of the members are selected each year.

(B) The Secretary shall determine, pursuant to a lottery, which members serve terms of 1, 2, or 3 years under subparagraph (A).

(e) DATE OF APPOINTMENT.—The initial members shall be appointed not later than 120 days after the date of enactment of this Act.

(f) INITIATION.—The Council shall begin to carry out the duties of the Council under this part when all 20 members have been appointed.

(g) RETENTION.—In order to retain an appointment to the Council, a member shall attend at least two-thirds of the scheduled meetings of the Council in any given year.

(h) VACANCY.—A vacancy on the Council shall not affect the powers of the Council, but shall be filled in the same manner as the original appointment.

(i) COMPENSATION.—Members of the Council who are not regular full-time employees of the United States may, while attending meetings or hearings of the Council, be provided compensation at a rate fixed by the Secretary, but not exceeding the maximum rate of basic pay payable for GS-15 of the General Schedule.

(j) CONFLICT OF INTEREST.—

(1) IN GENERAL.—A member of the Council may not concurrently serve as a member of the Goals Panel.

(2) PROHIBITION.—A member of the Council who resides in a State which has developed State content standards, State student performance standards, State opportunity-to-learn standards or State assessments that are submitted to the Council for certification may not participate in Council consideration of such standards and assessments.

(3) SPECIAL RULES.—(A) Notwithstanding any other provision of law, before an individual is appointed to the Council, the official responsible for issuing waivers under section 208(b)(3) of title 18, United States Code, shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a copy of the waiver required by that section. Information contained in the waiver that would not otherwise be publicly available under section 208(d)(1) of title 18, United States Code, shall be provided to such committees, but shall be noted as nonpublic information.

(B) The Council shall develop, consistent with the provisions of and regulations promulgated pursuant to section 208(b)(3) of title 18, United States Code, 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 procedures governing the participation of members in any matter that affects the financial interests of the members or of a person or entity whose interests are imputed to the member.

(k) TRAVEL.—Each member of the Council may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

(l) OFFICERS.—The members of the Council shall select officers from among its members. The officers of the Council shall serve for one-year terms.

SEC. 213. DUTIES.

(a) VOLUNTARY NATIONAL CONTENT STANDARDS; VOLUNTARY NATIONAL STUDENT PERFORMANCE STANDARDS.—

(1) IN GENERAL.—The Council, which may consult with outside experts, shall—

(A) identify areas in which voluntary national content standards need to be developed;

(B) certify voluntary national content standards and voluntary national student performance standards using the criteria developed under paragraph (2)(A)(i), that define what all students should know and be able to do;

(C) forward such voluntary national content standards and voluntary national student performance standards to the Goals Panel for review, except that the Goals Panel shall have the option of disapproving such standards by a two-thirds majority vote of the full membership of the Goals Panel not later than 90 days after receipt of such standards; and

(D) develop a process for periodically reviewing any voluntary national content standards, voluntary national student performance standards, and voluntary national opportunity-to-learn standards that have been certified.

(2) CRITERIA.—(A) The Council, which may consult with outside experts, shall—

(i) identify and develop criteria to be used for certifying the voluntary national content standards and voluntary national student performance standards; and

(ii) before applying such criteria, forward such criteria to the Goals Panel for review, except that the Goals Panel shall have the option of disapproving such criteria by a two-thirds majority vote of the full membership of the Goals Panel not later than 90 days after receipt of such criteria.

(B) The criteria developed by the Council shall address—

(i) the extent to which the proposed standards are internationally competitive and comparable to the best in the world;

(ii) the extent to which the proposed voluntary national content standards and voluntary national student performance standards reflect the best available knowledge about how all students learn and about how the content area can be most effectively taught;

(iii) the extent to which the proposed voluntary national content standards and voluntary national student performance standards have been developed through an open and public process that provides for input and involvement of all relevant parties, including teachers, related services personnel, and other professional educators, employers and postsecondary education institutions, curriculum and subject matter specialists, parents, advocacy groups, secondary school students, and the public; and

(iv) other factors that the Council deems appropriate.

(C) In developing the criteria, the Council shall work with entities that are developing, or have already developed, content and student performance standards, and any other entities that the Council deems appropriate, to identify appropriate certification criteria.

(b) STATE CONTENT STANDARDS; STATE STUDENT PERFORMANCE STANDARDS.—The Council may certify State content standards and State student performance standards presented on a voluntary basis by a State or group of States, using the criteria developed under subsection (a)(2)(A)(i), if such standards are comparable or higher in rigor and quality to the voluntary national content standards and voluntary national student performance standards certified by the Council.

(c) VOLUNTARY NATIONAL OPPORTUNITY-TO-LEARN STANDARDS.—

(1) IN GENERAL.—The Council, which may consult with outside experts, shall certify exemplary, voluntary national opportunity-to-learn standards that will establish a basis for providing all students a fair opportunity to achieve the knowledge and skills set out in the voluntary national content standards certified by the Council. In carrying out the preceding sentence the Council is authorized to consider proposals for voluntary national opportunity-to-learn standards from groups other than groups that receive grants under section 219.

(2) ELEMENTS ADDRESSED.—The voluntary national opportunity-to-learn standards certified by the Council shall address—

(A) the quality and availability to all students of curricula, instructional materials, and technologies, including distance learning;

(B) the capability of teachers to provide high-quality instruction to meet diverse learning needs in each content area to all students;

(C) the extent to which teachers, principals, and administrators have ready and continuing access to professional development, including the best knowledge about teaching, learning, and school improvement;

(D) the extent to which curriculum, instructional practices, and assessments are aligned to voluntary national content standards;

(E) the extent to which school facilities provide a safe and secure environment for learning and instruction and have the requisite libraries, laboratories, and other resources necessary to provide an opportunity-to-learn;

(F) the extent to which schools utilize policies, curricula, and instructional practices which ensure nondiscrimination on the basis of gender; and

(G) other factors that the Council deems appropriate to ensure that all students receive a fair opportunity to achieve the knowledge and skills described in the voluntary national content standards and the voluntary national student performance standards certified by the Council.

(3) ADDITIONAL DUTIES.—In carrying out this subsection, the Council shall—

(A) identify what other countries with rigorous content standards do to—

(i) provide their children with opportunities to learn;

(ii) prepare their teachers; and

(iii) provide continuing professional development opportunities for their teachers; and

(B) develop criteria to be used for certifying the voluntary national opportunity-to-learn standards and State opportunity-to-learn standards and, before applying such criteria, forward such criteria to the Goals Panel for review, except that the Goals Panel shall have the option of disapproving such criteria by a two-thirds majority vote of the full membership of the Goals Panel not later than 90 days after receipt of such criteria.

(4) RECOMMENDATIONS AND COORDINATION.—The Council shall assist in the development of the voluntary national opportunity-to-learn standards developed by each consortium under section 219 by—

(A) making recommendations to the Secretary regarding priorities and selection criteria for each grant awarded under section 219; and

(B) coordinating with each consortium receiving awards under section 219 to ensure that the opportunity-to-learn standards the consortium develops are appropriate for the needs of all students, are of high quality, and are consistent with the criteria developed by the Council for the certification of such standards.

(5) APPROVAL.—The Council shall forward the voluntary national opportunity-to-learn standards the Council certifies to the Goals Panel for review, except that the Goals Panel shall have the option of disapproving such standards by a two-thirds majority vote of the full membership of the Goals Panel not later than 90 days after receipt of such standards.

(d) STATE OPPORTUNITY-TO-LEARN STANDARDS.—The Council may certify State opportunity-to-learn standards submitted voluntarily by a State, using the criteria developed under subsection (c)(3)(B), if such standards are comparable or higher in rigor and quality to the voluntary national opportunity-to-learn standards.

(e) GENERAL PROVISION REGARDING VOLUNTARY NATIONAL STANDARDS.—The Council may certify voluntary national content standards, voluntary national student performance standards, and voluntary national opportunity-to-learn standards if such standards are sufficiently general to be used by any State without restricting State and local control of curriculum and prerogatives regarding instructional methods to be employed.

(f) STATE ASSESSMENTS.—

(1) IN GENERAL.—(A) The Council may certify for a period not to exceed 5 years, State assess-

ments that are submitted voluntarily by a State, using the criteria developed under paragraph (2)(A), if such assessments are aligned with the State's content standards certified by the Council.

(B) State assessments shall be certified by the Council for the purposes of—

(i) informing students, parents, teachers, and related services personnel about the progress of all students toward the standards;

(ii) improving classroom instruction and improving the learning outcomes for all students;

(iii) exemplifying for students, parents, and teachers the kinds and levels of achievement that should be expected of all students, including the identification of State student performance standards;

(iv) measuring and motivating individual students, schools, districts, States, and the Nation to improve educational performance; and

(v) assisting education policymakers in making decisions about education programs.

(C) The Council shall certify State assessments only if—

(i) a State can demonstrate to the Council that all students have been prepared in the content for which such students are being assessed;

(ii) such assessments will not be used to make decisions regarding graduation, grade promotion, or retention of students for a period of 5 years from the date of enactment of this Act; and

(iii) the State has submitted to the Council—

(I) a description of the purposes for which the State assessments have been designed;

(II) the methodologies and process used to develop, select, validate, and use such State assessments;

(III) a copy of the test instrument, as appropriate;

(IV) a description of the other measures the State will use to evaluate student performance; and

(V) evidence that the test or tests which are part of the State assessments are valid, reliable measures of their intended purposes, are aligned with the State content standards, are capable of assessing the progress of all students toward learning the material in the State content standards, and are consistent with relevant nationally recognized professional and technical standards.

(D) The Council, at the request of a State prior to the State's submission to the Council of a State assessment for a proposed use, shall review and provide guidance to such State on a proposed package of measures, including tests that will be included in such a system.

(2) CRITERIA.—(A) The Council shall develop and, not sooner than three years nor later than four years after the date of enactment of this Act, begin utilizing criteria for the certification of State assessments for the purposes described in paragraph (1)(B).

(B) Before using such criteria, the Council shall forward the criteria to the Goals Panel for review, except that the Goals Panel shall have the option of disapproving such criteria by a two-thirds majority vote of the full membership of the Goals Panel not later than 90 days after receipt of such criteria.

(C) The certification criteria developed by the Council shall address the extent to which the State assessments—

(i) are aligned with a State's or a group of States' State content standards certified by the Council; and

(ii) are to be used for a purpose for which they are valid, reliable, and free of discrimination, and are consistent with relevant, nationally recognized professional and technical standards for assessment.

(D) In determining appropriate certification criteria for State assessments, the Council shall—

(i) consider standards and criteria being developed by other national organizations, research on assessment, and emerging new State and local assessments;

(ii) recommend needed research;

(iii) encourage the development and field testing of State assessments; and

(iv) provide a public forum for discussing, debating, and building consensus for the criteria to be used for the certification of State assessments.

(E) Prior to determining the certification criteria, the Council shall seek public comment regarding the proposed criteria.

(F) The Council shall certify State assessments only if such assessments include all students and provide for the adaptations and accommodations necessary to permit the participation of all students with diverse learning needs.

(g) PERFORMANCE OF DUTIES.—In carrying out its responsibilities under this title, the Council shall—

(1) provide for a process of broad public input as part of the process of developing criteria for standards and assessments;

(2) work with Federal and non-Federal departments, agencies, or organizations which are conducting research, studies, or demonstration projects to determine internationally competitive standards and assessments, and may establish subject matter and other panels to advise the Council on particular content, student performance, and opportunity-to-learn standards and on State assessments;

(3) establish cooperative arrangements with the National Skill Standards Board to promote the coordination of the development of content and student performance standards under this title with the development of skill standards under title V of this Act;

(4) recommend studies to the Secretary that are necessary to carry out the Council's responsibilities;

(5) inform the public about what constitutes high quality, internationally competitive, content, student performance, and opportunity-to-learn standards, and State assessments;

(6) on a regular basis, review and update criteria for certifying content, student performance, and opportunity-to-learn standards, and State assessments; and

(7) periodically recertify, as appropriate, the voluntary national content standards, the voluntary national student performance standards, and the voluntary national opportunity-to-learn standards and the State assessments that the Council certifies under this section.

(h) SPECIAL RULES.—

(1) UNCONDITIONED STATE PARTICIPATION.—No State shall be required to obtain certification of standards or assessments developed under subsection (b), (d), or (f) of this section or to participate in programs under title III of this Act, as a condition of participating in any Federal education program under this or any other Act.

(2) CONSTRUCTION.—Nothing in this Act shall be construed to create a legally enforceable right for any person against a State, local educational agency, or school based on a standard or assessment certified by the Council or the criteria developed by the Council for such certification.

SEC. 214. ANNUAL REPORTS.

Not later than one year after the date the Council concludes its first meeting, and in each succeeding year, the Council shall prepare and submit a report to the President, the Secretary, the appropriate committees of Congress, the Governor of each State, and the Goals Panel regarding its work.

SEC. 215. POWERS OF THE COUNCIL.

(a) HEARINGS.—

(1) IN GENERAL.—The Council shall, for the purpose of carrying out its responsibilities, conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Council considers appropriate.

(2) LOCATION.—In carrying out this part, the Council shall conduct public hearings in different geographic areas of the United States, both urban and rural, to receive the reports, views, and analyses of a broad spectrum of experts and the public on the establishment of voluntary national content standards, voluntary national student performance standards, voluntary national opportunity-to-learn standards, and State assessments described in section 213(f).

(b) INFORMATION.—The Council may secure directly from any department or agency of the United States information necessary to enable the Council to carry out this part. Upon request of the Chairperson of the Council, the head of such department or agency shall furnish such information to the Council to the extent permitted by law.

(c) POSTAL SERVICES.—The Council may use the United States mail in the same manner and under the same conditions as other departments and agencies of the United States.

(d) USE OF FACILITIES.—The Council may use the research, equipment, services, and facilities of any department, agency, or instrumentality of the United States, or of any State or political subdivision thereof with the consent of such department, agency, instrumentality, State or subdivision, respectively.

(e) ADMINISTRATIVE ARRANGEMENTS AND SUPPORT.—

(1) IN GENERAL.—The Secretary shall provide to the Council, on a reimbursable basis, such administrative support services as the Council may request.

(2) CONTRACTS AND OTHER ARRANGEMENTS.—The Secretary, to the extent appropriate and on a reimbursable basis, shall enter into contracts and other arrangements that are requested by the Council to help the Council compile and analyze data or carry out other functions necessary to the performance of the Council's responsibilities.

SEC. 216. PUBLICATION FOR PUBLIC COMMENT.

(a) TRANSMITTAL.—For the purpose of obtaining public comment through publication in the Federal Register, the Council shall transmit to the Secretary—

(1) proposed criteria for certifying voluntary national content standards, voluntary national student performance standards, and State content standards and State performance standards;

(2) proposed criteria for certifying voluntary national opportunity-to-learn standards and State opportunity-to-learn standards;

(3) proposed criteria for certifying State assessments; and

(4) proposed voluntary national content standards, voluntary national student performance standards, and voluntary national opportunity-to-learn standards.

(b) PUBLICATION.—The Secretary shall publish such proposed procedures, standards, and criteria in the Federal Register.

SEC. 217. ADMINISTRATIVE PROVISIONS.

(a) MEETINGS.—The Council shall meet on a regular basis, as necessary, at the call of the Chairperson of the Council, or a majority of its members.

(b) QUORUM.—A majority of the members shall constitute a quorum for the transaction of business.

(c) VOTING.—The Council shall take all action of the Council by a majority vote of the total membership of the Council, ensuring the right of the minority to issue written views. No individual may vote or exercise any of the powers of a member by proxy.

(d) PUBLIC ACCESS.—The Council shall ensure public access to its proceedings (other than proceedings, or portions of proceedings, relating to internal personnel and management matters) and make available to the public, at reasonable cost, transcripts of such proceedings.

SEC. 218. DIRECTOR AND STAFF; EXPERTS AND CONSULTANTS.

(a) DIRECTOR.—The Chairperson of the Council shall, without regard to the provisions of title 5, United States Code, relating to the appointment and compensation of officers or employees of the United States, appoint a Director to be paid at a rate not to exceed the rate of basic pay payable for level V of the Executive Schedule.

(b) APPOINTMENT AND PAY OF EMPLOYEES.—

(1) IN GENERAL.—(A) The Director may appoint not more than four additional employees to serve as staff to the Council without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

(B) The employees appointed under subparagraph (A) may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, but shall not be paid a rate that exceeds the maximum rate of basic pay payable for GS–15 of the General Schedule.

(2) ADDITIONAL EMPLOYEES.—The Director may appoint additional employees to serve as staff of the Council consistent with title 5, United States Code.

(c) EXPERTS AND CONSULTANTS.—The Council may procure temporary and intermittent services under section 3019(b) of title 5, United States Code.

(d) STAFF OF FEDERAL AGENCIES.—Upon the request of the Council, the head of any department or agency of the United States may detail any of the personnel of such department or agency to the Council to assist the Council in its duties under this part.

SEC. 219. OPPORTUNITY-TO-LEARN DEVELOPMENT GRANT.

(a) OPPORTUNITY-TO-LEARN DEVELOPMENT GRANT.—

(1) IN GENERAL.—The Secretary is authorized to award more than one grant, on a competitive basis, to consortia of individuals and organizations to develop voluntary national opportunity-to-learn standards consistent with the provisions of section 213(c), and to develop a listing of model programs for use, on a voluntary basis, by States, which standards and listing may be used to—

(A) provide all students with an opportunity to learn;

(B) assess the capacity and performance of individual schools; and

(C) develop appropriate actions to be taken in the event that the schools fail to achieve such standards.

(2) COMPOSITION OF CONSORTIA.—To the extent possible, each consortium shall include the participation of—

(A) State-level policymakers, such as Governors, State legislators, chief State school officers, and State school board members;

(B) local policymakers and administrators, such as local school board members, superintendents, and principals;

(C) teachers (especially teachers involved in the development of content standards) and related services personnel;

(D) parents and individuals with experience in promoting parental involvement in education;

(E) representatives of business;

(F) experts in vocational-technical education;

(G) representatives of regional accrediting associations;

(H) individuals with expertise in school finance and equity, the education of at-risk students, and the preparation and training of teachers and school administrators;

(I) curriculum and school reform experts;

(J) representatives of advocacy groups, including student and civil rights advocacy groups;

(K) representatives of higher education; and

(L) secondary school students.

(3) DUTIES OF CONSORTIA.—In developing voluntary national opportunity-to-learn standards, each consortium shall—

(A) draw upon current research about student achievement and the necessary conditions for effective teaching and learning; and

(B) provide for the development of more than one draft of standards which incorporate the comments and recommendations of educators and other knowledgeable individuals across the Nation.

(4) EXPERTISE OR BACKGROUND.—One-third of the members of each consortium shall consist of individuals with expertise or background in the educational needs and assessment of children who are from low-income families, are from minority backgrounds, have limited-English proficiency, or have disabilities.

(5) GEOGRAPHIC REPRESENTATION.—The membership of each consortium shall be geographically representative and reflect the racial, ethnic, and gender diversity of the United States.

(b) APPLICATIONS.—

(1) GRANTS FOR CONSORTIUM.—Each consortium that desires to receive a grant under this subsection shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may require.

(2) AWARD CONSIDERATION.—In establishing additional priorities and selection criteria for awarding more than one grant, the Secretary shall give serious consideration to the recommendations made by the Council pursuant to section 213(c)(4)(A).

(c) REPORT.—After the development of the voluntary national opportunity-to-learn standards, each consortium receiving assistance under this section shall submit a report to the Secretary which discusses the background, important issues, and rationale regarding such standards.

SEC. 220. ASSESSMENT DEVELOPMENT AND EVALUATION GRANTS.

(a) GRANTS AUTHORIZED.—

(1) IN GENERAL.—The Secretary is authorized to make grants to State and local educational agencies or consortia of such agencies to help defray the cost of developing, field testing, and evaluating State assessments to be used for some or all of the purposes indicated in section 213(f)(1)(B), that are aligned to State content standards certified by the Council.

(2) RESERVATION.—The Secretary shall reserve a portion of the funds authorized under section 241(d) for grants to State educational agencies and local educational agencies for purposes of developing such assessments in languages other than English and for students with disabilities.

(b) APPLICATIONS.—Each State or local educational agency, or consortium, that desires to receive a grant under subsection (a)(1) shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may require.

(c) REQUIREMENTS.—

(1) IN GENERAL.—A recipient of a grant under this section shall—

(A) examine the validity and reliability of the State assessment for the particular purposes for which such assessment was developed;

(B) ensure that the State assessment is consistent with relevant, nationally recognized professional and technical standards for assessments; and

(C) devote special attention to how a State assessment treats all students, especially with regard to the race, gender, ethnicity, disability, and language proficiency of such students.

(2) USE.—A State assessment developed and evaluated with funds under this section may not be used for decisions about individual students relating to program placement, promotion, or retention, graduation, or employment for a period of 5 years from the date of enactment of this Act.

SEC. 221. EVALUATION.

(a) GRANT.—From funds reserved under section 304(a)(2)(C), the Secretary shall make a grant, in an amount not to exceed $500,000, to the National Academy of Sciences or the National Academy of Education to—

(1) evaluate—

(A) the technical quality of the work performed by the Goals Panel and the Council;

(B) the process the Council uses to develop criteria for certification of standards and assessments;

(C) the process the Council uses to certify voluntary national standards as well as standards and assessments voluntarily submitted by States; and

(D) the process the Goals Panel uses to approve certification criteria and voluntary national standards;

(2) periodically provide to the Goals Panel and the Council, as appropriate, information from the evaluation under paragraph (1); and

(3) report on the activities authorized under sections 219 and 220.

(b) REPORT.—The recipient of a grant under this section shall submit a final report to the Congress, the Secretary, and the public regarding the activities assisted under this section not later than January 1, 1998.

PART C—LEADERSHIP IN EDUCATIONAL TECHNOLOGY

SEC. 231. PURPOSES.

It is the purpose of this part to promote achievement of the National Education Goals and—

(1) to provide leadership at the Federal level, through the Department of Education, by developing a national vision and strategy—

(A) to infuse technology and technology planning into all educational programs and training functions carried out within school systems at the State and local level;

(B) to coordinate educational technology activities among the related Federal and State departments or agencies, industry leaders, and interested educational and parental organizations;

(C) to establish working guidelines to ensure maximum interoperability nationwide and ease of access for the emerging technologies so that no school system will be excluded from the technological revolution; and

(D) to ensure that Federal technology-related policies and programs facilitate the use of technology in education;

(2) to promote awareness of the potential of technology for improving teaching and learning;

(3) to support State and local efforts to increase the effective use of technology for education;

(4) to demonstrate ways in which technology can be used to improve teaching and learning, and to help ensure that all students have an equal opportunity to meet State education standards;

(5) to ensure the availability and dissemination of knowledge (drawn from research and experience) that can form the basis for sound State and local decisions about investment in, and effective uses of, educational technology;

(6) to promote high-quality professional development opportunities for teachers and administrators regarding the integration of technology into instruction and administration;

(7) to promote the effective uses of technology in existing Federal education programs, such as

chapter 1 of title I of the Elementary and Secondary Education Act of 1965 and vocational education programs; and

(8) to monitor, advancements in technology to encourage the development of effective educational uses of technology.

SEC. 232. FEDERAL LEADERSHIP.

(a) ACTIVITIES AUTHORIZED.—

(1) IN GENERAL.—In order to provide Federal leadership that promotes higher student achievement through the use of technology in education and to achieve the purposes of this part, the Secretary, in consultation with the Office of Science and Technology Policy, the National Science Foundation, the Department of Commerce, the Department of Energy, the National Aeronautics and Space Administration, and other appropriate Federal departments or agencies, may carry out activities designed to achieve the purposes of this part.

(2) TRANSFER OF FUNDS.—For the purpose of carrying out coordinated or joint activities to achieve the purposes of this part, the Secretary may accept funds from other Federal departments or agencies.

(b) NATIONAL LONG-RANGE TECHNOLOGY PLAN.—

(1) IN GENERAL.—The Secretary shall develop and publish within 12 months of the date of enactment of this Act, and update when the Secretary determines appropriate, a national long-range plan that supports the overall national technology policy and carries out the purposes of this part.

(2) PLAN REQUIREMENTS.—The Secretary shall—

(A) develop the national long-range plan in consultation with other Federal departments or agencies, State and local education practitioners and policymakers, experts in technology and the educational applications of technology, representatives of distance learning consortia, representatives of telecommunications partnerships receiving assistance under the Star Schools Program Assistance Act, and providers of technology services and products;

(B) transmit such plan to the President and to the appropriate committees of the Congress; and

(C) publish such plan in a form that is readily accessible to the public.

(3) CONTENTS OF THE PLAN.—The national long-range plan shall describe the Secretary's activities to promote the purposes of this part, including—

(A) how the Secretary will encourage the effective use of technology to provide all students the opportunity to achieve State content standards and State student performance standards, especially through programs administered by the Department of Education;

(B) joint activities in support of the overall national technology policy with other Federal departments or agencies, such as the Office of Science and Technology Policy, the National Endowment for the Humanities, the National Endowment for the Arts, the National Aeronautics and Space Administration, the National Science Foundation, and the Departments of Commerce, Energy, Health and Human Services, and Labor—

(i) to promote the use of technology in education, and training and lifelong learning, including plans for the educational uses of a national information infrastructure; and

(ii) to ensure that the policies and programs of such departments or agencies facilitate the use of technology for educational purposes, to the extent feasible;

(C) how the Secretary will work with educators, State and local educational agencies, and appropriate representatives of the private sector to facilitate the effective use of technology in education;

(D) how the Secretary will promote—

(i) higher achievement of all students through the integration of technology into the curriculum;

(ii) increased access to the benefits of technology for teaching and learning for schools with a high concentration of children from low-income families;

(iii) the use of technology to assist in the implementation of State systemic reform strategies;

(iv) the application of technological advances to use in education; and

(v) increased opportunities for the professional development of teachers in the use of new technologies;

(E) how the Secretary will determine, in consultation with appropriate individuals, organizations, industries, and agencies, the feasibility and desirability of establishing guidelines to facilitate an easy exchange of data and effective use of technology in education;

(F) how the Secretary will utilize the outcome of the evaluation undertaken pursuant to section 908 of the Star Schools Program Assistance Act to promote the purposes of this part; and

(G) the Secretary's long-range measurable goals and objectives relating to the purposes of this part.

(c) ASSISTANCE.—The Secretary shall provide assistance to the States to enable such States to plan effectively for the use of technology in all schools throughout the State in accordance with the purpose and requirements of section 317.

SEC. 233. OFFICE OF EDUCATIONAL TECHNOLOGY.

(a) AMENDMENT TO THE DEPARTMENT OF EDUCATION ORGANIZATION ACT.—Title II of the Department of Education Organization Act (20 U.S.C. 3411 et seq.) is amended by adding at the end the following new section:

"OFFICE OF EDUCATIONAL TECHNOLOGY

"SEC. 216. (a) There shall be in the Department of Education an Office of Educational Technology (hereafter in this section referred to as the 'Office'), to be administered by the Director of Educational Technology. The Director of Educational Technology shall report directly to the Secretary and shall perform such additional functions as the Secretary may prescribe.

"(b) The Director of the Office of Educational Technology (hereafter in this section referred to as the 'Director'), through the Office, shall—

"(1) in support of the overall national technology policy and in consultation with other Federal departments or agencies which the Director determines appropriate, provide leadership to the Nation in the use of technology to promote achievement of the National Education Goals and to increase opportunities for all students to achieve State content and challenging State student performance standards;

"(2) review all programs and training functions administered by the Department and recommend policies in order to promote increased use of technology and technology planning throughout all such programs and functions;

"(3) review all relevant programs supported by the Department to ensure that such programs are coordinated with and support the national long-range technology plan developed pursuant to section 232(b) of the Goals 2000: Educate America Act; and

"(4) perform such additional functions as the Secretary may require.

"(c) The Director is authorized to select, appoint, and employ such officers and employees as may be necessary to carry out the functions of the Office, subject to the provisions of title 5, United States Code (governing appointments in the competitive service), and the provisions of chapter 51 and subchapter III of chapter 53 of such title (relating to classification and General Schedule pay rates).

"(d) The Secretary may obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code.".

(b) COMPENSATION OF THE DIRECTOR.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Director of the Office of Educational Technology.".

SEC. 234. USES OF FUNDS.

(a) IN GENERAL.—The Secretary shall use funds appropriated pursuant to the authority of section 241(d) for activities designed to carry out the purpose of this part, including—

(1) providing assistance to technical assistance providers to enable such providers to improve substantially the services such providers offer to educators regarding the educational uses of technology, including professional development;

(2) consulting with representatives of industry, elementary and secondary education, higher education, and appropriate experts in technology and the educational applications of technology, in carrying out the activities assisted under this part;

(3) research on, and the development of, guidelines to facilitate maximum interoperability, efficiency and easy exchange of data for effective use of technology in education;

(4) research on, and the development of, educational applications of the most advanced and newly emerging technologies;

(5) the development, demonstration, and evaluation of applications of existing technology in preschool education, elementary and secondary education, training and lifelong learning, and professional development of educational personnel;

(6) the development and evaluation of software and other products, including multimedia television programming, that incorporate advances in technology and help achieve the National Education Goals and State content standards and State student performance standards;

(7) the development, demonstration, and evaluation of model strategies for preparing teachers and other personnel to use technology effectively to improve teaching and learning;

(8) the development of model programs that demonstrate the educational effectiveness of technology in urban and rural areas and economically distressed communities;

(9) research on, and the evaluation of, the effectiveness and benefits of technology in education, giving priority to research on, and evaluation of, such effectiveness and benefits in elementary and secondary schools;

(10) a biennial assessment of, and report to the public regarding, the uses of technology in elementary and secondary education throughout the United States upon which private businesses and Federal, State, and local governments may rely for decisionmaking about the need for, and provision of, appropriate technologies in schools, by using, to the extent possible, existing information and resources;

(11) conferences on, and dissemination of information regarding, the uses of technology in education;

(12) the development of model strategies to promote gender equity in the use of technology;

(13) encouraging collaboration between the Department of Education and other Federal departments and agencies in the development, implementation, evaluation and funding of applications of technology for education, as appropriate; and

(14) such other activities as the Secretary determines meet the purposes of this part.

(b) SPECIAL RULES.—

(1) IN GENERAL.—The Secretary shall carry out the activities described in subsection (a) directly or by grant or contract.

(2) GRANTS AND CONTRACTS.—Each grant or contract under this part shall be awarded—

(A) on a competitive basis; and

(B) pursuant to a peer review process.

SEC. 235. NON-FEDERAL SHARE.

(a) IN GENERAL.—Subject to subsections (b) and (c), the Secretary may require any recipient of a grant or contract under this part to share in the cost of the activities assisted under such grant or contract, which non-Federal share shall be announced through a notice in the Federal Register and may be in the form of cash or in-kind contributions, fairly valued.

(b) INCREASE.—The Secretary may increase the non-Federal share that is required of a recipient of a grant or contract under this part after the first year such recipient receives funds under such grant or contract.

(c) MAXIMUM.—The non-Federal share required under this section shall not exceed 50 percent of the cost of the activities assisted pursuant to a grant or contract under this part.

SEC. 236. OFFICE OF TRAINING TECHNOLOGY TRANSFER.

(a) TRANSFER.—

(1) IN GENERAL.—The Office of Training Technology Transfer as established under section 6103 of the Training Technology Transfer Act of 1988 (20 U.S.C. 5093) is transferred to and established in the Office of Educational Technology.

(2) TECHNICAL AMENDMENT.—The first sentence of section 6103(a) of the Training Technology Transfer Act of 1988 (20 U.S.C. 5093(a)) is amended by striking "Office of Educational Research and Improvement" and inserting "Office of Educational Technology".

PART D—AUTHORIZATION OF APPROPRIATIONS

SEC. 241. AUTHORIZATION OF APPROPRIATIONS.

(a) NATIONAL EDUCATION GOALS PANEL.—There are authorized to be appropriated $3,000,000 for fiscal year 1994, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out part A of this title.

(b) NATIONAL EDUCATION STANDARDS AND IMPROVEMENT COUNCIL.—There are authorized to be appropriated $3,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1998, to carry out part B of this title.

(c) OPPORTUNITY-TO-LEARN DEVELOPMENT GRANTS.—There are authorized to be appropriated $2,000,000 for fiscal year 1994, and such sums as may be necessary for fiscal year 1995, to carry out section 219.

(d) ASSESSMENT DEVELOPMENT AND EVALUATION GRANTS.—There are authorized to be appropriated $5,000,000 for fiscal year 1994, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out section 220.

TITLE III—STATE AND LOCAL EDUCATION SYSTEMIC IMPROVEMENT

SEC. 301. FINDINGS.

The Congress finds that—

(1) all students can learn and achieve to high standards and must realize their potential if the United States is to prosper;

(2) the reforms in education from 1977 through 1992 have achieved some good results, but such reform efforts often have been limited to a few schools or to a single part of the educational system;

(3) leadership must come from teachers, related services personnel, principals, and parents in individual schools, and from policymakers at the local, State, tribal, and national levels, in order for lasting improvements in student performance to occur;

(4) simultaneous top-down and bottom-up education reform is necessary to spur creative and innovative approaches by individual schools to help all students achieve internationally competitive standards;

(5) strategies must be developed by communities and States to support the revitalization of all local public schools by fundamentally changing the entire system of public education through comprehensive, coherent, and coordinated improvement in order to increase student learning;

(6) parents, teachers, and other local educators, and business, community, and tribal leaders must be involved in developing systemwide improvement strategies that reflect the needs of their individual communities;

(7) State and local education improvement efforts must incorporate strategies for providing all students and families with coordinated access to appropriate social services, health care, nutrition, and early childhood education, and child care to remove preventable barriers to learning and enhance school readiness for all students;

(8) States and local educational agencies, working together, must immediately set about developing and implementing such systemwide improvement strategies if our Nation is to educate all children to meet their full potential and achieve the National Education Goals described in title I;

(9) State and local systemic improvement strategies must provide all students with effective mechanisms and appropriate paths to the work force as well as to higher education;

(10) businesses should be encouraged—

(A) to enter into partnerships with schools;

(B) to provide information and guidance to schools based on the needs of area businesses for properly educated graduates in general and on the need for particular workplace skills that the schools may provide;

(C) to provide necessary education and training materials and support; and

(D) to continue the lifelong learning process throughout the employment years of an individual;

(11) schools should provide information to businesses regarding how the business community can assist schools in meeting the purposes of this Act;

(12) institutions of higher education should be encouraged to enter into partnerships with schools to provide information and guidance to schools on the skills and knowledge graduates need in order to enter and successfully complete postsecondary education, and schools should provide information and guidance to institutions of higher education on the skills, knowledge, and preservice training teachers need, and the types of professional development educators need in order to meet the purposes of this Act;

(13) the appropriate and innovative use of technology, including distance learning, can be very effective in helping to provide all students with the opportunity to learn and meet high standards;

(14) Federal funds should be targeted to support State and local initiatives, and to leverage State and local resources for designing and implementing systemwide education improvement plans;

(15) all students are entitled to participate in a broad and challenging curriculum and to have access to resources sufficient to address other education needs; and

(16) quality education management services are being utilized by local educational agencies and schools through contractual agreements among local educational agencies or schools and businesses providing quality education management services.

SEC. 302. PURPOSE.

(a) PURPOSE.—It is the purpose of this title to improve the quality of education for all students by improving student learning through a long-term, broad-based effort to promote coherent and coordinated improvements in the system of education throughout the Nation at the State and local levels.

(b) CONGRESSIONAL INTENT.—This title provides new authorities and funding for the Nation's school systems without replacing or reducing funding for existing Federal education programs. It is the intention of the Congress that no State or local educational agency will reduce its funding for education or for education reform on account of receiving any funds under this title.

SEC. 303. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $400,000,000 for the fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1998, to carry out this title.

SEC. 304. ALLOTMENT OF FUNDS.

(a) RESERVATIONS OF FUNDS.—From funds appropriated under section 303, the Secretary—

(1) shall reserve a total of one percent to provide assistance, in amounts determined by the Secretary—

(A) to the outlying areas;

(B) to the Secretary of the Interior to benefit Indian students in schools operated or funded by the Bureau; and

(C) to the Alaska Federation of Natives in cooperation with the Alaska Native Education Council to benefit Alaska Native students; and

(2) may reserve a total of not more than 5 percent for—

(A) national leadership activities under sections 313 and 314;

(B) the costs of peer review of State improvement plans and applications under this title; and

(C) evaluation activities under section 221.

(b) STATE ALLOTMENTS.—From the amount appropriated under section 303 and not reserved under subsection (a) in each fiscal year the Secretary shall make allotments to State educational agencies as follows:

(1) 50 percent of such amount shall be allocated in accordance with the relative amounts each State would have received under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 for the preceding fiscal year if funds under such chapter in such preceding fiscal year were not reserved for the outlying areas.

(2) 50 percent of such amount shall be allocated in accordance with the relative amounts each State would have received under part A of chapter 2 of title I of the Elementary and Secondary Education Act of 1965 for the preceding fiscal year if funds under such chapter in such preceding fiscal year were not reserved for the outlying areas.

(c) REALLOTMENTS.—If the Secretary determines that any amount of a State educational agency's allotment for any fiscal year under subsection (b) will not be needed for such fiscal year by the State, the Secretary shall reallot such amount to other State educational agencies that need additional funds, in such manner as the Secretary determines is appropriate.

(d) MAINTENANCE OF EFFORT.—Each recipient of funds under this title, in utilizing the proceeds of an allotment received under this title, shall maintain the expenditures of such recipient for the activities assisted under this title at a level equal to not less than the level of such expenditures maintained by such recipient for the fiscal year preceding the fiscal year for which such allotment is received, except that the Secretary may reduce, temporarily or permanently, the level of expenditures required by this subsection if the Secretary determines that such recipient has justifiable reasons for a reduction in the level of expenditures required by this subsection.

SEC. 305. STATE APPLICATIONS.

(a) APPLICATION.—

(1) IN GENERAL.—Each State educational agency that desires to receive an allotment under this title shall submit an application to the Secretary at such time and in such manner as the Secretary may determine.

(2) ADDITIONAL INFORMATION.—In addition to the information described in subsections (b) and (c), each such application shall include—

(A) an assurance that the State educational agency will cooperate with the Secretary in carrying out the Secretary's responsibilities under section 312, and will comply with reasonable requests of the Secretary for data related to the State's progress in developing and implementing its State improvement plan under this section 306;

(B) an assurance that State law provides adequate authority to carry out each component of the State's improvement plan developed, or to be developed under section 306, or that such authority will be sought;

(C) an assurance that the State content standards and State student performance standards developed for student achievement are not less rigorous than such standards used prior to the date of enactment of this Act;

(D) an assurance that the State will provide for broad public participation in the planning process; and

(E) such other assurances and information as the Secretary may require.

(b) FIRST YEAR.—A State educational agency's application for the first year of assistance under this title shall—

(1) describe the process by which the State educational agency will develop a State improvement plan that meets the requirements of section 306; and

(2) describe how the State educational agency will use funds received under this title for such year, including how such agency will make subgrants to local educational agencies in accordance with section 309(a), and how such agency will use funds received under this title for education preservice programs and professional development activities in accordance with section 309(b).

(c) SUBSEQUENT YEARS.—A State educational agency's application for the second year of assistance under this title shall—

(1) cover the second through fifth years of the State's participation;

(2) include a copy of the State's improvement plan that meets the requirements of section 306, or if the State improvement plan is not complete, a statement of the steps the State will take to complete the plan and a schedule for doing so; and

(3) include an explanation of how the State educational agency will use funds received under this title, including how such agency will make subgrants to local educational agencies in accordance with section 309(a), and how such agency will use such funds received under this title for education preservice programs and professional development activities in accordance with section 309(b).

SEC. 306. STATE IMPROVEMENT PLANS.

(a) BASIC SCOPE OF PLAN.—Except as provided in section 305(c)(2) and consistent with the requirements of this section, any State educational agency that wishes to receive an allotment under this title after its first year of participation shall develop and implement a State improvement plan for the improvement of elementary and secondary education in the State.

(b) PLAN DEVELOPMENT.—

(1) IN GENERAL.—A State improvement plan under this title shall be developed by a broad-based State panel in cooperation with the State educational agency and the Governor. The panel shall include—

(A) the Governor and the chief State school officer, or their designees;

(B) the chairperson of the State board of education and the chairpersons of the appropriate authorizing committees of the State legislature, or their designees;

(C) teachers, principals, and administrators who have successfully improved student performance, and deans or senior administrators of a college, school, or department of education; and

(D) representatives of teacher's organizations, parents, secondary school students, institutions of higher education, business and labor leaders, community-based organizations of demonstrated effectiveness, organizations serving young children, local boards of education, State and local officials responsible for health, social, and other related services, private schools in which students or teachers participate in Federal education programs, and, as appropriate, Indian tribes and others;

(E) representatives from rural and urban local educational agencies in the State, as appropriate; and

(F) experts in educational measurement and assessment.

(2) APPOINTMENT.—The Governor and the chief State school officer shall each appoint half the members of the panel and shall jointly select the Chairperson of the panel and the representative of private schools described in paragraph (1)(D).

(3) REPRESENTATION.—(A) To the extent feasible, the membership of the panel shall be geographically representative of the State and reflect the diversity of the population of the State with regard to race, ethnicity, gender, and disability characteristics.

(B) The membership of the panel shall be composed so that the minimum total number of members of the panel with expertise or background in the educational needs or assessments of children from low-income families, children with minority backgrounds, children with limited-English proficiency, or children with disabilities, serving on the panel—

(i) bears the same relation to the total number of members serving on the panel as the total number of all such children in the State bears to the total number of all children in the State; or

(ii) is at least one-third of the number of members of the panel,

whichever is less.

(4) CONSULTATION.—The panel shall consult the Governor, the chief State school officer, the State board of education, and relevant committees of the State legislature in developing the State improvement plan.

(5) OUTREACH.—The panel shall be responsible for conducting a statewide, grassroots outreach process, including conducting public hearings, to involve educators, related services personnel, parents, local officials, tribal government officials as appropriate, individuals representing private nonprofit elementary and secondary schools, community and business leaders, citizens, children's advocates, secondary school students, and others with a stake in the success of students and their education system, and who are representative of the diversity of the State and the State's student population, including, students of limited-English proficiency, students with disabilities, and, as appropriate, American Indian, Alaska Native, and Native Hawaiian students, in the development of the State improvement plan and in a continuing dialogue regarding the need for and nature of standards for students and local and State responsibilities for helping all students achieve such standards in order to assure that the development and implementation of the State improvement plan reflects local needs and experiences and does not result in a significant increase in paperwork for teachers.

(6) PROCEDURE AND APPROVAL.—The panel shall develop a State improvement plan, provide opportunity for public comment, and submit such plan to the State educational agency for approval.

(7) SUBMISSION.—The State educational agency shall submit the original State improvement plan developed by the panel and the State improvement plan if modified by such agency, together with an explanation of any changes made by such agency to the plan developed by the panel, to the Secretary for approval.

(8) MATTERS NOT UNDER THE JURISDICTION OF THE STATE EDUCATIONAL AGENCY.—If any portion of a State improvement plan addresses matters that, under State or other applicable law, are not under the authority of the State educational agency, the State educational agency shall obtain the approval of, or changes to, such portion, with an explanation thereof, from the Governor or other official responsible for that portion before submitting such plan to the Secretary.

(9) MONITORING; REVISIONS; REPORTING.—After approval of the State improvement plan by the Secretary, the panel shall be informed of progress on such plan by the State educational agency, and such agency, in close consultation with teachers, principals, administrators, advocates and parents in local educational agencies and schools receiving funds under this title, shall monitor the implementation and operation of such plan. The panel shall review such plan, and based on the progress described in the preceding sentence, determine if revisions to such plan are appropriate and necessary. The panel shall periodically report such determination to the public.

(c) TEACHING, LEARNING, STANDARDS, AND ASSESSMENTS.—Each State educational agency, with broad-based classroom teacher input, shall establish and include in its State improvement plan strategies for meeting the National Education Goals by improving teaching and learning and students' mastery of basic and advanced skills in core content areas, such as English, mathematics, science (including physics), history, geography, foreign languages, the arts, civics and government, and economics. Such strategies—

(1) shall include—

(A) a process for developing or adopting State content standards and State student performance standards for all students, which process shall include coordinating the standards developed pursuant to section 115 of the Carl D. Perkins Vocational and Applied Technology Education Act;

(B) a process for developing and implementing valid, nondiscriminatory, and reliable State assessments—

(i) which assessments shall—

(I) be aligned with such State's content standards;

(II) involve multiple measures of student performance;

(III) provide for—

(aa) the participation in such assessments of all students with diverse learning needs; and

(bb) the adaptations and accommodations necessary to permit such participation;

(IV) be consistent with relevant, nationally recognized professional and technical standards for such assessments;

(V) be capable of providing coherent information about student attainments relative to the State content standards; and

(VI) support effective curriculum and instruction; and

(ii) which process shall provide for monitoring the implementation of such assessments and the impact of such assessments on improved instruction for all students;

(C) a process for aligning State or local curricula, instructional materials, and State assessments with the State content standards and State student performance standards; and

(D) a process for familiarizing teachers with the State content standards and State student performance standards and developing the capability of teachers to provide high quality in-

struction within the content areas described in the matter preceding paragraph (1) of this subsection;

(2) may include strategies such as—

(A) a process for providing assistance and support to local educational agencies and schools to strengthen the capacity of such agencies and schools to provide all students the opportunity to increase educational achievement and meet State content standards and State student performance standards;

(B) assessing the effectiveness and equity of the school finance program of the State to identify disparities in the resources available to each local educational agency and school in such State and how such disparities affect the ability of the State educational agency and local educational agencies to develop and implement plans under this title;

(C) a process for developing, selecting, or recommending instructional materials, including gender equitable and multicultural materials, and technology to support and assist local educational agencies and schools to provide all students the opportunity to meet State content standards and State student performance standards;

(D) a process for providing appropriate and effective professional development, including the use of technology, distance learning, and gender-equitable methods, necessary for teachers, school administrators, and others to help all students meet State content standards and State student performance standards; and

(E) a process for improving the State's system of teacher and school administrator preparation and licensure, and of continuing professional development programs, including the use of technology at both the State and local levels, so that all teachers, related services personnel, and administrators develop the subject matter and pedagogical expertise needed to prepare all students to meet State content standards and State student performance standards.

(d) OPPORTUNITY-TO-LEARN STANDARDS AND STRATEGIES.—

(1) IN GENERAL.—Each State improvement plan shall establish standards or strategies for providing all students with an opportunity to learn. Such standards or strategies shall include such factors as the State deems appropriate to ensure that all students receive a fair opportunity to achieve the knowledge and skills as described in State content standards and State student performance standards adopted by the State.

(2) IMPLEMENTATION.—Notwithstanding any other provision of this Act, the implementation of opportunity-to-learn standards or strategies shall be voluntary on the part of the States, local educational agencies, and schools.

(3) CONSTRUCTION.—Nothing in this section shall be construed to—

(A) mandate equalized spending per pupil for a State, local educational agency, or school; or

(B) mandate national school building standards for a State, local educational agency, or school.

(e) GOVERNANCE, ACCOUNTABILITY AND MANAGEMENT.—Each State improvement plan shall establish strategies for improved governance, accountability and management of the State's education system, such as—

(1) aligning responsibility, authority, and accountability throughout the education system, so that decisions regarding the means for achieving State content standards and State student performance standards are made closest to the learners; and

(2) creating an integrated and coherent approach to recruiting, retaining and supporting the continued professional development of teachers (including vocational teachers), and other educators, giving special attention to the recruitment into and retention of qualified minorities in the education profession;

(f) PARENTAL AND COMMUNITY SUPPORT AND INVOLVEMENT.—Each State improvement plan shall describe strategies for how the State educational agency will involve parents and other community representatives in planning, designing, and implementing the State improvement plan, including strategies such as—

(1) focusing public and private community resources and public school resources on prevention and early intervention to address the needs of all students by identifying and removing unnecessary regulations and obstacles to coordination; and

(2) increasing the access of all students to social services, health care, nutrition, related services, and child care services, and locating such services in schools, cooperating service agencies, community-based centers, or other convenient sites designed to provide "one-stop shopping" for parents and students.

(g) MAKING THE IMPROVEMENTS SYSTEMWIDE.—To help provide all students throughout the State the opportunity to meet State standards, each State improvement plan shall describe strategies, such as strategies that—

(1) provide for the availability of curricular materials, learning technologies, including distance learning, and professional development in a manner that ensures equal access by all local educational agencies in the State; and

(2) develop partnerships with Indian tribes and schools funded by the Bureau, where appropriate, to improve consistency and compatibility in curriculum among public elementary and secondary schools, and such schools funded by the Bureau at all grade levels.

(h) PROMOTING BOTTOM-UP REFORM.—Each State improvement plan shall include strategies for ensuring that comprehensive, systemic reform is promoted from the bottom up in communities, local educational agencies, and schools, as well as guided by coordination and facilitation from State leaders, including strategies such as—

(1) providing flexibility to individual schools and local educational agencies to enable such schools and agencies to adapt and integrate State content standards into courses of study appropriate for individual schools and communities; and

(2) facilitating the provision of waivers from State rules and regulations that impede the ability of local educational agencies or schools to carry out local improvement plans.

(i) DROPOUT STRATEGIES.—Each State improvement plan shall include strategies for assisting local educational agencies and schools to enable such agencies and schools—

(1) to meet the needs of school-aged children who have dropped out of school;

(2) to bring such children into the education system; and

(3) to help such students meet State content standards and State student performance standards.

(j) COORDINATION WITH SCHOOL-TO-WORK PROGRAMS.—If a State has received Federal assistance for the purpose of planning for, expanding, or establishing a school-to-work program, then a State shall include in the State improvement plan a description of how such school-to-work program will be incorporated into the school reform efforts of the State. In particular, the State improvement plan shall include a description of how secondary schools will be modified in order to provide career guidance, the integration of academic and vocational education, and work-based learning, if such programs are proposed in the State's school-to-work plan.

(k) BENCHMARKS AND TIMELINES.—Each State improvement plan shall include specific benchmarks of improved student performance and of progress in implementing such plan, and timelines against which the progress of the State in carrying out such plan, including the elements described in subsections (c) through (j), can be measured.

(l) COORDINATING STRATEGIES.—Each State plan shall include strategies for coordinating the integration of academic and vocational instruction pursuant to the Carl D. Perkins Vocational and Applied Technology Education Act.

(m) PROGRAM IMPROVEMENT AND ACCOUNTABILITY.—Each State improvement plan shall describe—

(1) how the State will monitor progress toward implementing the State and local improvement plans; and

(2) procedures the State plans to use, consistent with State law, to improve schools that are not meeting the State content standards voluntarily adopted by the State within the established timelines.

(n) PEER REVIEW AND SECRETARIAL APPROVAL.—

(1) IN GENERAL.—(A) The Secretary shall review, within a reasonable period of time, each State improvement plan prepared under this section, and each application submitted under section 305, through a peer review process involving the assistance and advice of State and local education policymakers, educators, classroom teachers, related services personnel, experts on educational innovation and improvement, parents, advocates, and other appropriate individuals. Such peer review process shall be representative of the diversity of the United States with regard to geography, race, ethnicity, gender and disability characteristics. Such peer review process shall include at least 1 site visit to each State, except during the period when a State improvement plan is being developed.

(B) Notwithstanding the provisions of subparagraph (A), in the first year that a State educational agency submits an application for development of a State improvement plan under this title the Secretary shall not be required to—

(i) review such application through a peer review process; and

(ii) conduct a site visit.

(2) APPROVAL.—The Secretary shall approve a State improvement plan if such plan is submitted to the Secretary not later than 2 years after the date the State educational agency receives its first allotment under section 304(b), and when the Secretary determines, after considering the peer reviewers' comment, that such plan—

(A) reflects a widespread commitment within the State;

(B) holds reasonable promise of helping all students to achieve at the high levels called for by this Act;

(C) meets the requirements of subsections (a) through (k); and

(D) allows local schools, local educational agencies and communities the flexibility to implement local improvement plans in a manner which reflects local needs and requirements in order to promote a 'bottom up' system of school reform.

(3) DISAPPROVAL.—The Secretary shall not disapprove a State improvement plan, or any State application submitted under section 305, before offering the State—

(A) an opportunity to revise such plan or application; and

(B) a hearing.

(o) REGULAR REVIEW.—Each State improvement plan shall include a process for periodically reviewing and updating any State content standards, State student performance standards, State opportunity-to-learn standards or strategies, and State assessments.

(p) AMENDMENTS TO PLAN.—

(1) IN GENERAL.—Each State educational agency shall periodically review its State improvement plan and revise such plan, as appropriate, in accordance with the process described in subsection (b).

(2) REVIEW.—The Secretary shall review any major amendment to a State improvement plan and shall not disapprove any such amendment before offering a State educational agency—

(A) an opportunity to revise such amendment; and

(B) a hearing.

(q) PREEXISTING STATE PLANS AND PANELS.—

(1) IN GENERAL.—If a State has developed a comprehensive and systemic State improvement plan to help all students meet State standards or any component of such plan, that meets the intent and purposes of this section, then the Secretary may approve such plan or component notwithstanding that such plan was not developed in accordance with subsection (b) if the Secretary determines that such approval would further the purposes of State systemic education improvement; and

(2) SPECIAL RULE.—(A) If, before the date of enactment of this Act, a State has made substantial progress in developing a plan that meets the intent and purposes of this section, but was developed by a panel that does not meet the requirements of paragraphs (1) through (3) of subsection (b), the Secretary may, at the request of the Governor and the State educational agency, treat such panel as meeting the requirements of this title if the Secretary determines that there has been statewide involvement of educators, parents, students, advocacy groups, and other interested members of the public in the development of the plan.

SEC. 307. SECRETARY'S REVIEW OF APPLICATIONS; PAYMENTS.

(a) FIRST YEAR.—The Secretary shall approve the State educational agency's first year application under section 305(b) if the Secretary determines that—

(1) such application meets the requirements of this title; and

(2) there is a substantial likelihood that the second year application of the State educational agency under section 305(c) will provide for the development and implementation of a State improvement plan that complies with section 306.

(b) SECOND THROUGH FIFTH YEARS.—The Secretary shall approve the State educational agency's second year application under section 305(c)(1) for the second through fifth years of participation only if—

(1)(A) the Secretary has approved the State improvement plan under section 306(n); or

(B) the Secretary determines that the State has made substantial progress in developing its State improvement plan and will implement such plan not later than the end of the second year of participation; and

(2) the application meets the other requirements of this title.

(c) PAYMENTS.—For any fiscal year for which a State has an approved application under this title, the Secretary shall provide an allotment to the State educational agency in the amount determined under section 304(b).

SEC. 308. STATE USE OF FUNDS.

(a) FIRST YEAR.—In the first year for which a State educational agency receives an allotment under this title, such agency—

(1) if the amount made available under section 303 for such year is equal to or greater than $50,000,000, shall use at least 60 percent of such allotted funds to award subgrants—

(A) in accordance with section 309(a), to local educational agencies for the development or implementation of local improvement plans; and

(B) in accordance with section 309(b), to improve educator preservice programs and for professional development activities consistent with the State improvement plan;

(2) if the amount made available under section 303 for such year is less than $50,000,000, may use such funds for the subgrants described in paragraph (1); and

(3) shall use any such allotted funds not used in accordance with paragraphs (1) and (2) to develop, revise, expand, or implement a State improvement plan described in section 306.

(b) SUCCEEDING YEARS.—Each State educational agency that receives an allotment under this title for any year after the first year of such agency receives assistance under this title shall—

(1) use at least 90 percent of such allotment to make subgrants—

(A) in accordance with section 309(a), to local educational agencies for the implementation of the State improvement plan and of local improvement plans; and

(B) in accordance with section 309(b), to improve educator preservice programs and for professional development activities that are consistent with the State improvement plan; and

(2) use the remainder of such assistance for State activities designed to implement its State improvement plan, such as—

(A) supporting the development or adoption of State content standards and State student performance standards, State opportunity-to-learn standards, and State assessments linked to such standards, including—

(i) through consortia of States; or

(ii) with the assistance of the National Education Standards and Improvement Council established under part B of title II;

(B) supporting the implementation of high-performance management and organizational strategies, such as site-based management, shared decisionmaking, or quality management principles, to promote effective implementation of such plan;

(C) supporting the development and implementation, at the local educational agency and school building level, of improved human resource development systems for recruiting, selecting, mentoring, supporting, evaluating and rewarding educators;

(D) providing special attention to the needs of minority, limited-English proficient, disabled, and female students, including instructional programs and activities that encourage such students in elementary and secondary schools to aspire to enter and complete post-secondary education or training;

(E) supporting innovative and proven methods of enhancing a teacher's ability to identify student learning needs, and motivating students to develop higher order thinking skills, discipline, and creative resolution methods;

(F) supporting the development, at the State or local level, of performance-based accountability and incentive systems for schools;

(G) outreach to and training for parents, tribal officials, organizations serving young children, classroom teachers, related services personnel, and other educators, and the public, related to education improvement;

(H) providing technical assistance and other services to increase the capacity of local educational agencies and schools to develop and implement systemic local improvement plans, implement new State assessments, and develop curricula consistent with the State content standards and State student performance standards;

(I) promoting public magnet schools, public "charter schools", and other mechanisms for increasing choice among public schools, including information and referral programs which provide parents with information on available choices;

(J) supporting activities relating to the planning of, and evaluation of, projects under which local educational agencies or schools contract with private management organizations to reform a school;

(K) supporting intergenerational mentoring programs;

(L) supporting the development, at the State or local level, of school-based programs that restore discipline and reduce violence in schools and communities, such as community mobilization programs; and

(M) collecting and analyzing data.

(c) LIMIT ON ADMINISTRATIVE COSTS.—A State educational agency that receives an allotment under this title in any fiscal year shall use not more than 4 percent of such allotment in such year, or $100,000, whichever is greater, for administrative expenses, which administrative expenses shall not include the expenses related to the activities of the panel established under section 306(b)(1).

(d) SPECIAL RULE.—Any new public school established under this title—

(1) shall be nonsectarian;

(2) shall not be affiliated with a nonpublic sectarian school or religious institution; and

(3) shall operate under the authority of a State educational agency or local educational agency.

SEC. 309. SUBGRANTS FOR LOCAL REFORM AND PROFESSIONAL DEVELOPMENT.

(a) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.—

(1) IN GENERAL.—(A) Each State educational agency shall make subgrants, through a competitive process to carry out the authorized activities described in paragraph (4), to local educational agencies (or consortia of such agencies) in accordance with section 308.

(B) In making such subgrants, the State educational agency shall award not less than 1 subgrant in each fiscal year to an urban local educational agency and not less than 1 subgrant in each fiscal year to a rural local educational agency, where appropriate, except that this provision shall not apply to the District of Columbia. An education service agency may serve as a fiscal agent for a rural local educational agency.

(C) Each such subgrant shall be for a project of sufficient duration and of sufficient size, scope, and quality to carry out the purpose of this title effectively.

(2) APPLICATION REQUIRED.—(A) A local educational agency desiring to receive a subgrant under this subsection for the development of a local improvement plan shall submit an application to the State educational agency. Such application shall contain assurances that the local educational agency intends to develop a local improvement plan that meets the requirements of this section.

(B) A local educational agency only shall be eligible to receive a subgrant under this subsection to develop a local improvement plan for one fiscal year.

(3) PLAN REQUIRED.—Each local educational agency desiring to receive a subgrant under this subsection to implement a local improvement plan shall submit a local improvement plan to the State educational agency. Each such plan shall—

(A) be developed by a broad-based panel that—

(i) is appointed by the local educational agency and is representative of the diversity of students and community with regard to race, language, ethnicity, gender, disability, and socioeconomic characteristics and includes teachers, parents, advocacy groups, school administrators, business representatives, and others, as appropriate; and

(ii) shall, following the selection of its members, establish the procedures regarding the operation of the panel, including the designation of the chairperson;

(B) address districtwide education improvement, directed at enabling all students to meet the State content standards and State student performance standards, including specific goals and benchmarks, reflect the priorities of the State improvement plan (either approved or under development) and include a strategy for—

(i) ensuring that all students have a fair opportunity to learn;

(ii) improving teaching and learning;

(iii) improving governance and management;

(iv) generating, maintaining, and strengthening parental and community involvement; and

(v) expanding improvements throughout the local educational agency;

(C) promote the flexibility of local schools in developing plans which address the particular needs of their school and community and are consistent with the local improvement plan;

(D) describe a process of broad-based community participation in the development, implementation, and evaluation of the local improvement plan;

(E) describe how the local educational agency will encourage and assist schools to develop and implement comprehensive school improvement plans that—

(i) focus on helping all students reach State content standards and State student performance standards; and

(ii) address relevant elements of the local improvement plan of the local educational agency identified in subparagraph (B);

(F) describe how the local educational agency will implement specific programs aimed at ensuring improvements in school readiness and the ability of students to learn effectively at all grade levels by identifying the most pressing needs facing students and their families with regard to social services, health care, nutrition, and child care, and entering into partnerships with public and private nonprofit agencies to increase the access of students and families to coordinated nonsectarian services in a school setting or at a nearby site;

(G) describe how the subgrant funds will be used by the local educational agency, and the procedures to be used to make funds available to schools in accordance with paragraph (6)(A);

(H) identify, with an explanation, any State or Federal requirements that the local educational agency believes impede educational improvement and that such agency requests be waived in accordance with section 311, which requests shall promptly be transmitted to the Secretary by the State educational agency; and

(I) contain such other information as the State educational agency may reasonably require.

(4) SUBMISSION.—A local educational agency which has approved a local improvement plan shall submit such plan to the State educational agency for approval together with a description of modifications to such plan and any comments from the local panel regarding such plan.

(5) MONITORING.—The panel described in paragraph (3)(A), after approval of the local educational agency's application by the State educational agency, shall be informed of progress on such plan by the local educational agency, and the local educational agency shall monitor the implementation and effectiveness of the local improvement plan in close consultation with teachers, related services personnel, principals, administrators, community members, and parents from schools receiving funds under this title, as well as assure that implementation of the local improvement plan does not result in a significant increase in paperwork for teachers. The panel shall review such plan and based on the progress described in the preceding sentence, determine if revisions to the local improvement plan should be recommended to the local educational agency. The panel shall periodically report such determination to the public.

(6) AUTHORIZED ACTIVITIES.—(A) A local educational agency that receives a subgrant under this subsection—

(i) in the first year such agency receives the subgrant shall use—

(I) not more than 25 percent of the subgrant funds to develop a local improvement plan or for any local educational agency activities approved by the State educational agency that are reasonably related to carrying out the State or local improvement plans, which may include the establishment of innovative new public schools; and

(II) not less than 75 percent of the subgrant funds to support individual school improvement initiatives related to providing all students in the school the opportunity to meet State content standards and State student performance standards; and

(ii) in subsequent years, shall use subgrant funds for any activities approved by the State educational agency which are reasonably related to carrying out the State or local improvement plans which may include the establishment of innovative new public schools, except that at least 85 percent of such funds shall be made available to individual schools to develop and implement comprehensive school improvement plans which are designed to help all students meet State content standards and State student performance standards.

(B) At least 50 percent of the funds made available by a local educational agency to individual schools under this section in any fiscal year shall be made available to schools with a special need for such assistance, as indicated by a high number or percentage of students from low-income families, low student achievement, or other similar criteria developed by the local educational agency.

(C) A local educational agency may not use more than five percent of the subgrant funds such agency receives in each fiscal year under this title for administrative expenses.

(7) SPECIAL CONSIDERATION.—The State educational agency shall give special consideration in awarding a subgrant to—

(A) a consortium of local educational agencies; or

(B) a local educational agency that provides in the application or local improvement plan described in paragraph (2) or (3), respectively, that such subgrant funds will be used to assist a consortium of schools that has developed a plan for school improvement.

(b) SUBGRANTS FOR PRESERVICE TEACHER EDUCATION AND PROFESSIONAL DEVELOPMENT ACTIVITIES.—

(1) IN GENERAL.—(A) Each State educational agency shall make subgrants, through a competitive, peer-reviewed process to a local educational agency, or a consortium of local educational agencies, in cooperation with institutions of higher education, nonprofit organizations, or any combination thereof, in accordance with section 308 to—

(i) improve preservice teacher education programs consistent with the State improvement plan, including how to work effectively with parents and the community; and

(ii) support continuing, sustained professional development activities for educators and school administrators or related services personnel working with educators which will increase student learning in accordance with the State improvement plan.

(B) Each State educational agency awarding subgrants under subparagraph (A) shall give priority to awarding such subgrants to—

(i) a local educational agency or consortium serving a greater number or percentage of disadvantaged students than the statewide average of such number or percentage;

(ii) a local educational agency or consortium that forms partnerships with collegiate educators to establish professional development sites; and

(iii) a local educational agency or consortium that—

(I) focuses on upgrading teachers' knowledge of content areas; or

(II) targets preparation and continued professional development of teachers of students with limited-English proficiency and students with disabilities.

(2) APPLICATION.—Each local educational agency or consortium that desires to receive a subgrant under this subsection shall submit an application to the State educational agency which—

(A) describes how the applicant will use the subgrant to improve teacher preservice and school administrator education programs or to implement educator professional development activities consistent with the State improvement plan;

(B) identifies the criteria to be used by the applicant to judge improvements in preservice education or the effects of professional development activities consistent with the State improvement plan; and

(C) contains any other information that the State educational agency determines is appropriate.

(3) REQUIRED ACTIVITIES.—A recipient of a subgrant under this subsection shall use the subgrant funds for activities supporting—

(A) the improvement of preservice teacher education and school administrator programs so that such programs equip educators with the subject matter and pedagogical expertise necessary for preparing all students to meet standards; or

(B) the development and implementation of new and improved forms of continuing and sustained professional development opportunities for teachers, principals, and other educators at the school or district level that equip educators with such expertise, and with other knowledge and skills necessary for leading and participating in continuous education improvement.

(4) PERMISSIVE ACTIVITIES.—A recipient of a subgrant under this subsection may use the subgrant funds for costs related to release time for teachers to participate in professional development activities, which professional development shall include related services personnel as appropriate.

(c) SPECIAL AWARD RULE.—

(1) IN GENERAL.—Each State educational agency shall award at least 50 percent of subgrant funds under subsection (a) in each fiscal year to local educational agencies that have a greater percentage or number of disadvantaged children than the statewide average such percentage or number for all local educational agencies in the State.

(2) WAIVER.—The State educational agency may waive the requirement of paragraph (1) if such agency does not receive a sufficient number of applications to comply with such requirement.

SEC. 310. AVAILABILITY OF INFORMATION AND TRAINING.

(a) INFORMATION AND TRAINING.—Proportionate to the number of children in a State or in a local educational agency who are enrolled in private elementary or secondary schools—

(1) a State educational agency or local educational agency which uses funds under this title to develop goals, State content standards or State student performance standards, curricular materials, and State assessments shall, upon request, make information related to such goals, standards, materials, and assessments available to private schools; and

(2) a State educational agency or local educational agency which uses funds under this title for teacher and administrator training shall

provide in the State improvement plan described in section 306 for the training of teachers and administrators in private schools located in the geographical area served by such agency.

(b) WAIVER.—If, by reason of any provision of law, a State or local educational agency is prohibited from providing for the equitable participation of teachers and administrators from private schools in training programs assisted with Federal funds provided under this title, or if the Secretary determines that a State or local educational agency has substantially failed or is unwilling to provide for such participation, the Secretary shall waive such requirements and shall arrange for the provision of training consistent with State goals and State content standards for such teachers and administrators. Such waivers shall be subject to consultation, withholding, notice, and judicial review in accordance with section 1017 of the Elementary and Secondary Education Act of 1965.

SEC. 311. WAIVERS OF STATUTORY AND REGULATORY REQUIREMENTS.

(a) WAIVER AUTHORITY.—

(1) IN GENERAL.—Except as provided in subsection (c), the Secretary may waive any statutory or regulatory requirement applicable to any program or Act described in subsection (b) for a State educational agency, local educational agency, or school if—

(A) and only to the extent that, the Secretary determines that such requirement impedes the ability of the State, or of a local educational agency or school in the State, to carry out the State or local improvement plan;

(B) the State educational agency has waived, or agrees to waive, similar requirements of State law;

(C) in the case of a statewide waiver, the State educational agency—

(i) provides all local educational agencies and parent organizations in the State with notice and an opportunity to comment on the State educational agency's proposal to seek a waiver; and

(ii) submits the local educational agencies' comments to the Secretary; and

(D) in the case of a local educational agency waiver, the local educational agency provides parents, community groups, and advocacy or civil rights groups with the opportunity to comment on the proposed waiver.

(2) APPLICATION.—(A)(i) To request a waiver under paragraph (1), a local educational agency or school that receives funds under this title, or a local educational agency or school that does not receive funds under this title but is undertaking school reform efforts that the Secretary determines are comparable to the activities described in section 306, shall transmit an application for such a waiver to the State educational agency. The State educational agency then shall submit approved applications for waivers under paragraph (1) to the Secretary.

(ii) A State educational agency that receives funds under this title may request a waiver under paragraph (1) by submitting an application for such waiver to the Secretary.

(B) Each application submitted to the Secretary under subparagraph (A) shall—

(i) identify the statutory or regulatory requirements that are requested to be waived and the goals that the State educational agency or local educational agency or school intends to achieve;

(ii) describe the action that the State educational agency has undertaken to remove State statutory or regulatory barriers identified in the application of local educational agencies;

(iii) describe the goals of the waiver and the expected programmatic results if the request is granted;

(iv) describe the numbers and types of students to be impacted by such waiver;

(v) describe a timetable for implementing a waiver; and

(vi) describe the process the State educational agency will use to monitor, on a biannual basis, the progress in implementing a waiver.

(3) TIMELINESS.—The Secretary shall act promptly on a request for a waiver under paragraph (1) and shall provide a written statement of the reasons for granting or denying such request.

(4) DURATION.—Each waiver under paragraph (1) shall be for a period not to exceed 4 years. The Secretary may extend such period if the Secretary determines that the waiver has been effective in enabling the State or affected local educational agencies to carry out reform plans.

(b) INCLUDED PROGRAMS.—The statutory or regulatory requirements subject to the waiver authority of this section are any such requirements under the following programs or Acts:

(1) Chapter 1 of title I of the Elementary and Secondary Education Act of 1965, including Even Start.

(2) Part A of chapter 2 of title I of the Elementary and Secondary Education Act of 1965.

(3) The Dwight D. Eisenhower Mathematics and Science Education Act.

(4) The Emergency Immigrant Education Act of 1984.

(5) The Drug-Free Schools and Communities Act of 1986.

(6) The Carl D. Perkins Vocational and Applied Technology Education Act.

(c) WAIVERS NOT AUTHORIZED.—The Secretary may not waive any statutory or regulatory requirement of the programs or Acts described in subsection (b)—

(1) relating to—

(A) maintenance of effort;

(B) comparability of services;

(C) the equitable participation of students and professional staff in private schools;

(D) parental participation and involvement; and

(E) the distribution of funds to States or to local educational agencies; and

(2) unless the underlying purposes of the statutory requirements of each program or Act for which a waiver is granted continue to be met to the satisfaction of the Secretary.

(d) TERMINATION OF WAIVERS.—The Secretary shall periodically review the performance of any State, local educational agency, or school for which the Secretary has granted a waiver under subsection (a)(1) and shall terminate the waiver if the Secretary determines that the performance of the State, the local educational agency, or the school in the area affected by the waiver has been inadequate to justify a continuation of the waiver.

(e) FLEXIBILITY DEMONSTRATION.—

(1) SHORT TITLE.—This subsection may be cited as the "Education Flexibility Partnership Demonstration Act".

(2) PROGRAM AUTHORIZED.—

(A) IN GENERAL.—The Secretary may carry out an education flexibility demonstration program under which the Secretary authorizes not more than 6 State educational agencies serving eligible States to waive statutory or regulatory requirements applicable to 1 or more programs or Acts described in subsection (b), other than requirements described in subsection (c), for the State educational agency or any local educational agency or school within the State.

(B) AWARD RULE.—In carrying out subparagraph (A), the Secretary shall select for participation in the demonstration program described in subparagraph (A) three State educational agencies serving eligible States that each have a population of 3,500,000 or greater and three State educational agencies serving eligible States that each have a population of less than 3,500,000, determined in accordance with the most recent decennial census of the population performed by the Bureau of the Census.

(C) DESIGNATION.—Each eligible State participating in the demonstration program described in subparagraph (A) shall be known as an "Ed-Flex Partnership State".

(3) ELIGIBLE STATE.—For the purpose of this subsection the term "eligible State" means a State that—

(A) has developed a State improvement plan under section 306 that is approved by the Secretary; and

(B) waives State statutory or regulatory requirements relating to education while holding local educational agencies or schools within the State that are affected by such waivers accountable for the performance of the students who are affected by such waivers.

(4) STATE APPLICATION.—(A) Each State educational agency desiring to participate in the education flexibility demonstration program under this subsection shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require. Each such application shall demonstrate that the eligible State has adopted an educational flexibility plan for the State that includes—

(i) a description of the process the State educational agency will use to evaluate applications from local educational agencies or schools requesting waivers of—

(I) Federal statutory or regulatory requirements described in paragraph (2)(A); and

(II) State statutory or regulatory requirements relating to education; and

(ii) a detailed description of the State statutory and regulatory requirements relating to education that the State educational agency will waive.

(B) The Secretary may approve an application described in subparagraph (A) only if the Secretary determines that such application demonstrates substantial promise of assisting the State educational agency and affected local educational agencies and schools within such State in carrying out comprehensive educational reform and otherwise meeting the purposes of this Act, after considering—

(i) the comprehensiveness and quality of the educational flexibility plan described in subparagraph (A);

(ii) the ability of such plan to ensure accountability for the activities and goals described in such plan;

(iii) the significance of the State statutory or regulatory requirements relating to education that will be waived; and

(iv) the quality of the State educational agency's process for approving applications for waivers of Federal statutory or regulatory requirements described in paragraph (2)(A) and for monitoring and evaluating the results of such waivers.

(5) LOCAL APPLICATION.—(A) Each local educational agency or school requesting a waiver of a Federal statutory or regulatory requirement described in paragraph (2)(A) and any relevant State statutory or regulatory requirement from a State educational agency shall submit an application to the State educational agency at such time, in such manner, and containing such information as the State educational agency may reasonably require. Each such application shall—

(i) indicate each Federal program affected and the statutory or regulatory requirement that will be waived;

(ii) describe the purposes and overall expected results of waiving each such requirement;

(iii) describe for each school year specific, measurable, educational goals for each local educational agency or school affected by the proposed waiver; and

(iv) explain why the waiver will assist the local educational agency or school in reaching such goals.

(B) A State educational agency shall evaluate an application submitted under subparagraph (A) in accordance with the State's educational flexibility plan described in paragraph (4)(A).

(C) A State educational agency shall not approve an application for a waiver under this paragraph unless—

(i) the local educational agency or school requesting such waiver has developed a local reform plan that is applicable to such agency or school, respectively; and

(ii) the waiver of Federal statutory or regulatory requirements described in paragraph (2)(A) will assist the local educational agency or school in reaching its educational goals.

(6) MONITORING.—Each State educational agency participating in the demonstration program under this subsection shall annually monitor the activities of local educational agencies and schools receiving waivers under this subsection and shall submit an annual report regarding such monitoring to the Secretary.

(7) DURATION OF FEDERAL WAIVERS.—(A) The Secretary shall not approve the application of a State educational agency under paragraph (4) for a period exceeding 5 years, except that the Secretary may extend such period if the Secretary determines that such agency's authority to grant waivers has been effective in enabling such State or affected local educational agencies or schools to carry out their local reform plans.

(B) The Secretary shall periodically review the performance of any State educational agency granting waivers of Federal statutory or regulatory requirements described in paragraph (2)(A) and shall terminate such agency's authority to grant such waivers if the Secretary determines, after notice and opportunity for hearing, that such agency's performance has been inadequate to justify continuation of such authority.

(f) ACCOUNTABILITY.—In deciding whether to extend a request for a waiver under subsection (a)(1), or a State educational agency's authority to issue waivers under subsection (e), the Secretary shall review the progress of the State educational agency, local educational agency, or school affected by such waiver or authority to determine if such agency or school has made progress toward achieving the desired results described in the application submitted pursuant to subsection (a)(2)(B)(iii) or (e)(5)(A)(ii).

(g) PUBLICATION.—A notice of the Secretary's decision to grant waivers under subsection (a)(1) and to authorize State educational agencies to issue waivers under subsection (e) shall be published in the Federal Register and the Secretary shall provide for the dissemination of such notice to State educational agencies, interested parties, including educators, parents, students, advocacy and civil rights organizations, other interested parties, and the public.

SEC. 312. PROGRESS REPORTS.

(a) STATE REPORTS TO THE SECRETARY.—Each State educational agency that receives funds under this title shall annually report to the Secretary regarding—

(1) progress in meeting State goals and plans;

(2) proposed State activities for the succeeding year; and

(3) in summary form, the progress of local educational agencies in meeting local goals and plans and increasing student learning.

(b) SECRETARY'S REPORTS TO CONGRESS.—By April 30, 1996, and every 2 years thereafter, the Secretary shall submit a report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate describing—

(1) the activities assisted under, and outcomes of, grants or contracts under section 220, including—

(A) a description of the purpose, uses, and technical merit of assessments evaluated with funds awarded under such paragraph; and

(B) an analysis of the impact of such assessments on the performance of students, particularly students of different racial, gender, ethnic, or language groups and individuals with disabilities;

(2) the activities assisted under, and outcomes of, allotments under this title; and

(3) the effect of waivers granted under section 311, including—

(A) a listing of all State educational agencies, local educational agencies and schools seeking and receiving waivers;

(B) a summary of the State and Federal statutory or regulatory requirements that have been waived, including the number of waivers sought and granted under each such statutory or regulatory requirement;

(C) a summary of waivers that have been terminated, including a rationale for the terminations; and

(D) recommendations to the Congress regarding changes in statutory or regulatory requirements, particularly those actions that should be taken to overcome Federal statutory or regulatory impediments to education reform.

SEC. 313. TECHNICAL AND OTHER ASSISTANCE REGARDING SCHOOL FINANCE EQUITY.

(a) TECHNICAL ASSISTANCE.—

(1) IN GENERAL.—From funds reserved in each fiscal year under section 304(a)(2)(A), the Secretary is authorized to make grants to, and enter into contracts and cooperative agreements with, State educational agencies and other public and private agencies, institutions, and organizations to provide technical assistance to State and local educational agencies to assist such agencies in achieving a greater degree of equity in the distribution of financial resources for education among local educational agencies in the State.

(2) ACTIVITIES.—A grant, contract or cooperative agreement under this section may support technical assistance activities, such as—

(A) the establishment and operation of a center or centers for the provision of technical assistance to State and local educational agencies;

(B) the convening of conferences on equalization of resources within local educational agencies, within States, and among States; and

(C) obtaining advice from experts in the field of school finance equalization.

(b) DATA.—Each State educational agency or local educational agency receiving assistance under the Elementary and Secondary Education Act of 1965 shall provide such data and information on school finance as the Secretary may require to carry out this section.

(c) MODELS.—The Secretary is authorized, directly or through grants, contracts, or cooperative agreements, to develop and disseminate models and materials useful to States in planning and implementing revisions of the school finance systems of such States.

SEC. 314. NATIONAL LEADERSHIP.

(a) TECHNICAL ASSISTANCE AND INTEGRATION OF STANDARDS.—From funds reserved in each fiscal year under section 304(a)(2)(A), the Secretary may, directly or through grants or contracts—

(1) provide technical assistance to States, local educational agencies, and tribal agencies developing or implementing school improvement plans, in a manner that ensures that such assistance is broadly available;

(2) gather data on, conduct research on, and evaluate systemic education improvement and how such improvement affects student learning, including the programs assisted under this title;

(3) disseminate research findings and other information on outstanding examples of systemic education improvement in States and local communities through existing dissemination systems within the Department of Education, including through publications, electronic and telecommunications mediums, conferences, and other means;

(4) provide grants to tribal divisions of education for coordination efforts between school reform plans developed for schools funded by the Bureau and public schools described in section 306(g)(2), including tribal activities in support of such plans;

(5) support national demonstration projects that unite local and State educational agencies, institutions of higher education, government, business, and labor in collaborative arrangements in order to make educational improvements systemwide; and

(6) support model projects to integrate multiple content standards, if—

(A) such standards are certified by the National Education Standards and Improvement Council and approved by the National Goals Panel for different subject areas, in order to provide balanced and coherent instructional programs for all students; and

(B) such projects are appropriate for a wide range of diverse circumstances, localities (including both urban and rural communities), and populations.

(b) RESERVATION OF FUNDS.—

(1) IN GENERAL.—The Secretary shall use at least 50 percent of the funds reserved each year under section 304(a)(2)(A) to make grants, in accordance with the provisions of section 309(a) that the Secretary determines appropriate, and provide technical and other assistance to urban and rural local educational agencies with large numbers or concentrations of students who are economically disadvantaged or who have limited English proficiency, to assist such agencies in developing and implementing local school improvement plans, except that any school that received funds under section 309(a) shall not receive assistance pursuant to this paragraph other than technical assistance.

(2) SURVEY.—The Secretary shall use not less than $1,000,000 of the funds reserved for fiscal year 1994 under section 304(a)(2)(A) to replicate coordinated services programs that have been found to be successful in helping students and families and improving student outcomes, and shall disseminate information about such programs to schools that plan to develop coordinated services programs.

(c) ADMINISTRATION.—Any activities assisted under this section that involve research shall be administered through the Office of Educational Research and Improvement.

SEC. 315. ASSISTANCE TO THE OUTLYING AREAS AND TO THE SECRETARY OF THE INTERIOR.

(a) OUTLYING AREAS.—

(1) IN GENERAL.—Funds reserved for outlying areas under section 304(a)(1)(A) shall be distributed among such areas by the Secretary according to relative need of such areas.

(2) INAPPLICABILITY OF PUBLIC LAW 95–134.—The provisions of Public Law 95–134, permitting the consolidation of grants to the insular areas, shall not apply to funds received by such areas under this title.

(b) SECRETARY OF THE INTERIOR.—

(1) IN GENERAL.—The funds reserved for the Secretary of the Interior under section 304(a)(1)(B) shall be made in a payment which shall be pursuant to an agreement between the Secretary and the Secretary of the Interior containing such assurances and terms as the Secretary determines shall best achieve the provisions of this section and this Act. The agreement shall, at a minimum, contain assurances that—

(A) a panel, as set forth in paragraph (4) of this subsection, shall be established;

(B) a reform and improvement plan, designed to increase student learning and assist students in meeting the National Education Goals, meeting the requirements pertaining to State improvement plans required in section 306 and providing for the fundamental restructuring and improvement of elementary and secondary education in schools funded by the Bureau, shall be developed by such panel; and

(C) the provisions and activities required under such State improvement plans, including the requirements for timetables for opportunity-to-learn standards, shall be carried out in the same time frames and under the same conditions stipulated for the States in sections 305 and 306, provided that for these purposes, the term "local educational agencies" shall be interpreted to mean "schools funded by the Bureau".

(2) VOLUNTARY SUBMISSION.—The provisions applicable to the States in section 213 of this Act shall apply to the Bureau plan with regard to voluntary submission of standards and assessments to the National Education Standards and Improvement Council for review and certification.

(3) PLAN SPECIFICS.—The reform and improvement plan shall include, in addition to the requirements described above, specific provisions for—

(A) opportunity to learn standards pertaining to residential programs and transportation costs associated with programs located on or near reservations or serving students in off-reservation residential boarding schools;

(B) review and incorporation of the National Education Goals and the voluntary national content standards, voluntary natural student performance standards, and voluntary natural opportunity-to-learn standards developed under part B of title II of this Act, provided that such review shall include the issues of cultural and language differences; and

(C) provision for coordination of the efforts of the Bureau with the efforts for school improvement of the States and local educational agencies in which the schools funded by the Bureau are located, including the development of the partnerships outlined in section 306(g)(2) of the Act.

(4) PANEL.—(A) To carry out the provisions of this section, and to develop the plan for systemwide reform and improvement required under the agreement required under paragraph (1), the Secretary of the Interior shall establish a panel coordinated by the Assistant Secretary of the Interior for Indian Affairs. Such panel shall consist of—

(i) the Director of the Office of Indian Education Programs of the Bureau and two heads of other divisions of such Bureau as the Assistant Secretary shall designate;

(ii) a designee of the Secretary of Education; and

(iii) a representative nominated by each of the following:

(I) The organization representing the majority of teachers and professional personnel in schools operated by the Bureau.

(II) The organization representing the majority of nonteaching personnel in schools operated by the Bureau, if not the same organization as in subclause (I).

(III) School administrators of schools operated by the Bureau.

(IV) Education line officers located in Bureau area or agency offices serving schools funded by the Bureau.

(V) The organization representing the majority of contract or grant schools funded by the Bureau not serving students on the Navajo reservation.

(VI) The organization representing the majority of contract or grant schools funded by the Bureau serving students on the Navajo reservation.

(VII) The organization representing the school boards required by statute for schools operated by the Bureau not serving students on the Navajo reservation.

(VIII) The organization representing the school boards required by statute for schools funded by the Bureau serving students on the Navajo reservation.

(B) Including the additional members required by paragraph (5), a majority of the members of such panel shall be from the entities designated under subparagraph (A)(iii).

(5) ADDITIONAL MEMBERS.—In addition, the members of the panel described in paragraph (4) shall designate for full membership on the panel four additional members—

(A) one of whom shall be a representative of a national organization which represents primarily national Indian education concerns; and

(B) three of whom shall be chairpersons (or their designees) of Indian tribes with schools funded by the Bureau on their reservations (other than those specifically represented by organizations referred to in paragraph (4)), provided that preference for no less than two of these members shall be given to Indian tribes with a significant number of schools funded by the Bureau on their reservations, or with a significant percentage of their children enrolled in schools funded by the Bureau.

(c) BIA COST ANALYSIS.—

(1) IN GENERAL.—(A) The Secretary of the Interior shall reserve from the funds received pursuant to section 304(a)(1)(B) in the first fiscal year that the Secretary of the Interior receives such funds an amount not to exceed $500,000 to provide, through the National Academy of Sciences or the National Academy of Education, for an analysis of the costs associated with meeting the academic and home-living/residential standards of the Bureau for each school funded by the Bureau. The purpose of such analysis shall be to provide the Bureau and the panel described in paragraph (4) with baseline data regarding the current state of operations funded by the Bureau and to provide a framework for addressing the implementation of opportunity-to-learn standards.

(B) The results of such analysis shall be reported, in aggregate and school specific form, to the chairpersons and ranking minority members of the Committees on Education and Labor and Appropriations of the House of Representatives and the Select Committee on Indian Affairs and the Committee on Appropriations of the Senate, and to the Secretary of the Interior, the Secretary of Education (who shall transmit the report to the appropriate entities under this Act), and the Assistant Secretary of the Interior for Indian Affairs, not later than 6 months after the date of enactment of this Act.

(2) CONTENT.—Such analysis shall evaluate the costs of providing a program in each school operated or supported by the Bureau for the next succeeding academic year and shall be based on—

(A) the standards either published in the Federal Register as having effect in schools operated by the Bureau on the date of enactment of this Act or the standards incorporated into each grant or contract in effect on such date with a tribally controlled school funded under section 1128 of Public Law 95–561 (as amended);

(B) the best projections of student counts and demographics, as provided by the Bureau and as independently reviewed by the National Academy of Sciences or the National Academy of Education; and

(C) the pay and benefit schedules and other personnel requirements for each school operated by the Bureau, as such pay and benefit schedules and requirements existed on the date of enactment of this Act.

(d) SECRETARY OF DEFENSE.—The Secretary shall consult with the Secretary of Defense to ensure that, to the extent practicable, the purposes of this title are applied to the Department of Defense schools.

SEC. 316. CLARIFICATION REGARDING STATE STANDARDS AND ASSESSMENTS.

Notwithstanding any other provision of this title, standards or State assessments described in a State improvement plan submitted in accordance with section 306 shall not be required to be certified by the Council.

SEC. 317. STATE PLANNING FOR IMPROVING STUDENT ACHIEVEMENT THROUGH INTEGRATION OF TECHNOLOGY INTO THE CURRICULUM.

(a) PURPOSE.—It is the purpose of this section to assist each State to plan effectively for improved student learning in all schools through the use of technology as an integral part of the State improvement plan described in section 306.

(b) PROGRAM AUTHORIZED.—

(1) AUTHORITY.—The Secretary shall award grants in accordance with allocations under paragraph (2) to each State educational agency that, as part of its application under section 305, requests a grant to develop (or continue the development of), and submits as part of the State improvement plan described in section 306, a systemic statewide plan to increase the use of state-of-the-art technologies that enhance elementary and secondary student learning and staff development in support of the National Education Goals and State content standards and State student performance standards.

(2) FORMULA.—From the amount appropriated pursuant to the authority of subsection (f) in each fiscal year, each State educational agency with an application approved under section 305 shall receive a grant under paragraph (1) in such year in an amount determined on the same basis as allotments are made to State educational agencies under subsections (b) and (c) of section 304 for such year, except that each such State shall receive at least $75,000.

(c) PLAN OBJECTIVES.—Each State educational agency shall use funds received under this section to develop and, if the Secretary has approved the systemic statewide plan, to implement such plan. Such plan shall have as its objectives—

(1) the promotion of higher student achievement through the use of technology in education;

(2) the participation of all schools and school districts in the State, especially those schools and districts with a high percentage or number of disadvantaged students;

(3) the development and implementation of a cost-effective, high-speed, statewide, interoperable, wide-area-communication educational technology support system for elementary and secondary schools within the State, particularly for such schools in rural areas; and

(4) the promotion of shared usage of equipment, facilities, and other technology resources by adult learners during after-school hours.

(d) PLAN REQUIREMENTS.—At a minimum, each systemic statewide plan shall—

(1) be developed by a task force that—

(A) includes among its members experts in the educational use of technology and representatives of the State panel described in section 306(b); and

(B) ensures that such plan is integrated into the State improvement plan described in section 306;

(2) be developed in collaboration with the Governor, representatives of the State legislature, the State board of education, institutions of higher education, appropriate State agencies, local educational agencies, public and private telecommunication entities, parents, public and school libraries, students, adult literacy providers, and leaders in the field of technology, through a process of statewide grassroots out-

reach to local educational agencies and schools in the State;

(3) identify and describe the requirements for introducing state-of-the-art technologies into the classroom and school library in order to enhance educational curricula, including the installation and ongoing maintenance of basic connections, hardware and the necessary support materials;

(4) describe how the application of advanced technologies in the schools will enhance student learning, provide greater access to individualized instruction, promote the standards and strategies described in section 306(d), and help make progress toward the achievement of the National Education Goals;

(5) describe how the ongoing training of educational personnel will be provided;

(6) describe the resources necessary, and procedures, for providing ongoing technical assistance to carry out such plan;

(7) provide for the dissemination on a statewide basis of exemplary programs and practices relating to the use of technology in education;

(8) establish a funding estimate (including a statement of likely funding sources) and a schedule for the development and implementation of such plan;

(9) describe how the State educational agency will assess the impact of implementing such plan on student achievement and aggregate achievement for schools;

(10) describe how the State educational agency and local educational agencies in the State will coordinate and cooperate with business and industry, and with public and private telecommunications entities;

(11) describe how the State educational agency will promote the purchase of equipment by local educational agencies that, when placed in schools, will meet the highest possible level of interoperability and open system design;

(12) describe how the State educational agency will consider using existing telecommunications infrastructure and technology resources;

(13) describe how the State educational agency will apply the uses of technology to meet the needs of children from low-income families;

(14) describe the process through which such plan will be reviewed and updated periodically; and

(15) describe how the State educational agency will facilitate collaboration between State literacy resource centers, local educational agencies, and adult and family literacy providers, to ensure that technology can be used by adult and family literacy providers during after school hours.

(e) REPORTS.—Each State educational agency receiving a grant under this section shall submit a report to the Secretary within 1 year of the date such agency submits to the Secretary its systemic statewide plan under this section. Such report shall—

(1) describe the State's progress toward implementation of the provisions of such plan;

(2) describe any revisions to the State's long-range plans for technology;

(3) describe the extent to which resources provided pursuant to such plan are distributed among schools to promote the standards and strategies described in section 306(d); and

(4) include any other information the Secretary deems appropriate.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for fiscal year 1994 to carry out this section.

SEC. 318. PROHIBITION ON FEDERAL MANDATES, DIRECTION, AND CONTROL.

Nothing in this Act shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school's curriculum, program of instruction, or allocation of State or local resources or mandate a State or any subdivision thereof to spend any funds or incur any costs not paid for under this Act.

SEC. 319. STATE AND LOCAL GOVERNMENT CONTROL OF EDUCATION.

(a) FINDINGS.—The Congress finds as follows:

(1) Congress is interested in promoting State and local government reform efforts in education.

(2) In Public Law 96–88 the Congress found that education is fundamental to the development of individual citizens and the progress of the Nation.

(3) In Public Law 96–88 the Congress found that in our Federal system the responsibility for education is reserved respectively to the States and the local school systems and other instrumentalities of the States.

(4) In Public Law 96–88 the Congress declared the purpose of the Department of Education was to supplement and complement the efforts of States, the local school systems, and other instrumentalities of the States, the private sector, public and private educational institutions, public and private nonprofit educational research institutions, community based organizations, parents and schools to improve the quality of education.

(5) With the establishment of the Department of Education, Congress intended to protect the rights of State and local governments and public and private educational institutions in the areas of educational policies and administration of programs and to strengthen and improve the control of such governments and institutions over their own educational programs and policies.

(6) Public Law 96–88 specified that the establishment of the Department of Education shall not increase the authority of the Federal Government over education or diminish the responsibility for education which is reserved to the States and local school systems and other instrumentalities of the States.

(7) Public Law 96–88 specified that no provision of a program administered by the Secretary or by any other officer of the Department of Health, Education, and Welfare shall be construed to authorize the Secretary or any such officer to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system, over any accrediting agency or association or over the selection or content of library resources, textbooks, or other instructional materials by any educational institution or school system.

(b) REAFFIRMATION.—The Congress agrees and reaffirms that the responsibility for control of education is reserved to the States and local school systems and other instrumentalities of the States and that no action shall be taken under the provisions of this Act by the Federal Government which would, directly or indirectly, impose standards or requirements of any kind through the promulgation of rules, regulations, provision of financial assistance and otherwise, which would reduce, modify, or undercut State and local responsibility for control of education.

TITLE IV—PARENTAL ASSISTANCE

SEC. 401. PARENTAL INFORMATION AND RESOURCE CENTERS.

(a) PURPOSE.—The purpose of this title is—

(1) to increase parents' knowledge of and confidence in child-rearing activities, such as teaching and nurturing their young children;

(2) to strengthen partnerships between parents and professionals in meeting the educational needs of children aged birth through 5 and the working relationship between home and school;

(3) to enhance the developmental progress of children assisted under this title; and

(4) to fund at least 1 parental information and resource center in each State before September 30, 1998.

(b) GRANTS AUTHORIZED.—

(1) IN GENERAL.—The Secretary is authorized to award grants in each fiscal year to nonprofit organizations, and nonprofit organizations in consortia with local educational agencies, to establish parental information and resource centers that provide training, information, and support to—

(A) parents of children aged birth through 5 years;

(B) parents of children enrolled in elementary and secondary schools; and

(C) individuals who work with the parents described in subparagraphs (A) and (B).

(2) AWARD RULE.—In awarding grants under this title, the Secretary shall ensure that such grants are distributed, to the greatest extent possible, to all geographic regions of the United States.

SEC. 402. APPLICATIONS.

(a) GRANTS APPLICATIONS.—

(1) IN GENERAL.—Each nonprofit organization and nonprofit organization in consortium with a local educational agency which desires a grant under this title shall submit an application to the Secretary at such time and in such manner as the Secretary shall determine.

(2) CONTENTS.—Each application submitted under paragraph (1) shall, at a minimum, include assurances that a grantee will—

(A)(i) be governed by a board of directors the membership of which includes parents; or

(ii) be an organization that represents the interests of parents;

(B) establish a special advisory committee the membership of which—

(i) includes—

(I) parents described in subparagraphs (A) and (B) of section 401(b)(1); and

(II) representatives of education professionals with expertise in improving services for disadvantaged children; and

(ii) is broadly representative of minority, low-income, and other individuals and groups that have an interest in compensatory education and family literacy;

(C) use at least one-half of the funds provided under this Act in each fiscal year to serve areas with high concentrations of low-income families in order to serve parents who are severely educationally or economically disadvantaged;

(D) operate a center of sufficient size, scope, and quality to ensure that the center is adequate to serve the parents in the area;

(E) serve both urban and rural areas;

(F) design a center that meets the unique training, information, and support needs of parents described in subparagraphs (A) and (B) of section 401(b)(1), particularly parents who are educationally or economically disadvantaged;

(G) demonstrate the capacity and expertise to conduct the effective training information and support activities for which assistance is sought;

(H) network with—

(i) clearinghouses;

(ii) parent centers for the parents of infants, toddlers, children, and youth with disabilities served under section 631(e) of the Individuals with Disabilities Education Act;

(iii) other organizations and agencies;

(iv) established national, State, and local parent groups representing the full range of parents of children, aged birth through 5 years; and

(v) parents of children enrolled in elementary and secondary schools;

(I) focus on serving parents described in subparagraphs (A) and (B) of section 401(b) who are parents of low-income, minority, and limited-English proficient, children; and

(J) use part of the funds received under this title to establish, expand, or operate Parents as

Teachers programs or Home Instruction for Preschool Youngsters programs.

(b) GRANT RENEWAL.—In each fiscal year after the first fiscal year a grantee receives assistance under this title, the grantee shall demonstrate in the application submitted for each fiscal year after such first year that a portion of the services provided by such grantee is supported through non-Federal contributions, which contributions may be in cash or in kind.

SEC. 403. USES OF FUNDS.

Grant funds received under this title may be used—

(1) for parent training, information, and support programs that assist parents to—

(A) better understand their children's educational needs;

(B) provide followup support for their children's educational achievement;

(C) communicate more effectively with teachers, counselors, administrators, and other professional educators and support staff;

(D) participate in the design and provision of assistance to students who are not making adequate educational progress;

(E) obtain information about the range of options, programs, services, and resources available at the national, State, and local levels to assist parents described in subparagraphs (A) and (B) of section 401(b);

(F) seek technical assistance regarding compliance with the requirements of this title and of other Federal programs relevant to achieving the National Education Goals;

(G) participate in State and local decision-making;

(H) train other parents; and

(I) plan, implement, and fund activities that coordinate the education of their children with other Federal programs that serve their children or their families; and

(2) to include State or local educational personnel where such participation will further the activities assisted under the grant.

SEC. 404. TECHNICAL ASSISTANCE.

The Secretary shall provide technical assistance, by grant or contract, for the establishment, development, and coordination of parent training, information and support programs and parental information and resource centers.

SEC. 405. DEFINITIONS.

For purposes of this title—

(1) the term "parent education" includes parent support activities, the provision of resource materials on child development, parent-child learning activities and child rearing issues, private and group educational guidance, individual and group learning experiences for the parent and child, and other activities that enable the parent to improve learning in the home;

(2) the term "Parents as Teachers program" means a voluntary early childhood parent education program that—

(A) is designed to provide all parents of children from birth through age 5 with the information and support such parents need to give their child a solid foundation for school success;

(B) is based on the Missouri Parents as Teachers model with the philosophy that parents are their child's first and most influential teachers;

(C) provides—

(i) regularly scheduled personal visits with families by certified parent educators;

(ii) regularly scheduled developmental screenings; and

(iii) linkage with other resources within the community in order to provide services that parents may want and need, except that such services are beyond the scope of the Parents as Teachers program;

(3) the term "Home Instruction for Preschool Youngsters program" means a voluntary early-learning program for parents with one or more children between the ages of 3 through 5, that—

(A) provides support, training, and appropriate educational materials necessary for parents to implement a school-readiness, home instruction program for their child; and

(B) includes—

(i) group meetings with other parents participating in the program;

(ii) individual and group learning experiences with the parent and child;

(iii) provision of resource materials on child development and parent-child learning activities; and

(iv) other activities that enable the parent to improve learning in the home.

SEC. 406. REPORTS.

Each organization receiving a grant under this title shall submit to the Secretary, on an annual basis, information concerning the parental information and resource centers assisted under this title, including—

(1) the number of parents, including the number of minority and limited-English-proficient parents, who receive information and training;

(2) the types and modes of training, information, and support provided under this title;

(3) the number of Parents as Teachers programs and Home Instruction for Preschool Youngsters programs which have been assisted under this title; and

(4) the strategies used to reach and serve parents of minority and limited-English-proficient children, parents with limited literacy skills, and other parents in need of the services provided under this title.

SEC. 407. GENERAL PROVISION.

Notwithstanding any other provision of this title—

(1) no person, including a parent who educates a child at home, public school parent, or private school parent, shall be required to participate in any program of parent education or developmental screening pursuant to the provisions of this title;

(2) no program assisted under this title shall take any action that infringes in any manner on the right of a parent to direct the education of their children; and

(3) the provisions of section 438(c) of the General Education Provision Act shall apply to organizations awarded grants under this title.

SEC. 408. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1995 through 1998 to carry out this title.

TITLE V—NATIONAL SKILL STANDARDS BOARD

SEC. 501. SHORT TITLE.

This title may be cited as the "National Skill Standards Act of 1994".

SEC. 502. PURPOSE.

It is the purpose of this title to establish a National Skill Standards Board to serve as a catalyst in stimulating the development and adoption of a voluntary national system of skill standards and of assessment and certification of attainment of skill standards—

(1) that will serve as a cornerstone of the national strategy to enhance workforce skills;

(2) that will result in increased productivity, economic growth, and American economic competitiveness; and

(3) that can be used, consistent with civil rights laws—

(A) by the Nation, to ensure the development of a high skills, high quality, high performance workforce, including the most skilled frontline workforce in the world;

(B) by industries, as a vehicle for informing training providers and prospective employees of skills necessary for employment;

(C) by employers, to assist in evaluating the skill levels of prospective employees and to assist in the training of current employees;

(D) by labor organizations, to enhance the employment security of workers by providing portable credentials and skills;

(E) by workers, to—

(i) obtain certifications of their skills to protect against dislocation;

(ii) pursue career advancement; and

(iii) enhance their ability to reenter the workforce;

(F) by students and entry level workers, to determine the skill levels and competencies needed to be obtained in order to compete effectively for high wage jobs;

(G) by training providers and educators, to determine appropriate training services to offer;

(H) by government, to evaluate whether publicly funded training assists participants to meet skill standards where such standards exist and thereby protect the integrity of public expenditures;

(I) to facilitate the transition to high performance work organizations;

(J) to increase opportunities for minorities and women, including removing barriers to the entry of women into nontraditional employment; and

(K) to facilitate linkages between other components of the national strategy to enhance workforce skills, including school-to-work transition, secondary and postsecondary vocational-technical education, and job training programs.

SEC. 503. ESTABLISHMENT OF NATIONAL BOARD.

(a) IN GENERAL.—There is established a National Skill Standards Board (hereafter in this title referred to as the "National Board").

(b) COMPOSITION.—

(1) IN GENERAL.—The National Board shall be composed of 28 members (appointed in accordance with paragraph (3)), of whom—

(A) one member shall be the Secretary of Labor;

(B) one member shall be the Secretary of Education;

(C) one member shall be the Secretary of Commerce;

(D) one member shall be the Chairperson of the National Education Standards and Improvement Council established pursuant to section 212(a);

(E) eight members shall be representatives of business (including representatives of small employers and representatives of large employers) selected from among individuals recommended by recognized national business organizations or trade associations;

(F) eight members shall be representatives of organized labor selected from among individuals recommended by recognized national labor federations; and

(G)(i) 2 members shall be neutral, qualified human resource professionals; and

(ii) 6 members shall be representatives from the following groups, with at least 1 member from each group:

(I) Educational institutions (including vocational-technical institutions).

(II) Community-based organizations.

(III) State and local governments.

(IV) Nongovernmental organizations with a demonstrated history of successfully protecting the rights of racial, ethnic, or religious minorities, women, individuals with disabilities, or older persons.

(2) DIVERSITY REQUIREMENTS.—The members described in subparagraph (G) of paragraph (1) shall have expertise in the area of education and training. The members described in subparagraphs (E), (F), and (G) of paragraph (1) shall—

(A) in the aggregate, represent a broad cross-section of occupations and industries; and

(B) to the extent feasible, be geographically representative of the United States and reflect the racial, ethnic, and gender diversity of the United States.

(3) APPOINTMENT.—The membership of the National Board shall be appointed as follows:

(A) Twelve members (four from each class of members described in subparagraphs (E), (F), and (G) of paragraph (1)) shall be appointed by the President.

(B) Six members (two from each class of members described in subparagraphs (E), (F), and (G) of paragraph (1)) shall be appointed by the Speaker of the House of Representatives, of whom three members (one from each class of members described in subparagraphs (E), (F), and (G) of paragraph (1)) shall be selected from recommendations made by the Majority Leader of the House of Representatives and three members (one from each class of members described in subparagraphs (E), (F), and (G) of paragraph (1)) shall be selected from recommendations made by the Minority Leader of the House of Representatives.

(C) Six members (two from each class of members described in subparagraphs (E), (F), and (G) of paragraph (1)) shall be appointed by the President pro tempore of the Senate, of whom three members (one from each class of members described in subparagraphs (E), (F), and (G) of paragraph (1)) shall be selected from recommendations made by the Majority Leader of the Senate and three members (one from each class of members described in subparagraphs (E), (F), and (G) of paragraph (1)) shall be selected from recommendations made by the Minority Leader of the Senate.

(4) EX OFFICIO NONVOTING MEMBERS.—The members of the National Board specified in subparagraphs (A), (B), (C), and (D) of paragraph (1) shall be ex officio, nonvoting members of the National Board.

(5) TERM.—Each member of the National Board appointed under subparagraph (E), (F), or (G) of paragraph (1) shall be appointed for a term of 4 years, except that of the initial members of the Board appointed under such subparagraphs—

(A) twelve members shall be appointed for a term of 3 years (four from each class of members described in subparagraphs (E), (F), and (G) of paragraph (1)), of whom—

(i) two from each such class shall be appointed in accordance with paragraph (3)(A);

(ii) one from each such class shall be appointed in accordance with paragraph (3)(B); and

(iii) one from each such class shall be appointed in accordance with paragraph (3)(C); and

(B) twelve members shall be appointed for a term of 4 years (four from each class of members described in subparagraphs (E), (F), and (G) of paragraph (1)), of whom—

(i) two from each such class shall be appointed in accordance with paragraph (3)(A);

(ii) one from each such class shall be appointed in accordance with paragraph (3)(B); and

(iii) one from each such class shall be appointed in accordance with paragraph (3)(C).

(6) VACANCIES.—Any vacancy in the National Board shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) CHAIRPERSON AND VICE CHAIRPERSONS.—

(1) CHAIRPERSON.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the National Board, by majority vote, shall elect a Chairperson once every 2 years from among the members of the National Board.

(B) INITIAL CHAIRPERSON.—The first Chairperson of the National Board shall be elected, by a majority vote of the National Board, from among the members who are representatives of business (as described in subparagraph (E) of subsection (b)(1)) and shall serve for a term of 2 years.

(2) VICE CHAIRPERSONS.—The National Board, by majority vote, shall annually elect 3 Vice Chairpersons (each representing a different class of the classes of members described in subparagraphs (E), (F), and (G) of subsection (b)(1) and each of whom shall serve for a term of 1 year) from among its members appointed under subsection (b)(3).

(d) COMPENSATION AND EXPENSES.—

(1) COMPENSATION.—All Members of the National Board who are not full-time employees or officers of the Federal Government shall serve without compensation. All members of the National Board 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) EXPENSES.—The members of the National Board 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, title 5, United States Code, while away from their homes or regular places of business in the performance of services for the National Board.

(e) EXECUTIVE DIRECTOR AND STAFF.—

(1) EXECUTIVE DIRECTOR.—The Chairperson of the National Board shall appoint an Executive Director who shall be compensated at a rate determined by the National Board, not to exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) STAFF.—

(A) IN GENERAL.—The Executive Director may appoint and compensate such additional staff as may be necessary to enable the Board to perform its duties. Such staff shall include at least one individual with expertise in measurement and assessment.

(B) COMPENSATION.—The Executive Director may fix the compensation of the staff 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 staff may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(f) VOLUNTARY AND UNCOMPENSATED SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the National Board is authorized, in carrying out this title, to accept voluntary and uncompensated services.

(g) AGENCY SUPPORT.—

(1) USE OF FACILITIES.—The National Board may use the research, equipment, services, and facilities of any agency or instrumentality of the United States with the consent of such agency or instrumentality.

(2) STAFF OF FEDERAL AGENCIES.—Upon the request of the National Board, the head of any Federal agency of the United States may detail to the National Board, on a reimbursable basis, any of the personnel of such Federal agency to assist the National Board in carrying out this title. Such detail shall be without interruption or loss of civil service status or privilege.

(h) CONFLICT OF INTEREST.—An individual who has served as a member of the National Board may not have any financial interest in an assessment and certification system developed or endorsed under this title for a period of 3 years after the termination of service of such individual from the National Board.

(i) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the National Board may procure temporary and intermittent services of experts and consultants under section 3109(b) of title 5, United States Code.

(j) TERMINATION.—The National Board shall terminate on September 30, 1999.

SEC. 504. FUNCTIONS OF THE NATIONAL BOARD.

(a) IDENTIFICATION OF OCCUPATIONAL CLUSTERS.—

(1) IN GENERAL.—Subject to paragraph (2), the National Board shall identify broad clusters of major occupations that involve 1 or more than 1 industry in the United States and that share characteristics that are appropriate for the development of common skill standards.

(2) PROCEDURES FOR IDENTIFICATION.—Prior to identifying broad clusters of major occupations under paragraph (1), the National Board shall engage in extensive public consultation, including solicitation of public comment on proposed clusters through publication in the Federal Register.

(b) ESTABLISHMENT OF VOLUNTARY PARTNERSHIPS TO DEVELOP STANDARDS.—

(1) IN GENERAL.—For each of the occupational clusters identified pursuant to subsection (a), the National Board shall encourage and facilitate the establishment of voluntary partnerships to develop a skill standards system in accordance with subsection (d).

(2) REPRESENTATIVES.—Such voluntary partnerships shall include the full and balanced participation of—

(A)(i) representatives of business (including representatives of large employers and representatives of small employers) who have expertise in the area of workforce skill requirements, and who are recommended by national business organizations or trade associations representing employers in the occupation or industry for which a standard is being developed; and

(ii) representatives of trade associations that have received grants from the Department of Labor or the Department of Education to establish skill standards prior to the date of enactment of this title;

(B) employee representatives who have expertise in the area of workforce skill requirements and who shall be—

(i) individuals recommended by recognized national labor organizations representing employees in the occupation or industry for which a standard is being developed; and

(ii) such other individuals who are nonmanagerial employees with significant experience and tenure in such occupation or industry as are appropriate given the nature and structure of employment in the occupation or industry;

(C) representatives of—

(i) educational institutions;

(ii) community-based organizations;

(iii) State and local agencies with administrative control or direction over education, vocational-technical education, or employment and training;

(iv) other policy development organizations with expertise in the area of workforce skill requirements; and

(v) non-governmental organizations with a demonstrated history of successfully protecting the rights of racial, ethnic, or religious minorities, women, individuals with disabilities, or older persons; and

(D) individuals with expertise in measurement and assessment, including relevant experience in designing unbiased assessments and performance-based assessments.

(3) EXPERTS.—The partnerships described in paragraph (1) may also include such other individuals who are independent, qualified experts in their fields.

(c) RESEARCH, DISSEMINATION, AND COORDINATION.—In order to support the activities described in subsections (b) and (d), the National Board shall—

(1) conduct workforce research relating to skill standards (including research relating to use of skill standards in compliance with civil rights laws) and make such research available to the public, including the voluntary partnerships described in subsection (b);

(2) identify and maintain a catalog of skill standards used by other countries and by States and leading firms and industries in the United States;

(3) serve as a clearinghouse to facilitate the sharing of information on the development of skill standards and other relevant information among representatives of occupations and industries identified pursuant to subsection (a), the voluntary partnerships described in subsection (b), and among education and training providers through such mechanisms as the Capacity Building and Information and Dissemination Network established under section 453(b) of the Job Training Partnership Act (29 U.S.C. 1733(b)) and the Educational Resources Information Center Clearinghouses;

(4) develop a common nomenclature relating to skill standards;

(5) encourage the development and adoption of curricula and training materials, for attaining the skill standards developed pursuant to subsection (d), that provide for structured work experiences and related study programs leading to progressive levels of professional and technical certification and postsecondary education;

(6) provide appropriate technical assistance to voluntary partnerships involved in the development of standards and systems described in subsection (b); and

(7) facilitate coordination among voluntary partnerships that meet the requirements of subsection (b) to promote the development of a coherent national system of voluntary skill standards.

(d) ENDORSEMENT OF SKILL STANDARDS SYSTEMS.—

(1) DEVELOPMENT OF ENDORSEMENT CRITERIA.—(A) The National Board, after extensive public consultation, shall develop objective criteria for endorsing skill standards systems relating to the occupational clusters identified pursuant to subsection (a). Such criteria shall, at a minimum, include the components of a skill standards system described in subparagraph (B). The endorsement criteria shall be published in the Federal Register, and updated as appropriate.

(B) The skill standards systems endorsed pursuant to paragraph (1) shall have one or more of the following components:

(i) Voluntary skill standards, which at a minimum—

(I) take into account relevant standards used in other countries and relevant international standards;

(II) meet or exceed the highest applicable standards used in the United States, including apprenticeship standards registered under the Act of August 16, 1937 (commonly known as the "National Apprenticeship Act", 50 Stat. 664, chapter 663, 29 U.S.C. 50 et seq.);

(III) take into account content and performance standards certified pursuant to title II;

(IV) take into account the requirements of high performance work organizations;

(V) are in a form that allows for regular updating to take into account advances in technology or other developments within the occupational cluster;

(VI) are formulated in such a manner that promotes the portability of credentials and facilitates worker mobility within an occupational cluster or industry and among industries; and

(VII) are not discriminatory with respect to race, color, gender, age, religion, ethnicity, disability, or national origin, consistent with Federal civil rights laws.

(ii) A voluntary system of assessment and certification of the attainment of skill standards developed pursuant to subparagraph (A), which at a minimum—

(I) has been developed after taking into account relevant methods of such assessment and certification used in other countries;

(II) utilizes a variety of evaluation techniques, including, where appropriate, oral and written evaluations, portfolio assessments, and performance tests; and

(III) includes methods for establishing that the assessment and certification system is not discriminatory with respect to race, color, gender, age, religion, ethnicity, disability, or national origin, consistent with Federal civil rights laws.

(iii) A system to promote the use of and to disseminate information relating to skill standards, and assessment and certification systems, developed pursuant to this paragraph (including dissemination of information relating to civil rights laws relevant to the use of such standards and systems) to entities such as institutions of higher education offering professional and technical education, labor organizations, trade associations, employers providing formalized training, and other organizations likely to benefit from such standards and systems.

(iv) A system to evaluate the implementation of the skill standards, and assessment and certification systems developed pursuant to this paragraph, and the effectiveness of the information disseminated pursuant to subparagraph (C) for informing the users of such standards and systems of the requirements of relevant civil rights laws.

(v) A system to periodically revise and update the skill standards, and assessment and certification systems developed pursuant to this paragraph, which will take into account changes in standards in other countries.

(2) ENDORSEMENT.—The National Board, after public review and comment, shall endorse those skill standards systems relating to the occupational clusters identified pursuant to subsection (a) that—

(A) meet the objective endorsement criteria that are developed pursuant to paragraph (1); and

(B) are submitted by voluntary partnerships that meet the requirements of subsection (b).

(e) RELATIONSHIP WITH CIVIL RIGHTS LAWS.—

(1) IN GENERAL.—Nothing in this title shall be construed to modify or affect any Federal or State law prohibiting discrimination on the basis of race, color, gender, age, religion, ethnicity, disability, or national origin.

(2) EVIDENCE.—The endorsement or absence of an endorsement by the National Board of a skill standard, or assessment and certification system, under subsection (d) shall not be used in any action or proceeding to establish that the use of a skill standard or assessment and certification system conforms or does not conform to the requirements of civil rights laws.

(f) COORDINATION.—The National Board shall establish cooperative arrangements with the National Education Standards and Improvement Council to promote the coordination of the development of skill standards under this section with the development of voluntary national content standards and voluntary national student performance standards in accordance with section 213.

(g) FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—From funds appropriated pursuant to section 507—

(A) the National Board may enter into contracts and cooperative agreements to carry out the purposes of this title; and

(B) the Secretary of Labor may, in accordance with paragraph (2), award grants to voluntary partnerships for the development of skill standards systems meeting the requirements of subsection (d).

(2) GRANTS TO VOLUNTARY PARTNERSHIPS.—

(A) ELIGIBILITY AND APPLICATION.—Voluntary partnerships that meet the requirements of subsection (b) shall be eligible to apply for a grant under this subsection. Each such voluntary partnership desiring a grant shall submit an application to the National Board at such time, in such manner, and accompanied by such information as the National Board may reasonably require.

(B) REVIEW AND RECOMMENDATION.—The National Board shall review each application submitted pursuant to subparagraph (A) in accordance with the objective criteria published pursuant to subparagraph (C) and shall forward each such application to the Secretary of Labor accompanied by a nonbinding recommendation for the approval or disapproval of each such application by the Secretary.

(C) CRITERIA FOR REVIEW.—Prior to each fiscal year, the National Board shall publish objective criteria to be used by the Board in reviewing applications under subparagraph (B).

(3) LIMITATION ON USE OF FUNDS.—

(A) IN GENERAL.—Not more than 20 percent of the funds appropriated pursuant to the authority of section 507(a) for each fiscal year shall be used by the National Board for the costs of administration.

(B) COSTS OF ADMINISTRATION DEFINED.—For purposes of this paragraph, the term "costs of administration" means costs relating to staff, supplies, equipment, space, and travel and per diem, costs of conducting meetings and conferences, and other related costs.

SEC. 505. DEADLINES.

Not later than December 31, 1995, the National Board shall, at a minimum—

(1) identify occupational clusters pursuant to section 504(a) representing a substantial portion of the workforce; and

(2) promote the development of an initial set of skill standards in accordance with section 504(d) for such clusters.

SEC. 506. REPORTS.

The National Board shall prepare and submit to the President and the Congress in each of the fiscal years 1994 through 1999, a report on the activities conducted under this title. Such report shall include information on the extent to which skill standards have been adopted by employers, training providers, and other entities, and on the effectiveness of such standards in accomplishing the purposes described in section 502.

SEC. 507. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this title $15,000,000 for fiscal year 1994 and such sums as may be necessary for each of fiscal years 1995 through 1999.

(b) AVAILABILITY.—Amounts appropriated pursuant to subsection (a) shall remain available until expended.

SEC. 508. DEFINITIONS.

For purposes of this title, the following definitions apply:

(1) COMMUNITY-BASED ORGANIZATIONS.—The term "community-based organizations" has the meaning given the term in section 4(5) of the Job Training Partnership Act (29 U.S.C. 1503(5)).

(2) EDUCATIONAL INSTITUTION.—The term "educational institution" means a high school, a vocational school, and an institution of higher education.

(3) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" means an institution of higher education (as such term is defined in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088)) which continues to meet the eligibility and certification requirements under section 498 of such Act.

(4) SKILL STANDARD.—The term "skill standard" means a standard that specifies the level of knowledge and competence required to successfully perform work-related functions within an occupational cluster.

SEC. 509. SUNSET PROVISION.

(a) REPEAL.—This title is repealed on September 30, 1999.

(b) REVIEW OF REPEAL.—It is the sense of the Congress that the appropriate committees of the Congress should review the accomplishments of the National Board prior to the date of repeal described in subsection (a) in order to determine whether it is appropriate to extend the authorities provided under this title for a period beyond such date.

TITLE VI—INTERNATIONAL EDUCATION PROGRAM

SEC. 601. INTERNATIONAL EDUCATION PROGRAM.

(a) PROGRAM ESTABLISHED.—The Secretary, with the concurrence of the Director of the United States Information Agency and with the foreign policy guidance of the Secretary of State, shall carry out an International Education Program in accordance with this section that shall provide for—

(1) the study of international education programs and delivery systems; and

(2) an international education exchange program.

(b) ASSESSMENT AND INFORMATION.—The Secretary shall award grants for the study, evaluation, and analysis of education systems in other nations, particularly Great Britain, France, Germany and Japan. Such studies shall focus upon a comparative analysis of curriculum, methodology, and organizational structure, including the length of the school year and school day. In addition, the studies shall provide an analysis of successful strategies employed by other nations to improve student achievement, with a specific focus upon application to schooling and the National Education Goals.

(c) INTERNATIONAL EDUCATION EXCHANGE.—

(1) REQUIREMENT.—

(A) IN GENERAL.—The Secretary, in consultation with the Director of the United States Information Agency, shall carry out a program to be known as the International Education Exchange Program. Under such program the Secretary shall award grants to or enter into contracts with organizations with demonstrated effectiveness or expertise in international achievement comparisons, in order to—

(i) make available to educators from eligible countries exemplary curriculum and teacher training programs in civics and government education and economic education developed in the United States;

(ii) assist eligible countries in the adaptation and implementation of such programs or joint research concerning such programs;

(iii) create and implement educational programs for United States students which draw upon the experiences of emerging constitutional democracies;

(iv) provide a means for the exchange of ideas and experiences in civics and government education and economic education among political, educational, and private sector leaders of participating eligible countries; and

(v) provide support for—

(I) research and evaluation to determine the effects of educational programs on students' development of the knowledge, skills, and traits of character essential for the preservation and improvement of constitutional democracy; and

(II) effective participation in and the preservation and improvement of an efficient market economy.

(B) PROGRAM ADMINISTRATION.—The Secretary and the Director of the United States Information Agency, or their designees, shall be jointly responsible for the design of the program described in subparagraph (A). The Secretary and the Director of the United States Information Agency shall name to an oversight committee an equal number of representatives. Such committee shall determine the specifications for requests for proposals, the eligibility and review criteria for proposals, and the review process for proposals, for grants or contracts under this section. The Director of the United States Information Agency shall have particular responsibility for ensuring that programs assisted under this section are not duplicative of other efforts in the target countries and that foreign partner institutions are creditable.

(C) RESERVATIONS.—In carrying out the program described in subparagraph (A), there shall be reserved in each fiscal year—

(i) 50 percent of the amount available to carry out this subsection for civics and government education activities; and

(ii) 50 percent of such amount available to carry out this subsection for economic education activities.

(2) CONTRACT AUTHORIZED.—

(A) IN GENERAL.—The Secretary, in consultation with the Director of the United States Information Agency, is authorized to contract with independent nonprofit educational organizations to carry out the provisions of this subsection.

(B) NUMBER.—The Secretary, in consultation with the Director of the United States Information Agency, shall award at least 1 but not more than 3 contracts described in subparagraph (A) in each of the areas described in clauses (i) and (ii) of paragraph (1)(B).

(C) AVOIDANCE OF DUPLICATION.—The Secretary, in consultation with the Director of the United States Information Agency, shall award contracts described in subparagraph (A) so as to avoid duplication of activities in such contracts.

(D) REQUIREMENTS.—Each organization with which the Secretary enters into a contract pursuant to subparagraph (A) shall—

(i) be experienced in—

(I) the development and national implementation of curricular programs in civics and government education and economic education for students from grades kindergarten through 12 in local, intermediate, and State educational agencies, in schools funded by the Bureau, and in private schools throughout the Nation with the cooperation and assistance of national professional educational organizations, colleges and universities, and private sector organizations;

(II) the development and implementation of cooperative university and school-based inservice training programs for teachers of grades kindergarten through grade 12 using scholars from such relevant disciplines as political science, political philosophy, history, law and economics;

(III) the development of model curricular frameworks in civics and government education and economic education;

(IV) the administration of international seminars on the goals and objectives of civics and government education or economic education in constitutional democracies (including the sharing of curricular materials) for educational leaders, teacher trainers, scholars in related disciplines, and educational policymakers; and

(V) the evaluation of civics and government education or economic education programs; and

(ii) have the authority to subcontract with other organizations to carry out the provisions of this subsection.

(3) ACTIVITIES.—The international education program described in this subsection shall—

(A) provide eligible countries with—

(i) seminars on the basic principles of United States constitutional democracy and economics, including seminars on the major governmental and economic institutions and systems in the United States, and visits to such institutions;

(ii) visits to school systems, institutions of higher learning, and nonprofit organizations conducting exemplary programs in civics and government education and economic education in the United States;

(iii) home stays in United States communities;

(iv) translations and adaptations regarding United States civics and government education and economic education curricular programs for students and teachers, and in the case of training programs for teachers translations and adaptations into forms useful in schools in eligible countries, and joint research projects in such areas;

(v) translation of basic documents of United States constitutional government for use in eligible countries, such as The Federalist Papers, selected writings of Presidents Adams and Jefferson and the Anti-Federalists, and more recent works on political theory, constitutional law and economics; and

(vi) research and evaluation assistance to determine—

(I) the effects of educational programs on students' development of the knowledge, skills and traits of character essential for the preservation and improvement of constitutional democracy; and

(II) effective participation in and the preservation and improvement of an efficient market economy;

(B) provide United States participants with—

(i) seminars on the histories, economics, and governments of eligible countries;

(ii) visits to school systems, institutions of higher learning, and organizations conducting exemplary programs in civics and government education and economic education located in eligible countries;

(iii) home stays in eligible countries;

(iv) assistance from educators and scholars in eligible countries in the development of curricular materials on the history, government and economics of such countries that are useful in United States classrooms;

(v) opportunities to provide on-site demonstrations of United States curricula and pedagogy for educational leaders in eligible countries; and

(vi) research and evaluation assistance to determine—

(I) the effects of educational programs on students' development of the knowledge, skills and traits of character essential for the preservation and improvement of constitutional democracy; and

(II) effective participation in and improvement of an efficient market economy; and

(C) assist participants from eligible countries and the United States in participating in international conferences on civics and government education and economic education for educational leaders, teacher trainers, scholars in related disciplines, and educational policymakers.

(4) PARTICIPANTS.—The primary participants in the international education program assisted under this subsection shall be leading educators in the areas of civics and government education and economic education, including curriculum and teacher training specialists, scholars in relevant disciplines, and educational policymakers, from the United States and eligible countries.

(5) PERSONNEL AND TECHNICAL EXPERTS.—The Secretary is authorized to provide Department of Education personnel and technical experts to assist eligible countries to establish and implement a database or other effective methods to improve educational delivery systems, structure and organization.

(6) DEFINITIONS.—For the purpose of this subsection the term "eligible country" means a Central European country, an Eastern European country, Lithuania, Latvia, Estonia, Georgia, the Commonwealth of Independent States, and any country that formerly was a republic of the Soviet Union whose political independence is recognized in the United States.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) ASSESSMENT AND INFORMATION.—There are authorized to be appropriated $1,000,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal years 1996 through 1999, to carry out subsection (b).

(2) INTERNATIONAL EDUCATION EXCHANGE.—There are authorized to be appropriated $10,000,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal years 1996 through 1999, to carry out subsection (c).

TITLE VII—SAFE SCHOOLS

SEC. 701. SHORT TITLE; STATEMENT OF PURPOSE.

(a) SHORT TITLE.—This title may be cited as the "Safe Schools Act of 1994".

(b) STATEMENT OF PURPOSE.—It is the purpose of this title to help local school systems achieve Goal Six of the National Education Goals, which provides that by the year 2000, every school in America will be free of drugs and violence and will offer a disciplined environment conducive to learning, by ensuring that all schools are safe and free of violence.

SEC. 702. SAFE SCHOOLS PROGRAM AUTHORIZED.

(a) AUTHORITY.—

(1) IN GENERAL.—From funds appropriated pursuant to the authority of subsection (b)(1), the Secretary shall make competitive grants to eligible local educational agencies to enable such agencies to carry out projects and activities designed to achieve Goal Six of the National Education Goals by helping to ensure that all schools are safe and free of violence.

(2) GRANT DURATION AND AMOUNT.—Grants under this title may not exceed—

(A) two fiscal years in duration; and

(B) $3,000,000.

(3) GEOGRAPHIC DISTRIBUTION.—To the extent practicable, grants under this title shall be awarded to eligible local educational agencies serving rural, as well as urban, areas.

(b) AUTHORIZATION OF APPROPRIATIONS AND RESERVATION.—

(1) AUTHORIZATION.—There are authorized to be appropriated $50,000,000 for fiscal year 1994 to carry out this title.

(2) RESERVATION.—The Secretary is authorized in each fiscal year to reserve not more than 10 percent of the amount appropriated pursuant to the authority of paragraph (1) to carry out national activities described in section 706, of which 50 percent of such amount shall be available in such fiscal year to carry out the program described in section 706(b).

SEC. 703. ELIGIBLE APPLICANTS.

(a) IN GENERAL.—To be eligible to receive a grant under this title, a local educational agency shall demonstrate in the application submitted pursuant to section 704(a) that such agency—

(1) serves an area in which there is a high rate of—

(A) homicides committed by persons between the ages 5 to 18, inclusive;

(B) referrals of youth to juvenile court;

(C) youth under the supervision of the courts;

(D) expulsions and suspensions of students from school;

(E) referrals of youth, for disciplinary reasons, to alternative schools; or

(F) victimization of youth by violence, crime, or other forms of abuse; and

(2) has serious school crime, violence, and discipline problems, as indicated by other appropriate data.

(b) PRIORITY.—In awarding grants under this title, the Secretary shall give priority to a local educational agency that submits an application that assures a strong local commitment to the projects or activities assisted under this title, such as—

(1) the formation of partnerships among the local educational agency, a community-based organization, a nonprofit organization with a demonstrated commitment to or expertise in developing education programs or providing educational services to students or the public, a local law enforcement agency, or any combination thereof; and

(2) a high level of youth participation in such projects or activities.

SEC. 704. APPLICATIONS AND PLANS.

(a) APPLICATION.—In order to receive a grant under this title, an eligible local educational agency shall submit to the Secretary an application that includes—

(1) an assessment of the current violence and crime problems in the schools to be served by the grant and in the community to be served by the applicant;

(2) an assurance that the applicant has written policies regarding school safety, student discipline, and the appropriate handling of violent or disruptive acts;

(3) a description of the schools and communities to be served by the grant, the activities and projects to be carried out with grant funds, and how these activities and projects will help to reduce the current violence and crime problems in the schools and communities served;

(4) a description of educational materials to be developed in the first most predominate non-English language of the schools and communities to be served by the grant, if applicable;

(5) if the local educational agency receives Federal education funds, an explanation of how activities assisted under this title will be coordinated with and support any systemic education improvement plan prepared with such funds;

(6) the applicant's plan to establish school-level advisory committees, which include faculty, parents, staff, and students, for each school to be served by the grant and a description of how each committee will assist in assessing that school's violence and discipline problems as well as in designing appropriate programs, policies, and practices to combat such problems;

(7) the applicant's plan for collecting baseline and future data, by individual schools, to monitor violence and discipline problems and to measure the applicant's progress in achieving the purpose of this title;

(8) a description of how, in subsequent fiscal years, the grantee will integrate the violence prevention activities the grantee carries out with funds under this title with activities carried out under the grantee's comprehensive plan for drug and violence prevention adopted under the Drug-Free Schools and Communities Act of 1986;

(9) a description of how the grantee will coordinate the grantee's school crime and violence prevention efforts with education, law enforcement, judicial, health, and social service programs supported under the Juvenile Justice and Delinquency Prevention Act of 1974, and other appropriate agencies and organizations serving the community;

(10) a description of how the grantee will inform parents about the extent of crime and violence in their children's schools and maximize the participation of parents in the grantee's violence prevention activities;

(11) an assurance that grant funds under this title will be used to supplement and not supplant State and local funds that would, in the absence of funds under this title, be made available by the applicant for the purposes of the grant;

(12) an assurance that the applicant will cooperate with, and provide assistance to, the Secretary in gathering statistics and other data the Secretary determines are necessary to determine the effectiveness of projects and activities assisted under this title or the extent of school violence and discipline problems throughout the Nation; and

(13) such other information as the Secretary may require.

(b) PLAN.—In order to receive funds under this title for a second year, a grantee shall submit to the Secretary a comprehensive, long-term, school safety plan for reducing and preventing school violence and discipline problems. Such plan shall contain a description of how the grantee will coordinate the grantee's school crime and violence prevention efforts with education, law-enforcement, judicial, health, social service, and other appropriate agencies and organizations serving the community.

SEC. 705. USE OF FUNDS.

(a) IN GENERAL.—A local educational agency shall use grant funds received under this title for one or more of the following activities:

(1) Identifying and assessing school violence and discipline problems, including coordinating needs assessment activities with education, law enforcement, judicial, health, social service, and other appropriate agencies and organizations, juvenile justice programs, and gang prevention activities.

(2) Conducting school safety reviews or violence prevention reviews of programs, policies, practices, and facilities to determine what changes are needed to reduce or prevent violence and promote safety and discipline.

(3) Planning for comprehensive, long-term strategies for addressing and preventing school violence and discipline problems through the involvement and coordination of school programs with other education, law enforcement, judicial, health, social service, and other appropriate agencies and organizations.

(4) Training school personnel in programs of demonstrated effectiveness in addressing violence, including violence prevention, conflict resolution, anger management, peer mediation, and identification of high-risk youth.

(5) Activities which involve parents in efforts to promote school safety and prevent school violence.

(6) Community education programs, including video- and technology-based projects, informing parents, businesses, local government, the media and other appropriate entities about—

(A) the local educational agency's plan to promote school safety and reduce and prevent school violence and discipline problems; and

(B) the need for community support.

(7) Coordination of school-based activities designed to promote school safety and reduce or prevent school violence and discipline problems with related efforts of education, law enforcement, judicial, health, social service, and other appropriate agencies and organizations and juvenile justice programs.

(8) Developing and implementing violence prevention activities and materials, including—

(A) conflict resolution and social skills development for students, teachers, aides, other school personnel, and parents;

(B) disciplinary alternatives to expulsion and suspension of students who exhibit violent or antisocial behavior;

(C) student-led activities such as peer mediation, peer counseling, and student courts; or

(D) alternative after-school programs that provide safe havens for students, which may include cultural, recreational, educational and instructional activities, and mentoring and community service programs.

(9) Educating students and parents regarding the dangers of guns and other weapons and the consequences of their use.

(10) Developing and implementing innovative curricula to prevent violence in schools and training staff how to stop disruptive or violent behavior if such behavior occurs.

(11) Supporting "safe zones of passage" for students between home and school through such measures as Drug- and Weapon-Free School Zones, enhanced law enforcement, and neighborhood patrols.

(12) Counseling programs for victims and witnesses of school violence and crime.

(13) Acquiring and installing metal detectors and hiring security personnel.

(14) Reimbursing law enforcement authorities for their personnel who participate in school violence prevention activities.

(15) Evaluating projects and activities assisted under this title.

(16) The cost of administering projects or activities assisted under this title.

(17) Other projects or activities that meet the purpose of this title.

(b) LIMITATIONS.—

(1) IN GENERAL.—A local educational agency may use not more than—

(A) a total of 5 percent of grant funds received under this title in each fiscal year for activities described in paragraphs (11), (13), and (14) of subsection (a); and

(B) 5 percent of grant funds received under this title in each fiscal year for activities described in paragraph (16) of subsection (a).

(2) SPECIAL RULE.—A local educational agency shall only be able to use grant funds received under this title for activities described in paragraphs (11), (13), and (14) of subsection (a) if funding for such activities is not available from other Federal sources.

(3) PROHIBITION.—A local educational agency may not use grant funds received under this title for construction.

SEC. 706. NATIONAL ACTIVITIES.

(a) NATIONAL ACTIVITIES.—

(1) IN GENERAL.—To carry out the purpose of this title, the Secretary—

(A) is authorized to use funds reserved under section 702(b)(2) to—

(i) conduct national leadership activities such as research, program development and evaluation, data collection, public awareness activities, training and technical assistance, dissemination (through appropriate research entities assisted by the Department of Education) of information on successful projects, activities, and strategies developed pursuant to this title;

(ii) provide grants to noncommercial telecommunications entities for the production and distribution of national video-based projects that provide young people with models for conflict resolution and responsible decisionmaking; and

(iii) conduct peer review of applications under this title; and

(B) shall develop a written safe schools model so that all schools can develop models that enable all students to participate regardless of any language barrier.

(2) SPECIAL RULE.—The Secretary may carry out the activities described in paragraph (1) directly, through interagency agreements, or through grants, contracts or cooperative agreements.

(b) NATIONAL MODEL CITY.—The Secretary shall designate the District of Columbia as a national model city and shall provide funds made available pursuant to section 702(b)(2) in each fiscal year to a local educational agency serving the District of Columbia in an amount sufficient to enable such agency to carry out a comprehensive program to address school and youth violence.

SEC. 707. NATIONAL COOPERATIVE EDUCATION STATISTICS SYSTEM.

Subparagraph (A) of section 406(h)(2) of the General Education Provisions Act (20 U.S.C. 1221e–1(h)(2)(A)) is amended—

(1) in clause (vi), by striking "and" after the semicolon; and

(2) by adding after clause (vii) the following new clause:

"(viii) school safety policy, and statistics on the incidents of school violence; and".

SEC. 708. REPORTS.

(a) REPORT TO SECRETARY.—Each local educational agency that receives funds under this title shall submit to the Secretary a report not later than March 1, 1995, that describes progress achieved in carrying out the plan described in section 704(b).

(b) REPORT TO CONGRESS.—The Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report not later than October 1, 1995, which shall contain a detailed statement regarding grant awards, activities of grant recipients, a compilation of statistical information submitted by applicants under section 704(a), and an evaluation of programs assisted under this title.

SEC. 709. COORDINATION OF FEDERAL ASSISTANCE.

The Secretary, as a member of the Coordinating Council on Juvenile Justice and Delinquency Prevention of the Department of Justice, shall coordinate the programs and activities carried out under this title with the programs and activities carried out by the departments and offices represented within the Council that provide assistance under other Federal law for purposes that are determined by the Secretary to be similar to the purpose of this title, in order to avoid redundancy and coordinate Federal assistance, research, and programs for youth violence prevention.

TITLE VIII—MINORITY-FOCUSED CIVICS EDUCATION

SEC. 801. SHORT TITLE.

This title may be cited as the "Minority-Focused Civics Education Act of 1994".

SEC. 802. PURPOSES.

It is the purpose of this title—

(1) to encourage improved instruction for minorities and Native Americans in American government and civics through a national program of accredited summer teacher training and staff development seminars or institutes followed by academic year inservice training programs conducted on college and university campuses or other appropriate sites, for—

(A) social studies and other teachers responsible for American history, government, and civics classes; and

(B) other educators who work with minority and Native American youth; and

(2) through such improved instruction to improve minority and Native American student knowledge and understanding of the American system of government.

SEC. 803. GRANTS AUTHORIZED; AUTHORIZATION OF APPROPRIATIONS.

(a) GRANTS AUTHORIZED.—

(1) IN GENERAL.—The Secretary is authorized to make grants to eligible entities for the development and implementation of seminars in American government and civics for elementary and secondary school teachers and other educators who work with minority and Native American students.

(2) AWARD RULE.—In awarding grants under this title, the Secretary shall ensure that there is wide geographic distribution of such grants.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for fiscal 1995, and such sums as may be necessary for each of the fiscal years 1996, 1997, and 1998, to carry out this title.

SEC. 804. DEFINITIONS.

For purposes of this title—

(1) the term "eligible entity" means a State educational agency, an institution of higher education or a State higher education agency, or a public or private nonprofit organization, with experience in coordinating or conducting teacher training seminars in American government and civics education, or a consortium thereof; and

(2) the term "State higher education agency" means the officer or agency primarily responsible for the State supervision of higher education.

SEC. 805. APPLICATIONS.

(a) APPLICATION REQUIRED.—Each eligible entity desiring a grant under this title shall submit an application to the Secretary, at such time, in such manner and containing or accompanied by such information as the Secretary may reasonably require.

(b) CONTENTS OF APPLICATION.—Each application submitted pursuant to subsection (a) shall—

(1) define the learning objectives and course content of each seminar to be held and describe the manner in which seminar participants shall receive substantive academic instruction in the principles, institutions and processes of American government;

(2) provide assurances that educators successfully participating in each seminar will qualify for either graduate credit or professional development or advancement credit according to the criteria established by a State or local educational agency;

(3) describe the manner in which seminar participants shall receive exposure to a broad array of individuals who are actively involved in the political process, including political party representatives drawn equally from the major political parties, as well as representatives of other organizations involved in the political process;

(4) provide assurances that the seminars will be conducted on a nonpartisan basis;

(5) describe the manner in which the seminars will address the role of minorities or Native Americans in the American political process, including such topics as—

(A) the history and current political state of minorities or Native Americans;

(B) recent research on minority or Native American political socialization patterns and cognitive learning styles; and

(C) studies of political participation patterns of minorities or Native Americans;

(6) describe the pedagogical elements for teachers that will enable teachers to develop effective strategies and lesson plans for teaching minorities or Native American students at the elementary and secondary school levels;

(7) identify the eligible entities which will conduct the seminars for which assistance is sought;

(8) in the case that the eligible entity is an institution of higher education, describe the plans for collaborating with national organizations in American government and civics education;

(9) provide assurances that during the academic year educators participating in the summer seminars will provide inservice training programs based upon what such educators have learned and the curricular materials such educators have developed or acquired for their peers in their school systems with the approval and support of their school administrators; and

(10) describe the activities or services for which assistance is sought, including activities and services such as—

(A) development of seminar curricula;

(B) development and distribution of instructional materials;

(C) scholarships for participating teachers; and

(D) program assessment and evaluation.

(c) PRIORITY.—The Secretary, in approving applications for assistance under this title, shall give priority to applications which demonstrate that—

(1) the applicant will serve teachers who teach in schools with a large number or concentration of economically disadvantaged students;

(2) the applicant has demonstrated national experience in conducting or coordinating accredited summer seminars in American government or civics education for elementary and secondary school teachers;

(3) the applicant will coordinate or conduct seminars on a national or multistate basis

through a collaboration with an institution of higher education, State higher education agency or a public or private nonprofit organization, with experience in coordinating or conducting teacher training programs in American government and civics education;

(4) the applicant will coordinate or conduct seminars designed for more than one minority student population and for Native Americans; and

(5) the applicant will coordinate or conduct seminars that offer a combination of academic instruction in American government, exposure to the practical workings of the political system, and training in appropriate pedagogical techniques for working with minority and Native American students.

TITLE IX—EDUCATIONAL RESEARCH AND IMPROVEMENT

SEC. 901. SHORT TITLE.

This title may be cited as the "Educational Research, Development, Dissemination, and Improvement Act of 1994".

SEC. 902. FINDINGS.

The Congress finds as follows with respect to improving education in the United States:

(1) A majority of public schools in the United States are failing to prepare students to achieve the National Education Goals. The Federal Government should support an extensive program of educational research, development, dissemination, replication and assistance to identify and support the best responses for the challenges ahead. A significant investment in attaining a deeper understanding of the processes of learning and schooling and developing new ideas holds the best hope of making a substantial difference to the lives of every student in the United States. The Office of Educational Research and Improvement within the Department of Education should be at the center of this campaign in order to coordinate such efforts.

(2) The Federal role in educational research has been closely identified with youths who are socioeconomically disadvantaged, are minorities, belong to a language minority, or have a disability. The Federal commitment to education was sufficient to serve not more than—

(A) in 1993, 1 out of every 6 low-income children in need of preschool education;

(B) in 1990, 3 out of every 5 children in need of remediation;

(C) in 1991, 1 out of every 5 children in need of bilingual education; and

(D) in 1992, 1 out of every 20 youths eligible for assistance under the Job Training Partnership Act.

(3) The failure of the Federal Government to adequately invest in educational research and development has denied the United States a sound foundation of knowledge on which to design school improvements. The educational achievement of minority children is of particular concern because at least half of the public school students in 25 of the largest cities of the United States are minority children, and demographers project that, by the year 2005, almost all urban public school students will be minority children or other children in poverty.

(4) The investment goal of the Federal research, development, and dissemination function should be at least 1 percent of the total amount of funds spent on educationally.

(5) Nationwide model programs and reliable interventions should be demonstrated and replicated, and for such purposes, programs should be established to conduct research and evaluations, and to disseminate information.

(6) The Office should develop a national dissemination policy that will advance the goal of placing a national treasure chest of research results, models, and materials at the disposal of the education decisionmakers of the United States.

(7) A National Educational Research Policy and Priorities Board should be established to work collaboratively with the Assistant Secretary to forge a national consensus with respect to a long-term agenda for educational research, development, dissemination, and the activities of the Office.

(8) Existing research and development entities should adopt expanded, proactive roles and new institutions should be created to promote knowledge development necessary to accelerate the application of research findings to high priority areas.

(9) Greater use should be made of existing technologies in efforts to improve the educational system of the United States, including efforts to disseminate research findings.

(10) Minority educational researchers are inadequately represented throughout the Department of Education, but particularly in the Office. The Office therefore should assume a leadership position in the recruitment, retention, and promotion of qualified minority educational researchers.

(11) The coordination of the mission of the Office with that of other components of the Department of Education is critical. The Office should improve the coordination of the educational research, development, and dissemination function with those of other Federal agencies.

PART A—GENERAL PROVISIONS REGARDING THE OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

SEC. 911. REPEAL.

(a) REPEAL.—Section 405 of the General Education Provisions Act (20 U.S.C. 1221e) is repealed.

(b) CONFORMING AMENDMENT.—The second sentence of section 209 of the Department of Education Organization Act (20 U.S.C. 3419) is amended by inserting "and such functions as set forth in the Educational Research, Development, Dissemination, and Improvement Act of 1994" after "delegate".

SEC. 912. OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT.

(a) DECLARATION OF POLICY REGARDING EDUCATIONAL OPPORTUNITY.—

(1) IN GENERAL.—The Congress declares it to be the policy of the United States to provide to every individual an equal opportunity to receive an education of high quality regardless of race, color, religion, sex, age, disability, national origin, or social class. Although the American educational system has pursued this objective, it has not been attained. Inequalities of opportunity to receive high quality education remain pronounced. To achieve the goal of quality education requires the continued pursuit of knowledge about education through research, development, improvement activities, data collection, synthesis, technical assistance, and information dissemination. While the direction of American education remains primarily the responsibility of State and local governments, the Federal Government has a clear responsibility to provide leadership in the conduct and support of scientific inquiry into the educational process.

(2) MISSION OF OFFICE.—

(A) The mission of the Office shall be to provide national leadership in—

(i) expanding fundamental knowledge and understanding of education;

(ii) promoting excellence and equity in education; and the achievement of the National Educational Goals by spurring reform in the school systems of the United States;

(iii) promoting the use and application of research and development to improve practice in the classroom; and

(iv) monitoring the state of education.

(B) The mission of the Office shall be accomplished in collaboration with researchers, teachers, school administrators, parents, students, employers, and policymakers.

(b) PURPOSE AND STRUCTURE OF OFFICE.—

(1) IN GENERAL.—The Secretary, acting through the Office, shall carry out the policies set forth in subsection (a). In carrying out such policies, the Office shall be guided by the Research Priorities Plan developed by the Assistant Secretary working collaboratively with the Board and which has been approved by the Board.

(2) ADMINISTRATIVE STRUCTURE.—The Office shall be administered by the Assistant Secretary and shall include—

(A) the National Educational Research Policy and Priorities Board established by section 921;

(B) the national research institutes established by section 931;

(C) the national education dissemination system established by section 941;

(D) the National Center for Education Statistics; and

(E) such other units as the Secretary deems appropriate to carry out the purposes of the Office.

(3) AUTHORIZED ACTIVITIES.—

(A) OFFICE.—In fulfilling its purposes under this section, the Office is authorized to—

(i) conduct and support education-related research activities, including basic and applied research, development, planning, surveys, assessments, evaluations, investigations, experiments, and demonstrations of national significance;

(ii) disseminate the findings of education research, and provide technical assistance to apply such information to specific problems at school sites;

(iii) collect, analyze, and disseminate data related to education, and to library and information services;

(iv) promote the use of knowledge gained from research and statistical findings in schools, other educational institutions, and communities;

(v) provide training in education research; and

(vi) promote the coordination of education research and research support within the Federal Government, and otherwise assist and foster such research.

(c) APPOINTMENT OF EMPLOYEES.—

(1) IN GENERAL.—The Assistant Secretary may appoint, for terms not to exceed three years (without regard to the provisions of title 5, United States Code, governing appointment in the competitive service) and may compensate (without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates) such scientific or technical employees of the Office as the Assistant Secretary considers necessary to accomplish its functions, provided that—

(A) at least 30 days prior to the appointment of any such employee, public notice is given of the availability of such position and an opportunity is provided for qualified individuals to apply and compete for such position;

(B) the rate of basic pay for such employees does not exceed the maximum rate of basic pay payable for positions at GS-15, as determined in accordance with section 5376 of title 5, United States Code;

(C) the appointment of such employee is necessary to provide the Office with scientific or technical expertise which could not otherwise be obtained by the Office through the competitive service; and

(D) the total number of such employees does not exceed one-fifth of the number of full-time, regular scientific or professional employees of the Office.

(2) REAPPOINTMENT OF EMPLOYEES.—The Assistant Secretary may reappoint employees described in paragraph (1) upon presentation of a

clear and convincing justification of need, for one additional term not to exceed 3 years. All such employees shall work on activities of the Office and shall not be reassigned to other duties outside the Office during their term.

(d) AUTHORITY TO PUBLISH.—

(1) IN GENERAL.—The Assistant Secretary is authorized to prepare and publish such information, reports, and documents as may be of value in carrying out the purposes of this title without further clearance or approval by the Secretary or any other office of the Department of Education.

(2) QUALITY ASSURANCE.—In carrying out such authority, the Assistant Secretary shall—

(A) establish such procedures as may be necessary to assure that all reports and publications issued by the Office are of the highest quality; and

(B) provide other offices of the Department of Education with an opportunity to comment upon any report or publication prior to its publication when its contents relate to matters for which such office has responsibility.

(e) BIENNIAL REPORT ON ACTIVITIES OF OFFICE.—The Assistant Secretary shall transmit to the President and the Congress by not later than December 30 of every other year a report which shall consist of—

(1) a description of the activities carried out by and through each research institute during the fiscal years for which such report is prepared and any recommendations and comments regarding such activities as the Assistant Secretary considers appropriate;

(2) a description of the activities carried out by and through the national education dissemination system established by section 941 during the fiscal years for which such report is prepared and any recommendations and comments regarding such activities as the Assistant Secretary considers appropriate;

(3) such written comments and recommendations as may be submitted by the Board concerning the activities carried out by and through each of the institutes and the national education dissemination system during the fiscal years for which such report is prepared;

(4) a description of the coordination activities undertaken pursuant to subsection (g) during the fiscal years for which such report is prepared;

(5) recommendations for legislative and administrative changes necessary to improve the coordination of all educational research, development, and dissemination activities carried out within the Federal Government; and

(6) such additional comments, recommendations, and materials as the Assistant Secretary considers appropriate.

(f) RESEARCH PRIORITIES PLAN.—

(1) IN GENERAL.—Working collaboratively with the Board, the Assistant Secretary shall—

(A) survey and assess the state of knowledge in education research, development and dissemination to identify disciplines and areas of inquiry in which the state of knowledge is insufficient and which warrant further investigation, taking into account the views of both education researchers and practicing educators;

(B) consult with the National Education Goals Panel and other authorities on education to identify national priorities for the improvement of education;

(C) actively solicit recommendations from education researchers, teachers, school administrators, cultural leaders, parents, and others throughout the United States through such means as periodic regional forums;

(D) provide recommendations for the development, maintenance, and assurance of a strong infrastructure for education, research, and development in the United States; and

(E) on the basis of such recommendations, develop a research priorities program which shall recommend priorities for the investment of the resources of the Office over the next 5-, 10-, and 15-year periods, including as priorities those areas of inquiry in which further research, development and dissemination—

(i) is necessary to attain the National Education Goals;

(ii) promises to yield the greatest practical benefits to teachers and other educators in terms of improving education; and

(iii) will not be undertaken in sufficient scope or intensity by the other Federal and non-Federal entities engaged in education research and development.

(2) CONTENTS OF PLAN.—(A) The research and priorities plan described in paragraph (1) shall, at a minimum—

(i) set forth specific objectives which can be expected to be achieved as a result of a Federal investment in the priorities set forth in the plan;

(ii) include recommendations with respect to research and development on cross-cutting issues which should be carried out jointly by 2 or more of the research institutes; and

(iii) include an evaluative summary of the educational research and development activities undertaken by the Federal government during the preceding 2 fiscal years, which shall describe—

(I) what has been learned as a result of such activities;

(II) how such new knowledge or understanding extends or otherwise relates to what had been previously known or understood;

(III) the implications of such new knowledge or understanding for educational practice and school reform; and

(IV) any development, reform, and other assistance activities which have utilized such knowledge or understanding and the effects of such efforts.

(B) REPORT.—(i) Not later than 6 months after the first meeting of the Board and by October 1 of every second year thereafter, the Assistant Secretary shall publish a report specifying the proposed research priorities of the Office and allow a 60-day period beginning on the date of the publication of the report for public comment and suggestions.

(ii) Not later than 90 days after the expiration of the 60-day period referred to in clause (i), the Assistant Secretary shall submit to the Board a report specifying the proposed research priorities of the Office and any public comment and suggestions obtained under such subparagraph for the Board's review and approval.

(g) COORDINATION.—With the advice and assistance of the Board, the Assistant Secretary shall work cooperatively with the Secretary and the other Assistant Secretaries of the Department of Education to establish and maintain an ongoing program of activities designed to improve the coordination of education research, development, and dissemination and activities within such Department and within the Federal Government to—

(1) minimize duplication in education research, development, and dissemination carried out by the Federal Government;

(2) maximize the value of the total Federal investment in education research, development, and dissemination; and

(3) enable entities engaged in education research, development, and dissemination within the Federal Government to interact effectively as partners and take full advantage of the diverse resources and proficiencies which each entity has available.

(h) ACTIVITIES REQUIRED WITH RESPECT TO COORDINATION.—In carrying out such program of coordination, the Assistant Secretary shall compile (and thereafter regularly maintain) and make available a comprehensive inventory of education research, development, dissemination activities, and expenditures being carried out by the Federal Government.

(i) STANDARDS FOR THE CONDUCT AND EVALUATION OF RESEARCH.—

(1) IN GENERAL.—In consultation with the Board, the Assistant Secretary shall develop such standards as may be necessary to govern the conduct and evaluation of all research, development, and dissemination activities carried out by the Office to assure that such activities meet the highest standards of professional excellence. In developing such standards, the Assistant Secretary shall review the procedures utilized by the National Institutes of Health, the National Science Foundation, and other Federal departments or agencies engaged in research and development and shall also actively solicit recommendations from research organizations and members of the general public.

(2) CONTENTS OF STANDARDS.—Such standards shall at a minimum—

(A) require that a process of open competition be used in awarding or entering into all grants, contracts, and cooperative agreements under this title;

(B) require that a system of peer review be utilized by the Office—

(i) for reviewing and evaluating all applications for grants and cooperative agreements and bids for those contracts which exceed $100,000;

(ii) for evaluating and assessing the performance of all recipients of grants from and cooperative agreements and contracts with the Office; and

(iii) for reviewing and designating exemplary and promising programs in accordance with section 941(d);

(C) describe the general procedures which shall be used by each peer review panel in its operations;

(D)(i) describe the procedures which shall be utilized in evaluating applications for grants, proposed cooperative agreements, and contract bids; and

(ii) specify the criteria and factors which shall be considered in making such evaluations;

(E) describe the procedures which shall be utilized in reviewing educational programs which have been identified by or submitted to the Secretary for evaluation in accordance with section 941(d); and

(F) require that the performance of all recipients of grants from and contracts and cooperative agreements with the Office shall be periodically evaluated, both during and at the conclusion of their receipt of assistance.

(3) PUBLICATION AND PROMULGATION OF STANDARDS.—

(A) The Assistant Secretary shall publish proposed standards—

(i) which meet the requirements of subparagraphs (A), (B), (C), and (D) of paragraph (2) not later than 1 year after the date of the enactment of this title;

(ii) which meet the requirements of paragraph (2)(E) not later than 2 years after such date; and

(iii) which meet the requirements of subparagraph (F) of paragraph (2) not later than 3 years after such date.

(B) Following the publication of such proposed standards, the Assistant Secretary shall solicit comments from interested members of the public with respect to such proposed standards for a period of not more than 120 days. After giving due consideration to any comments which may have been received, the Assistant Secretary shall transmit such standards to the Board for its review and approval.

(C) Upon the approval of the Board, the Assistant Secretary shall transmit final standards to the Secretary which meet the requirements of the particular subparagraphs of paragraph (2) for which such standards were developed. Such

standards shall be binding upon all activities carried out with funds appropriated pursuant to subsection (m).

(j) ADDITIONAL RESPONSIBILITIES OF THE ASSISTANT SECRETARY.—In carrying out the activities and programs of the Office, the Assistant Secretary—

(1) shall be guided by the Research Priorities Plan developed by the Assistant Secretary working collaboratively with the Board and which has been approved by the Board;

(2) shall ensure that there is broad and regular public and professional involvement from the educational field in the planning and carrying out of the Office's activities, including establishing teacher advisory boards for any program office, program or project of the Office as the Assistant Secretary deems necessary and involving Indian and Alaska Native researchers and educators in activities that relate to the education of Indian and Alaska Native people;

(3) shall ensure that the selection of research topics and the administration of the program are free from undue partisan political influence;

(4) shall ensure that all statistics and other data collected and reported by the Office shall be collected, cross-tabulated, analyzed, and reported by sex within race or ethnicity and socioeconomic status whenever feasible (and when such data collection or analysis is not feasible, ensure that the relevant report or document includes an explanation as to why such data collection or analysis is not feasible);

(5) is authorized to administer funds to support a single project when more than 1 Federal agency uses funds to support such project, and the Assistant Secretary may act for all such agencies in administering such funds; and

(6) is authorized to offer information and technical assistance to State and local educational agencies, school boards, and schools, including schools funded by the Bureau, to ensure that no student is—

(A) denied access to the same rigorous, challenging curriculum that such student's peers are offered; or

(B) grouped or otherwise labeled in such a way that may impede such student's achievement.

(k) INDEPENDENT EVALUATIONS.—The Secretary shall enter into one or more contracts for the conduct of an independent evaluation of the effectiveness of the implementation of the provisions of this title. Such evaluations shall be transmitted to the Congress, the President, and the Assistant Secretary not later than 54 months after the date of the enactment of this title.

(l) DEFINITIONS.—For purposes of this title, the following definitions apply:

(1) ASSISTANT SECRETARY.—The term "Assistant Secretary" means the Assistant Secretary for Educational Research and Improvement established by section 202 of the Department of Education Organization Act.

(2) AT-RISK STUDENT.—The term "at-risk student" means a student who, because of limited English proficiency, poverty, race, geographic location, or economic disadvantage, faces a greater risk of low educational achievement or reduced academic expectations.

(3) BOARD.—The term "Board" means the National Educational Research Policy and Priorities Board.

(4) DEVELOPMENT.—The term "development"—

(A) means the systematic use, adaptation, and transformation of knowledge and understanding gained from research to create alternatives, policies, products, methods, practices, or materials which can contribute to the improvement of educational practice; and

(B) includes the design and development of prototypes and the testing of such prototypes for the purposes of establishing their feasibility, reliability, and cost-effectiveness.

(5) DISSEMINATION.—The term "dissemination" means the communication and transfer, through the provision of technical assistance and other means, of the results of research and proven practice in forms that are understandable, easily accessible and usable or adaptable for use in the improvement of educational practice by teachers, administrators, librarians, other practitioners, researchers, policymakers, and the public.

(6) EDUCATIONAL RESEARCH.—The term "educational research" includes basic and applied research, inquiry with the purpose of applying tested knowledge gained to specific educational settings and problems, development, planning, surveys, assessments, evaluations, investigations, experiments, and demonstrations in the field of education and other fields relating to education.

(7) FIELD-INITIATED RESEARCH.—The term "field-initiated research" means education research in which topics and methods of study are generated by investigators, including teachers and other practitioners, not by the source of funding.

(8) NATIONAL EDUCATION DISSEMINATION SYSTEM.—The term "national education dissemination system" means the activities carried out by the Office of Reform Assistance and Dissemination established by section 941.

(9) OFFICE.—The term "Office", unless otherwise specified, means the Office of Educational Research and Improvement established in section 209 of the Department of Education Organization Act.

(10) NATIONAL RESEARCH INSTITUTE.—The term "national research institute" means an institute established in section 931.

(11) TECHNICAL ASSISTANCE.—The term "technical assistance" means assistance in identifying, selecting, or designing solutions based on research to address educational problems, planning, and design that leads to adapting research knowledge to school practice, training to implement such solutions, and other assistance necessary to encourage adoption or application of research.

(12) UNITED STATES; STATE.—The terms "United States" and "State" means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, Palau (until the effective date of the Compact of Free Association with the Government of Palau), the Republic of the Marshall Islands, and the Federated States of Micronesia.

(m) AUTHORIZATION OF APPROPRIATIONS.—

(1) NATIONAL INSTITUTES.—

(A) For the purpose of carrying out section 931, there is authorized to be appropriated $68,000,000 for fiscal year 1995.

(B)(i) For the purpose of carrying out the provisions of section 931 relating to the National Institute on Student Achievement, Curriculum, and Assessment and the National Institute on the Education of At-Risk Students, there are authorized to be appropriated $60,000,000 for fiscal year 1996, and such sums as are necessary for each of fiscal years 1997, 1998, and 1999.

(ii) Of the total amounts appropriated pursuant to clause (i)—

(I) 50 percent shall be used by the Assistant Secretary for the purpose of carrying out the provisions of section 931 relating to the National Institute on the Education of At-Risk Students; and

(II) 50 percent shall be used for the purpose of carrying out the provisions of section 931 relating to the National Institute on Student Achievement, Curriculum, and Assessment.

(C) For the purpose of carrying out the provisions of section 931 relating to the National Institute on Educational Governance, Finance, Policy-Making, and Management, there are authorized to be appropriated $10,000,000 for fiscal year 1996, and such sums as are necessary for each of fiscal years 1997, 1998, and 1999.

(D) For the purpose of carrying out the provisions of section 931 relating to the National Institute on Early Childhood Development and Education, there are authorized to be appropriated $15,000,000 for fiscal year 1996, and such sums as are necessary for each of fiscal years 1997, 1998, and 1999.

(E) For the purpose of carrying out the provisions of section 931 relating to the National Institute on Postsecondary Education, Libraries, and Lifelong Learning, there are authorized to be appropriated $15,000,000 for fiscal year 1996, and such sums as are necessary for each of fiscal years 1997, 1998, and 1999.

(F) COORDINATION AND SYNTHESIS.—The Assistant Secretary is authorized to reserve not more than 10 percent of the total amounts appropriated in any fiscal year pursuant to subparagraphs (A) through (E) (but not more than 33 percent of the amount appropriated for any single institute in any fiscal year) for the purposes of supporting coordination and synthesis activities described in section 931(i) or to address other priorities which are consistent with the Research Priorities Plan developed by the Assistant Secretary and approved by the Board.

(2) NATIONAL EDUCATION DISSEMINATION SYSTEM.—

(A)(i) For the purpose of carrying out paragraph (2) of subsection (b) and subsections (c) through (g) of section 941, there are authorized to be appropriated $23,000,000 for fiscal year 1995, and such sums as are necessary for each of the fiscal years 1996 through 1999.

(ii) Of the amount appropriated under clause (i) for any fiscal year, the Secretary shall make available not less than $8,000,000 to carry out subsection (f) of section 941 (relating to Educational Resources Information Center Clearinghouses).

(B) For the purpose of carrying out subsection (h) of section 941 (relating to regional educational laboratories), there are authorized to be appropriated $41,000,000 for fiscal year 1995, and such sums as are necessary for each of the fiscal years 1996 through 1999. Of the amounts appropriated under the preceding sentence for a fiscal year, the Secretary shall obligate not less than 25 percent to carry out such purpose with respect to rural areas (including schools funded by the Bureau which are located in rural areas).

(C) For the purpose of carrying out subsection (j) of section 941 (relating to the teacher research dissemination demonstration program) there are authorized to be appropriated $20,000,000 for fiscal year 1995, and such sums as are necessary for each of the fiscal years 1996 through 1999.

(D) For the purpose of carrying out subsection (i) of section 941 (relating to the Goals 2000 Community Partnerships program), there are authorized to be appropriated $30,000,000 for fiscal year 1995, $50,000,000 for fiscal year 1996, and such sums as are necessary for each of the fiscal years 1997 and 1999.

(3) NATIONAL EDUCATIONAL RESEARCH POLICY AND PRIORITIES BOARD.—Of the amounts appropriated under paragraphs (1) and (2) for any fiscal year, the Secretary shall make available 2 percent of such amounts, or $1,000,000, whichever is less, for the purpose of supporting the activities and expenses of the Board and the collaborative development of the Research Priorities Plan by the Assistant Secretary and the Board.

(4) ALLOCATIONS FOR GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—Of the amounts appropriated under paragraph (1) or (2) for any fiscal year, not less than 95 percent shall be expended to carry out the purposes described in

such paragraphs through grants, cooperative agreements, or contracts.

(5) LIMITATIONS ON APPROPRIATIONS.—No amounts are authorized to be appropriated under paragraph (1) or (2) for fiscal year 1996 or any fiscal year thereafter unless the Board has been appointed in accordance with section 921.

(6) GRANT AUTHORIZED.—

(A) IN GENERAL.—From the amounts appropriated pursuant to paragraph (1) for any fiscal year, the Secretary is authorized, in accordance with the provisions of this paragraph, to award a grant of not more than $5,000,000 to a public or private institution, agency or organization for a period not to exceed 5 years for the purpose of conducting a State-by-State poll to determine the perceptions of recent graduates of secondary schools, their instructors in institutions of higher education, parents of recent such graduates, and employers of recent such graduates on how well schools have prepared students for further education or employment.

(B) MATCHING REQUIREMENT.—The grant described in subparagraph (A) shall be awarded on a competitive basis and shall be matched on a two-to-one basis by the recipient.

SEC. 913. ASSISTANT SECRETARY FOR EDUCATIONAL RESEARCH AND IMPROVEMENT.

Subsection (b) of section 202 of the Department of Education Organization Act is amended—

(1) in paragraph (1)—

(A) by striking subparagraph (E); and

(B) by redesignating subparagraphs (F) and (G) as subparagraphs (E) and (F), respectively; and

(2) by adding at the end the following new paragraph:

"(3) There shall be in the Department an Assistant Secretary for Educational Research and Improvement who shall be—

"(A) appointed by the President, by and with the consent of the Senate; and

"(B) selected (giving due consideration to recommendations from the National Educational Research Policy and Priorities Board) from among individuals who—

"(i) are distinguished educational researchers or practitioners;

"(ii) have proven management ability; and

"(iii) have substantial knowledge of education within the United States.".

SEC. 914. SAVINGS PROVISION.

Notwithstanding any other provision of law, contracts for the regional educational laboratories, Educational Resources Information Center Clearinghouses and research and development centers and regional educational laboratories assisted under section 405 of the General Education Provisions Act, as such section was in effect on the day before the date of the enactment of this title, shall remain in effect until the termination date of such contracts.

SEC. 915. EXISTING GRANTS AND CONTRACTS.

(a) IN GENERAL.—Notwithstanding any other provision of law, grants and contracts for the research and development centers assisted under section 405 of the General Education Provisions Act, as such section was in effect on the day before the date of enactment of this Act, shall remain in effect until the termination date of such grants or contracts, as the case may be, except that such grants and contracts may be extended to implement the provisions of this title.

(b) USE OF FUNDS.—In carrying out subsection (a), the Secretary shall use funds appropriated pursuant to section 912(m)(1).

PART B—NATIONAL EDUCATIONAL RESEARCH POLICY AND PRIORITIES BOARD

SEC. 921. ESTABLISHMENT WITHIN OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT.

(a) IN GENERAL.—There is established within the Office a National Educational Research Policy and Priorities Board.

(b) FUNCTIONS.—It shall be the responsibility of the Board to—

(1) work collaboratively with the Assistant Secretary to determine priorities that should guide the work of the Office and provide guidance to the Congress in its oversight of the Office;

(2) review and approve the Research Priorities Plan developed by the Assistant Secretary in collaboration with the Board;

(3) review and approve standards for the conduct and evaluation of all research, development, and dissemination carried out under the auspices of the Office pursuant to this title; and

(4) review regularly, evaluate, and publicly comment upon, the implementation of its recommended priorities and policies by the Department and the Congress.

(c) ADDITIONAL RESPONSIBILITIES OF THE BOARD.—It shall also be the responsibility of the Board to—

(1) provide advice and assistance to the Assistant Secretary in carrying out the coordination activities described in section 912;

(2) make recommendations to the Assistant Secretary of persons qualified to fulfill the responsibilities of the Director of each research institute established by section 931 after making special efforts to identify qualified women and minorities and soliciting and giving due consideration to recommendations from professional associations and interested members of the public;

(3) advise and make recommendations to the President with respect to individuals who are qualified to fulfill the responsibilities of the Assistant Secretary for the Office;

(4) review and comment upon proposed contract grant, and cooperative agreement proposals in accordance with section 931(c)(4);

(5) advise the United States on the Federal educational research and development effort;

(6) recommend ways for strengthening active partnerships among researchers, educational practitioners, librarians, and policymakers;

(7) recommend ways to strengthen interaction and collaboration between the various program offices and components;

(8) solicit advice and information from the educational field, to define research needs and suggestions for research topics, and shall involve educational practitioners, particularly teachers, in this process;

(9) solicit advice from practitioners, policymakers, and researchers, and recommend missions for the national research centers assisted under this title by identifying topics which require long-term, sustained, systematic, programmatic, and integrated research and dissemination efforts;

(10) provide recommendations for translating research findings into workable, adaptable models for use in policy and in practice across different settings, and recommendations for other forms of dissemination; and

(11) provide recommendations for creating incentives to draw talented young people into the field of educational research, including scholars from disadvantaged and minority groups.

(d) STANDING SUBCOMMITTEES.—The Board may establish a standing subcommittee for each of the Institutes established by section 931 and for the Office of Reform Assistance and Dissemination established by section 941(b) which shall advise, assist, consult with and make recommendations to the Assistant Secretary, the Board, the Director of such entity and the Congress on matters related to the activities carried out by and through such entities.

(e) POWERS OF THE BOARD.—In carrying out its functions, powers, and responsibilities, the Board—

(1) shall, without regard to the provisions of title 5, United States Code, relating to the appointment and compensation of officers or employees of the United States, appoint a director to be paid at a rate not to exceed the rate of basic pay payable for level V of the Executive Schedule who shall assist in carrying out and managing the activities of the Board and perform such other functions the Board determines to be necessary and appropriate;

(2) shall utilize such additional staff as may be appointed or assigned by the Assistant Secretary;

(3) may arrange for the detail of staff personnel and utilize the services and facilities of any department or agency of the Federal Government;

(4) may enter into contracts, or make other arrangements as may be necessary to carry out its functions;

(5) shall participate in any public meetings or other activities carried out by the Assistant Secretary in the development of the Research Priorities Plan;

(6) may review any grant, contract, or cooperative agreement made or entered into by the Office;

(7) may, to the extent otherwise permitted by law, obtain directly from any department or agency of the United States such information as the Board deems necessary to carry out its responsibilities;

(8) may convene workshops and conferences, collect data, and establish subcommittees which may be composed of members of the Board and nonmember consultants (including employees of the Department of Education) with expertise in the particular area addressed by such subcommittees; and

(9) shall establish such rules and procedures to govern its operations as it considers appropriate, to the extent otherwise permitted by law.

(f) MEMBERSHIP IN GENERAL.—

(1) QUALIFICATIONS.—The members of the Board shall be individuals who, by virtue of their training, experience, and background in educational research and the education professions, are exceptionally qualified to appraise the educational research and development effort of the United States and to fulfill the responsibilities described in subsections (b) and (c).

(2) BROAD REPRESENTATION.—Due consideration shall be given to the gender, race, and ethnicity of appointees to assure that the Board is broadly representative of the diversity of the United States.

(3) LIMITATION.—A voting member of the Board may not serve on any other governing or advisory board within the Department of Education or as a paid consultant of such Department.

(4) CONFLICT OF INTEREST.—A voting member of the Board shall be considered a special Government employee for the purposes of the Ethics in Government Act of 1978.

(g) SECRETARIAL APPOINTMENTS.—The Board shall consist of 15 members appointed by the Secretary. Of the members of the Board—

(1) five shall be appointed from among researchers in the field of education who have been nominated by the National Academy of Sciences;

(2) five shall be outstanding school-based professional educators; and

(3) five shall be individuals who are knowledgeable about the educational needs of the United States and may include parents with ex-

perience in promoting parental involvement in education, Chief State School Officers, local educational agency superintendents, principals, members of State or local boards of education or Bureau-funded school boards, and individuals from business and industry with experience in promoting private sector involvement in education.

(h) REQUIREMENTS FOR NOMINATIONS BY THE NATIONAL ACADEMY OF SCIENCES.—

(1) IN GENERAL.—In making nominations for the members of the Board described in subsection (g)(1), the National Academy of Sciences—

(A) shall give due consideration to recommendations from research and education organizations;

(B) may not nominate any individual who is an elected officer or employee of such organization; and

(C) shall nominate not less than 5 individuals for each of the positions on the Board for which such organization has responsibility for making nominations.

(2) REQUEST FOR ADDITIONAL NOMINATIONS.—In the event that the Secretary determines that none of the individuals nominated by the National Academy of Sciences meets the qualifications for membership on the Board specified in subsection (g), the Secretary may request that such organization make additional nominations.

(i) NOMINATIONS FOR BOARD MEMBERSHIP.—Prior to appointing any member of the Board, the Secretary shall actively solicit and give due consideration to recommendations from organizations such as the National Education Association, the American Federation of Teachers, the National Parent-Teachers Association, the American Library Association, the American Association of School Administrators, the National Association of State Boards of Education, the National Indian School Board Association, the Association of Community Tribal Schools, the National Indian Education Association, and other education-related organizations and interested members of the public.

(j) EX OFFICIO MEMBERS.—The ex officio, nonvoting members of the Board shall include the Assistant Secretary and may also include—

(1) the Director of Research for the Department of Defense;

(2) the Director of Research for the Department of Labor;

(3) the Director of the National Science Foundation;

(4) the Director of the National Institutes of Health;

(5) the chair of the National Endowment for the Arts;

(6) the chair of the National Endowment for the Humanities;

(7) the Librarian of Congress; and

(8) the Director of the Office of Indian Education Programs of the Department of the Interior.

(k) CHAIR.—The Board shall select a Chair from among its appointed members who shall serve for a renewable term of 2 years.

(l) TERMS OF OFFICE.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the term of office of each voting member of the Board shall be 6 years.

(2) EXCEPTIONS.—(A) Any individual appointed to fill a vacancy occurring on the Board prior to the expiration of the term for which the predecessor of the individual was appointed shall be appointed for the remainder of the term. A vacancy shall be filled in the same manner in which the original appointment was made.

(B) The terms of office of the members of the Board who first take office after the date of the enactment of this title shall, as designated by a random selection process at the time of appointment, be as follows:

(i) 3 years for each of 5 members of the Board.

(ii) 4 years for each of 5 members of the Board.

(iii) 6 years for each of 5 members of the Board.

(3) PROHIBITION ON CERTAIN CONSECUTIVE TERMS.—An individual who has been a member of the Board for 12 consecutive years shall thereafter be ineligible for appointment during the 6-year period beginning on the date of the expiration of the 12th year.

(4) PROHIBITION REGARDING REMOVAL.—The Secretary shall neither remove nor encourage the departure of a member of the Board before the expiration of such member's term.

(m) MEETINGS OF BOARD.—

(1) INITIAL MEETING.—The Secretary shall ensure that the first meeting of the Board is held not later than May 15, 1995.

(2) SUBSEQUENT MEETINGS.—The Board shall meet quarterly, at the call of the Chair, and when at least one-third of the members of the Board make a written request to meet.

(3) QUORUM.—A majority of the Board shall constitute a quorum.

(4) OPEN MEETINGS.—The Government in the Sunshine Act (5 U.S.C. 552b) shall apply to meetings of the Board.

PART C—NATIONAL RESEARCH INSTITUTES

SEC. 931. ESTABLISHMENT WITHIN THE OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT.

(a) ESTABLISHMENT OF INSTITUTES.—In order to fulfill the research and development purposes of the Office, and to carry out a program of high-quality and rigorously evaluated research and development that is capable of improving Federal, State, Indian tribal, and local education policies and practices, there are established within the Office the following Institutes:

(1) The National Institute on Student Achievement, Curriculum, and Assessment.

(2) The National Institute on the Education of At-Risk Students.

(3) The National Institute on Educational Governance, Finance, Policy-Making, and Management.

(4) The National Institute on Early Childhood Development and Education.

(5) The National Institute on Postsecondary Education, Libraries, and Lifelong Education.

(b) DIRECTORS.—

(1) IN GENERAL.—Each Institute established by subsection (a) shall be headed by a Director who shall be appointed by the Assistant Secretary from among individuals who have significant experience and expertise in the disciplines relevant to the purposes of such Institute. The Assistant Secretary shall give due consideration to recommendations made by the Board of individuals qualified to fill the position.

(2) REPORTING.—Each Director shall report directly to the Assistant Secretary regarding the activities of the Institute and shall work with the other directors to promote research synthesis across the Institutes.

(c) AUTHORITIES AND DUTIES.—

(1) IN GENERAL.—The Assistant Secretary is authorized to conduct research, development, demonstration, and evaluation activities to carry out the purposes for which such Institute was established—

(A) directly;

(B) through grants, contracts, and cooperative agreements with institutions of higher education, regional educational laboratories, public and private organizations, institutions, agencies, and individuals, or a consortium thereof, which may include—

(i) grants to support research and development centers which are—

(I) awarded competitively for a period of 5 years and which may be renewed for an additional 5 years;

(II) of sufficient size, scope, and quality, and funded at not less than $1,500,000 annually in order to support a full range of basic research, applied research and dissemination activities, which may also include development activities; and

(III) established by institutions of higher education, by institutions of higher education in consortium with public agencies or private nonprofit organizations, or by interstate agencies established by compact which operate subsidiary bodies established to conduct postsecondary educational research and development;

(ii) meritorious unsolicited proposals for educational research and related activities;

(iii) proposals that are specifically invited or requested by the Assistant Secretary, on a competitive basis; and

(iv) dissertation grants, awarded for a period of not more than 2 years and in a total amount not to exceed $20,000 to graduate students in the sciences, humanities, and the arts to support research by such scholars in the field of education;

(C) through the provision of technical assistance;

(D) through the award of fellowships to support graduate study in educational research by qualified African-American, Hispanic, American Indian and Alaska Native, and other individuals from groups which have been traditionally underrepresented in the field of educational research which shall—

(i) be awarded on the basis of merit for a period of 3 years; and

(ii) provide stipends to each fellow in an amount which shall be set at a level of support comparable to that provided by the National Science Foundation Graduate Fellowships, except that such amounts shall be adjusted as necessary so as not to exceed each fellow's demonstrated level of need; and

(E) through the award of fellowships in the Office for scholars, researchers, policymakers, education practitioners, librarians, and statisticians engaged in the use, collection, and dissemination of information about education and educational research which—

(i) shall be awarded following the biennial publication in the Federal Register of proposed research priorities and a period of 60 days for public comments and suggestions with respect to such priorities;

(ii) shall be awarded competitively following the publication of a notice in the Federal Register inviting the submission of applications;

(iii) may include such stipends and allowances, including travel and subsistence expenses provided under title 5, United States Code, as the Assistant Secretary considers appropriate;

(2) SCOPE AND FOCUS OF ACTIVITIES.—In carrying out the purposes for which each Institute is established, the Assistant Secretary shall—

(A) maintain an appropriate balance between applied and basic research;

(B) significantly expand the role of field-initiated research in meeting the education research and development needs of the United States by reserving not less than 20 percent of the amounts available to each Institute in fiscal years 1996 and 1997 and 25 percent in fiscal years 1998 and 1999 to support field-initiated research;

(C) provide for and maintain a stable foundation of long-term research and development on core issues and concerns conducted through university-based research and development centers by reserving not less than one-third of the amounts available to each Institute in any fiscal year to support such research and development centers;

(D) support and provide research information that leads to policy formation by State legislatures, State and local boards of education,

schools funded by the Bureau, and other policy and governing bodies, to assist such entities in identifying and developing effective policies to promote student achievement and school improvement;

(E) promote research that is related to the core content areas;

(F) plan and coordinate syntheses that provide research knowledge related to each level of the education system (from preschool to postsecondary education) to increase understanding of student performance across different educational levels;

(G) conduct and support research in early childhood, elementary and secondary, vocational, adult and postsecondary education (including the professional development of teachers) to the extent that such research is related to the purposes for which such Institute has been established;

(H) conduct sustained research and development on improving the educational achievement of poor and minority individuals as an integral part of its work; and

(I) coordinate the Institute's activities with the activities of the regional educational laboratories and with other educational service organizations in designing the Institute's research agenda and projects in order to increase the responsiveness of such Institute to the needs of teachers and the educational field and to bring research findings directly into schools to ensure greatest access at the local level to the latest research developments.

(3) REQUIREMENTS REGARDING FINANCIAL ASSISTANCE.—No grant, contract, or cooperative agreement may be made under this title unless—

(A) sufficient notice of the availability of, and opportunity to compete for, assistance has first been provided to potential applicants through notice published in the Federal Register or other appropriate means;

(B) such grant, contract, or agreement has been evaluated through peer review in accordance with the standards developed pursuant to 912(i);

(C) such grant, contract, or agreement will be evaluated in accordance with the standards developed pursuant to section 912(i);

(D) in the case of a grant, contract, or cooperative agreement which exceeds $500,000 for a single fiscal year or $1,000,000 for more than one fiscal year, the Secretary has complied with the requirements of paragraph (4); and

(E) in the case of a grant, contract, or cooperative agreement to support a research and development center, all applications for such assistance have been evaluated by independent experts according to standards and criteria which include—

(i) whether applicants have assembled a group of high quality researchers sufficient to achieve the mission of the center;

(ii) whether the proposed organizational structure and arrangements will facilitate achievement of the mission of the center;

(iii) whether there is a substantial staff commitment to the work of the center;

(iv) whether the directors and support staff will devote a majority of their time to the activities of the center;

(v) review of the contributions of primary researchers (other than researchers at the proposed center) to evaluate the appropriateness of such primary researcher's experiences and expertise in the context of the proposed center activities, and the adequacy of such primary researcher's time commitment to achievement of the mission of the center; and

(vi) the manner in which the results of education research will be disseminated for further use, including how the center will work with the Office of Reform Assistance and Dissemination.

(4) BOARD REVIEW OF CERTAIN PROPOSED GRANT AND CONTRACT ACTIONS.—The Assistant Secretary may not solicit any contract bid or issue a request for proposals or applications for any grant or cooperative agreement the amount of which exceeds $500,000 in any single fiscal year or which exceeds an aggregate amount of $1,000,000 for more than one fiscal year unless the Board has had an opportunity to review such proposed grant, contract, or cooperative agreement and to provide written comments to the Assistant Secretary with respect to whether—

(A) the purposes and scope of the proposed action are consistent with the Research Priorities Plan; and

(B) the methodology and approach of the proposed action are sound and adequate to achieve the objectives of such grant, contract, or cooperative agreement.

(5) HISTORICALLY UNDERUTILIZED RESEARCHERS AND INSTITUTIONS.—The Assistant Secretary shall establish and maintain initiatives and programs to increase the participation in the activities of each Institute of groups of researchers and institutions that have been historically underutilized in Federal educational research activities, including—

(A) researchers who are women, African-American, Hispanic, American Indian and Alaska Native, or other ethnic minorities;

(B) promising young or new researchers in the field, such as postdoctoral students and recently appointed assistant or associate professors;

(C) Historically Black Colleges and Universities, Tribally Controlled Community Colleges, and other institutions of higher education with large numbers of minority students;

(D) institutions of higher education located in rural areas; and

(E) institutions and researchers located in States and regions of the United States which have historically received the least Federal support for educational research and development.

(6) ADDITIONAL AUTHORITIES.—The Assistant Secretary—

(A) may obtain (in accordance with section 3109 of title 5 but without regard to the limitation in such section on the period of service) the services of experts or consultants with scientific or professional qualifications in the disciplines relevant to the purposes of such Institute;

(B) may use, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, or local public agencies, with or without reimbursement therefore; and

(C) may accept voluntary and uncompensated services.

(d) NATIONAL INSTITUTE ON STUDENT ACHIEVEMENT, CURRICULUM, AND ASSESSMENT.—

(1) FINDINGS.—The Congress finds as follows:

(A) The current achievement levels of students in the United States are far below those that might indicate competency in challenging subject matter in core content areas.

(B) During the last 20 years, relatively little changed in how students were taught. Despite much research suggesting better alternatives, classrooms continue to be dominated by textbooks, teacher lectures, short-answer activity sheets, and unequal patterns of student attention.

(C) Despite progress in narrowing the gaps, the differences in performance between Caucasian students and their minority counterparts remain unacceptably large. While progress has been made in reducing the gender gap in mathematics, such gap still remains at higher levels of problem solving. Too little progress has been made in reducing gender performance gaps favoring males in science and females in writing.

(2) PURPOSE.—The purpose of the National Institute on Student Achievement, Curriculum, and Assessment is to carry out a coordinated and comprehensive program of research and development to provide research-based leadership to the United States as it seeks to improve student achievement in core content areas and the integration of such areas. Such program shall—

(A) identify, develop, and evaluate innovative and exemplary methods to improve student knowledge at all levels in the core content areas, such as—

(i) student learning and assessment in various subject matters;

(ii) the effects of organizational patterns on the delivery of instruction, including issues of grouping and tracking, ungraded classrooms, and on the effects of various pedagogies, including the issues of technology in education;

(iii) standards for what students should know and be able to do, particularly standards of desired performance set to internationally competitive levels;

(iv) methods to improve the process of reading, the craft of writing, the growth of reasoning skills, and the development of information-finding skills;

(v) enabling students to develop higher order thinking skills;

(vi) methods to teach effectively all students in mixed-ability classrooms;

(vii) curriculum, instruction, and assessment, in vocational education and school-to-work transition;

(viii) the impact and effectiveness of Federal, State, and local efforts to provide gender-fair educational opportunities to elementary and secondary students;

(ix) programs, policies, approaches which promote gender equity in elementary and secondary education;

(x) improving the working conditions of teachers and other educational practitioners, which may include such topics as—

(I) teacher isolation;

(II) professional resources available to teachers;

(III) continuing educational and professional opportunities available to teachers;

(IV) physical facilities and equipment, such as office space, telephone, computer access, and fax machines and television cable access available to teachers in the work environment;

(V) opportunities for teachers to share information and resources with other teachers and education professionals;

(VI) opportunities for advanced learning experience; and

(VII) the reduction of stress in the teaching profession;

(xi) curriculum development designed to meet challenging standards, including State efforts to develop such curriculum;

(xii) the need for, and methods of delivering, teacher education, development, and inservice training;

(xiii) educational methods and activities to reduce and prevent violence in schools;

(xiv) the use of technology in learning, teaching and testing; and

(xv) other topics relevant to the mission of the institute;

(B) conduct basic and applied research in the areas of human learning, cognition, and performance, including research and development on the education contexts which promote excellence in learning and instruction, and motivational issues related to learning;

(C) identify, develop, and evaluate programs designed to enhance academic achievement and narrow racial and gender performance gaps in a variety of subject areas, including research and development on methods of involving parents in their children's education and ways to involve business, industry and other community partners in promoting excellence in schools; and

(D) include a comprehensive, coordinated program of research and development in the area of assessment which—

(i) addresses issues such as—

(I) the validity, reliability, generalizability, costs, relative merits, and most appropriate uses of various approaches and methods of assessing student learning and achievement;

(II) methods and approaches to assessing student opportunities to learn (including the quality of instruction and the availability of resources necessary to support learning) and evaluating the quality of school environment;

(III) the impact of high-stakes uses of assessment on student performance and motivation, narrowing of curriculum, teaching practices, and test integrity;

(IV) the impact of various methods of assessment on children of different races, ethnicities, gender, socioeconomic status, and English language proficiencies, and children with other special needs;

(V) standards of performance, quality, and validity for various methods of assessment and the means by which such standards should be developed;

(VI) current and emerging testing practices of State and local education agencies within the United States, as well as other nations;

(VII) the diverse effects, both intended and unintended, of assessments as actually used in the schools, including effects on curriculum and instruction, effects on equity in the allocation of resources and opportunities, effects on equity of outcomes, effects on other procedures and standards for judging students and practitioners and possible inflation of test scores;

(VIII) identifying and evaluating how students with limited-English proficiency and students with disabilities are included and accommodated in the various assessment programs of State and local education agencies;

(IX) the feasibility and validity of comparing or equating the results of different assessments;

(X) test security, accountability, validity, reliability, and objectivity;

(XI) relevant teacher training and instruction in giving a test, scoring a test, and in the use of test results to improve student achievement;

(XII) developing, identifying, or evaluating new educational assessments, including performance-based and portfolio assessments which demonstrate skill and a command of knowledge; and

(XIII) other topics relevant to the purposes of the Institute; and

(ii) may reflect recommendations made by the National Education Goals Panel.

(e) NATIONAL INSTITUTE ON THE EDUCATION OF AT-RISK STUDENTS.—

(1) FINDINGS.—The Congress finds as follows:

(A) The rate of decline in our urban schools is escalating at a rapid pace. Student performance in most inner city schools grows worse each year. At least half of all students entering ninth grade fail to graduate 4 years later and many more students from high-poverty backgrounds leave school with skills that are inadequate for today's workplace. Student performance in many inner city neighborhoods grows worse each year. At least half of all students entering ninth grade fail to graduate in 4 years. In 1992, the average National Assessment of Educational Progress reading score of Caucasian 17 year-olds was approximately 25 points higher than that of African American 17 year-olds and 20 points higher than that of Hispanic 17 year-olds.

(B) Rural schools enroll a disproportionately large share of the poor and at-risk students of the United States and yet often lack the means to address effectively the needs of these children. Intensive efforts should be made to overcome the problems of geographic isolation, declining population, inadequate financial resources and other impediments to the educational success of children residing in rural areas.

(C) By the year 2000, an estimated 3,400,000 school age children with limited-English proficiency will be entering the school system. The Federal Government should develop effective policies and programs to address the educational needs of this growing population of children who are at increased risk of educational failure.

(D) An educational emergency exists in those urban and rural areas where there are large concentrations of children who live in poverty. The numbers of disadvantaged children will substantially increase by the year 2020, when the number of impoverished children alone will be 16,500,000, a 33 percent increase over the 12,400,000 children in poverty in 1987.

(E) American Indian and Alaska Native students have high dropout, illiteracy and poverty rates, and experience cultural, linguistic, social and geographic isolation. The estimated 400,000 Indian and Alaska Native student population from over 500 Indian and Alaska Native tribes, is small and scattered throughout remote reservations and villages in 32 States, and in off-reservation rural and urban communities where Indians constitute but a small percentage of public school student bodies. To meaningfully address the special educational needs of this historically under-served population, the existing research and development system should be opened to Indian and Alaska Native people to identify needs and design ways to address such needs.

(F) Minority scholars as well as institutions and groups that have been historically committed to the improvement of the education of at-risk students need to be more fully mobilized in the effort to develop a new generation of programs, models, practices, and schools capable of responding to the urgent needs of students who are educationally at-risk.

(2) PURPOSE.—It shall be the purpose of the Institute on the Education of At-Risk Students to carry out a coordinated and comprehensive program of research and development to provide nonpartisan, research-based leadership to the United States as it seeks to improve educational opportunities for at-risk students. Such program shall—

(A) undertake research necessary to provide a sound basis from which to identify, develop, evaluate, and assist others to replicate and adapt interventions, programs, and models which promote greater achievement and educational success by at-risk students, such as—

(i) methods of instruction and educational practices (including community services) which improve the achievement and retention of at-risk students;

(ii) the quality of educational opportunities afforded at-risk students, particularly the quality of educational opportunities afforded such students in highly concentrated urban areas and sparsely populated rural areas;

(iii) methods for overcoming the barriers to learning that may impede student achievement;

(iv) innovative teacher training and professional development methods to help at-risk students meet challenging standards;

(v) methods to improve the quality of the education of American Indian and Alaska Native students not only in schools funded by the Bureau, but also in public elementary and secondary schools located on or near Indian reservations, including—

(I) research on mechanisms to facilitate the establishment of tribal departments of education that assume responsibility for all education programs of State educational agencies operating on an Indian reservation and all education programs funded by the Bureau on an Indian reservation;

(II) research on the development of culturally appropriate curriculum for American Indian and Alaska Native students, including American Indian and Alaska Native culture, language, geography, history and social studies, and graduation requirements related to such curriculum;

(III) research on methods for recruiting, training and retraining qualified teachers from American Indian and Alaska Native communities, including research to promote flexibility in the criteria for certification of such teachers;

(IV) research on techniques for improving the educational achievement of American Indian and Alaska Native students, including methodologies to reduce dropout rates and increase graduation by such students; and

(V) research concerning the performance by American Indian and Alaska Native students of limited-English proficiency on standardized achievement tests, and related factors;

(vi) means by which parents and community resources and institutions (including cultural institutions) can be utilized to support and improve the achievement of at-risk students;

(vii) the training of teachers and other educational professionals and paraprofessionals to work more effectively with at-risk students;

(viii) the most effective uses of technology in the education of at-risk students;

(ix) programs designed to promote gender equity in schools that serve at-risk students;

(x) improving the ability of classroom teachers and schools to assist new and diverse populations of students in successfully assimilating into the classroom environment;

(xi) methods of assessing the achievement of students which are sensitive to cultural differences, provide multiple methods of assessing student learning, support student acquisition of higher order capabilities, and enable identification of the effects of inequalities in the resources available to support the learning of children throughout the United States;

(xii) other topics relevant to the purpose of the Institute; and

(B) maximize the participation of those schools and institutions of higher education that serve the greatest number of at-risk students in inner city and rural areas, and on Indian reservations, including model collaborative programs between schools and school systems, institutions of higher education, cultural institutions, and community organizations.

(3) CONSULTATION WITH INDIAN AND ALASKA NATIVE EDUCATORS.—All research and development activities supported by the Institute which relate to the education of Indian and Alaska Native students shall be developed in close consultation with Indian and Alaska Native researchers and educators, tribally controlled community colleges, tribal departments of education, and others with expertise in the needs of Indian and Native Alaska students.

(f) NATIONAL INSTITUTE ON EARLY CHILDHOOD DEVELOPMENT AND EDUCATION.—

(1) FINDINGS.—The Congress finds as follows:

(A) Despite efforts to expand and improve preschool programs, many children still reach school age unprepared to benefit from formal education programs.

(B) Early intervention for disadvantaged children from birth to age five has been shown to be a highly cost-effective strategy for reducing later expenditures on a wide variety of health, developmental, and educational problems that often interfere with learning. Long-term studies of the benefits of preschool education have a demonstrated return on investment ranging from three to six dollars for every one dollar spent.

(C) The Federal government should play a central role in providing research-based information on early childhood education models which enhance children's development and ultimately their success in school.

(2) PURPOSE.—The purpose of the National Institute on Early Childhood Development and

Education is to carry out a comprehensive program of research and development to provide nonpartisan, research-based leadership to the United States as it seeks to improve early childhood development and education. Such program shall undertake research necessary to provide a sound basis from which to identify, develop, evaluate, and assist others to replicate methods and approaches that promise to improve early childhood development and education, such as—

(A) social and educational development of infants, toddlers, and preschool children;

(B) the role of parents and the community in promoting the successful social and educational development of children from birth to age five;

(C) topics relating to children's readiness to learn, such as prenatal care, nutrition, and health services;

(D) family literacy and parental involvement in student learning;

(E) methods for integrating learning in settings other than the classroom, particularly within families and communities;

(F) practices and approaches which sustain the benefits of effective preschool and child care programs;

(G) effective learning methods and curriculum for early childhood learning, including access to current materials in libraries;

(H) the importance of family literacy and parental involvement in student learning;

(I) effective teaching and learning methods, and curriculum;

(J) instruction that considers the cultural environment of children;

(K) access to current materials in libraries;

(L) the impact that outside influences have on learning, including television, and drug and alcohol abuse;

(M) the structure and environment of early childhood education and child care settings which lead to improved social and educational development;

(N) training and preparation of teachers and other professional and paraprofessional preschool and child care workers;

(O) the use of technology, including methods to help parents instruct their children; and

(P) other topics relevant to the purpose of the Institute.

(3) CERTAIN REQUIREMENTS.—In carrying out the activities of the Institute, the Assistant Secretary shall ensure that the Institute's research and development program provides information that can be utilized in improving the major Federal early childhood education programs.

(g) NATIONAL INSTITUTE ON EDUCATIONAL GOVERNANCE, FINANCE, POLICY-MAKING, AND MANAGEMENT.—

(1) FINDINGS.—The Congress finds as follows:

(A) Many elementary and secondary schools in the United States—

(i) are structured according to models that are ineffective and rely on notions of management and governance that may be outdated or insufficient for the challenges of the next century; and

(ii) are unsuccessful in equipping all students with the knowledge and skills needed to succeed as citizens and in the working world.

(B) New approaches are needed in the governance and management of elementary and secondary education within the United States at the State, local, school building and classroom level.

(C) Not enough is known about the effects of various systems of school governance and management on student achievement to provide sound guidance to policymakers as such policymakers pursue school restructuring and reform.

(D) A concentrated Federal effort is needed to support research, development, demonstration, and evaluation of approaches to school governance, finance and management which promise to improve education equity and excellence throughout the United States.

(2) PURPOSE.—It shall be the purpose of the National Institute on Educational Governance, Finance, Policy-Making, and Management to carry out a coordinated and comprehensive program of research and development to provide nonpartisan, research-based leadership to the United States as it seeks to improve student achievement through school restructuring and reform. Such program shall undertake research necessary to provide a sound basis from which to identify, develop and evaluate approaches in elementary and secondary school governance, finance, policy-making, and management at the State, local, tribal, school building and classroom level which promise to improve educational equity and excellence, such as—

(A) open enrollment programs, public school choice, magnet schools and other systems through which parents may select the public schools and educational programs in which their children are enrolled;

(B) innovative school design, including lengthening the school day and the school year, reducing class size and building professional development into the weekly school schedule and, as appropriate, conducting such further research as may be recommended or suggested by the report issued by the National Education Commission on Time and Learning pursuant to section 102 of the Education Council Act of 1991 (20 U.S.C. 1221–1 note);

(C) effective approaches to organizing learning;

(D) effective ways of grouping students for learning so that a student is not labeled or stigmatized in ways that may impede such student's achievement;

(E) effective approaches to organizing, structuring, and financing vocational education;

(F) the provision of financial and other rewards and incentives to schools and educators based on performance to improve student achievement;

(G) the use of regulatory flexibility on the State or school district level to promote innovation and school restructuring;

(H) policy decisions at all levels and the impact of such decisions on school achievement and other student outcomes;

(I) the effective use of dollars for classroom construction;

(J) expanding the role of teachers in policymaking and administration at the school and school district-wide level;

(K) disparity in school financing among States, school districts, schools, and schools funded by the Bureau;

(L) the use of technology in areas such as assisting in school-based management or ameliorating the effects of disparity in school financing among States, school districts, and schools funded by the Bureau;

(M) the involvement of parents and families in the management and governance of schools and the education of their children; and

(N) effective approaches to increasing the representation of women and minorities among leadership and management positions in education;

(O) approaches to systemic reforms involving the coordination of multiple policies of each level of government to promote higher levels of student achievement;

(P) approaches to coordinated services for children;

(Q) teacher certification at the State and tribal levels; and

(R) school-based management, shared decisionmaking and other innovative school structures, and State and local reforms and educational policies, which show promise for improving student achievement;

(S) policies related to school-to-work transitions and preparing non-college-bound students; and

(T) other topics relevant to the mission of the Institute.

(h) NATIONAL INSTITUTE ON POSTSECONDARY EDUCATION, LIBRARIES, AND LIFELONG LEARNING.—

(1) FINDINGS.—The Congress finds as follows:

(A) The American system of postsecondary education is foremost in the world in such system's achievement of both academic excellence and equity in access, but maintaining that preeminence requires renewed efforts to strengthen the quality of postsecondary education. Disappointing student performance on achievement tests and licensure examinations, declining rates of postsecondary education persistence and completion among minorities, and other troubling trends in the quality of postsecondary education should be addressed by the United States as part of its overall drive to improve American education.

(B) The need to improve our economic productivity of the United States to meet the competitive challenges of a new, international economy, coupled with high levels of mobility in the United States labor market and demographic changes in the workforce, now demands more and higher quality programs of learning and training in the American workplace.

(C) The more than 1,000,000 men and women incarcerated in the prisons and jails in the United States are among the most severely educationally disadvantaged in the United States, with high rates of functional illiteracy and extremely low levels of educational attainment. Since an estimated 90 percent of these individuals are expected to be released by the end of the decade, the United States must act to assure that our correctional system has the means to equip these Americans with the knowledge and skills they will need to participate productively in our society.

(D) The development of a "Nation of Students" capable of and committed to the pursuit of formal and informal lifelong learning and literacy is essential to sustain both national and individual economic success and to provide a nurturing environment in which all children and youth can learn and achieve. Historically the most effective community resource for lifelong learning, the public library system of the United States should expand and restructure its delivery of services to take full advantage of the potential of new information technologies to meet the needs of learning communities.

(2) PURPOSE.—The purpose of the National Institute on Postsecondary Education, Libraries, and Lifelong Learning is to promote greater coordination of Federal research and development on issues related to adult learning and to carry out a program of research and development in adult learning to provide nonpartisan, research-based leadership to the United States as it seeks to improve libraries, postsecondary education, literacy, and lifelong learning throughout the United States. Such program—

(A) shall only support research and development in those areas of postsecondary education, libraries, literacy, and lifelong learning which are not being addressed by other entities within the Federal Government;

(B) may include basic and applied research, development, replication, and evaluation activities in areas such as—

(i) methods of assessing and evaluating individual, program, and institutional performance;

(ii) the uses and applications of new technologies to improve program effectiveness and enhance student learning;

(iii) the most effective training methods for adults to upgrade education and vocational skills;

(iv) opportunities for adults to continue their education beyond higher education and graduate school, in the context of lifelong learning and information-finding skills;

(v) adult literacy and effective methods, including technology, to eliminate illiteracy;

(vi) preparing students for a lifetime of work, the ability to adapt through retraining to the changing needs of the work force and the ability to learn new tasks;

(vii) the use of technology to develop and deliver effective training methods for adults to upgrade their education and their vocational skills; and

(viii) institutional and classroom policies and practices at the postsecondary level necessary to improve matriculation, persistence, achievement and graduation by students who are economically disadvantaged, ethnic and racial minorities, women, older, working, and who have children;

(ix) instructional practices and programs which are effective in correctional settings;

(x) new models of service delivery for public library systems which expand opportunities for lifelong learning;

(xi) effective programs and approaches which promote greater access to and success by minorities in postsecondary programs which prepare such minorities for scientific, technical, teaching, and health career fields;

(xii) effective teaching for the preparation and continuing education of teachers;

(xiii) the development and evaluation of curricular materials for the initial and continuing education of teachers and teacher educators;

(xiv) the role of Historically Black Colleges and Universities, Tribally-Controlled Indian Community Colleges, women's colleges, and other special mission institutions in providing access, excellence, and equal opportunity in higher education;

(xv) methods for evaluating the quality of education at different types of institutions of higher education at all levels and the roles and responsibilities of regional and national accrediting agencies;

(xvi) methods for evaluating the productivity of different types of institutions of higher education;

(xvii) financial barriers to postsecondary educational opportunity, including—

(I) the role of Federal programs authorized under title IV of the Higher Education Act of 1965 and State grant and work programs in mitigating such barriers;

(II) the impact of the rising total cost of postsecondary education on access to higher education; and

(III) the extent and impact of student reliance on loans to meet the costs of higher education;

(xviii) opportunities for adults to continue their education beyond higher education and graduate school, in the context of lifelong learning and information-finding skills; and

(xix) preparing students for a lifetime of work, the ability to adapt through retraining to the changing needs of the work force and the ability to learn new tasks; and

(xx) other topics relevant to mission of the Institute.

(3) INVOLVEMENT OF CERTAIN AGENCIES AND ORGANIZATIONS.—In promoting coordination and collaboration on research and development on issues related to postsecondary education, literacy, libraries, and lifelong learning, the Institute shall, as appropriate, seek the involvement—

(A) within the Department of Education of—

(i) the Office of Library Programs;

(ii) the Office of Correctional Education;

(iii) the Office of Vocational and Adult Education;

(iv) the National Institute on Disability and Rehabilitation Research; and

(v) the Office of Postsecondary Education;

(B) of the National Institute for Literacy;

(C) of the National Board for Professional Teaching Standards;

(D) of the Employment and Training Administration of the Department of Labor;

(E) of the Administration for Children and Families within the Department of Health and Human Services;

(F) of the National Institutes of Health;

(G) of the National Endowment for Humanities;

(H) of the National Endowment for the Arts;

(I) of the Bureau of Prisons of the Department of Justice;

(J) of the Department of Commerce;

(K) of the Department of Defense; and

(L) of the Office of Indian Education Programs of the Department of the Interior.

(4) ADDITIONAL RESPONSIBILITIES.—In addition to the responsibilities described in paragraph (2), the Assistant Secretary shall ensure that the activities of the National Center on Literacy are fully coordinated with those of the National Institute for Literacy.

(i) COORDINATION AND RESEARCH SYNTHESIS.—The Assistant Secretary shall promote and provide for research syntheses and the coordination of research and development activities among the Institutes established by this section to investigate those cross-cutting disciplines and areas of inquiry which are relevant to the missions of more than one of the Institutes. Such activities—

(1) may be carried out jointly by any one of the Institutes and—

(A) one (or more) of the Institutes;

(B) the National Center for Education Statistics; or

(C) any research and development entity administered by other offices of the Department of Education or by any other Federal agency or department; and

(2) shall meet all the standards developed by the Assistant Secretary and approved by the Board for other research and development conducted by the Office.

(j) DATES FOR ESTABLISHMENT OF INSTITUTES.—The National Institute on the Education of At-Risk Students, the National Institute on Educational Governance, Finance, Policy-Making, and Management, the National Institute on Early Childhood Development and Education, the National Institute on Student Achievement, Curriculum, and Assessment and the National Institute on Postsecondary Education, Libraries, and Lifelong Learning shall each be established on October 1, 1995.

PART D—NATIONAL EDUCATION DISSEMINATION SYSTEM

SEC. 941. ESTABLISHMENT WITHIN OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT.

(a) IN GENERAL.—

(1) FINDINGS.—The Congress finds as follows:

(A) In order to improve the American educational system for all students, achieve the National Education Goals, and provide for greater educational equity, policymakers, administrators, teachers, and parents must have ready access to the best information and methods available as a result of educational research and development.

(B) The Office of Educational Research and Improvement should have as one of its primary purposes the dissemination of such information and methods in order to assist the national education reform effort.

(C) All current resources within the Office, the Department of Education, and other agencies that can help accomplish the purposes described in subparagraph (B) should be coordinated by the Assistant Secretary, to the extent practicable, so as to form a systematic process to accomplish such purposes.

(D) Education research has the capacity to improve teaching and learning in our Nation's schools, however, teachers need training in the skills necessary to translate research into practice and to allow teachers to become knowledgeable practitioners and leaders in educational improvement.

(E) Adequate linkages between research and development providers and practitioners are essential to ensuring that research on effective practice is useful, disseminated to and supported with technical assistance for all educators, and that all educators are partners in the research and development process.

(2) PURPOSE.—The purpose of this section is to—

(A) create a national system of dissemination, development, and educational improvement in order to create, adapt, identify, validate, and disseminate to educators, parents, and policymakers those educational programs that have potential or have been shown to improve educational opportunities for all students; and

(B) empower and increase the capacity of teachers to participate in the research and development process.

(3) DEFINITION OF EDUCATIONAL PROGRAM.—For the purposes of this section, the term "educational program" includes educational policies, research findings, practices, and products.

(b) ESTABLISHMENT OF OFFICE.—

(1) IN GENERAL.—There is established within the Office an Office of Reform Assistance and Dissemination (hereafter in this section referred to as the "Dissemination Office") through which the Secretary shall carry out all functions and activities described in this section. Such office shall be headed by a Director who shall be appointed by the Assistant Secretary and have demonstrated expertise and experience in dissemination, including promoting the effective use of research in the classroom.

(2) CERTAIN DUTIES.—The Dissemination Office shall—

(A) disseminate relevant and useful research, information, products, and publications developed through or supported by the Department of Education to schools, educators, parents, and policymakers throughout the United States;

(B) operate a depository for all Department of Education publications and products and make available for reproduction such publications and products;

(C) provide technical and financial assistance to individuals and organizations in the process of developing promising educational programs but who might not, without such assistance, be able to complete necessary development and assessment activities;

(D) coordinate the dissemination efforts of the Office, the regional educational laboratories, the research institutes, the National Diffusion Network, and the Educational Resources Information Center Clearinghouses;

(E) provide training and technical assistance regarding the implementation and adoption of exemplary and promising programs by interested entities;

(F) carry out a program of research on models for successful knowledge dissemination, and utilization, and strategies for reaching education policymakers, practitioners, and others interested in education;

(G) develop the capacity to connect schools and teachers seeking information with the relevant regional educational laboratories assisted under subsection (h), the National Diffusion Network, the Institutes assisted under this section, and the Educational Resources Information Center Clearinghouses; and

(H) provide a biennial report to the Secretary regarding the types of information, products, and services that teachers, schools, and school districts have requested and have determined to

be most useful, and describe future plans to adapt Department of Education products and services to address the needs of the users of such information, products, and services.

(3) ADDITIONAL DUTIES.—The Dissemination Office shall carry out a process for the identification of educational programs that work, dissemination through electronic networking and new technologies and the functions and activities performed by the following:

(A) The Educational Resources Information Center Clearinghouses.

(B) The regional educational laboratories.

(C) The Teacher Research Dissemination Demonstration Program.

(D) The Goals 2000 Community Partnerships Program.

(E) The existing National Diffusion Network and its Developer-Demonstrator and State Facilitator projects.

(F) Such other programs, activities, or entities the Secretary determines are consistent with purposes for which the Dissemination Office is established.

(c) IDENTIFICATION OF PROGRAMS.—The Assistant Secretary shall coordinate a process through which successful educational programs are actively sought out for possible dissemination through the national educational dissemination system. Such process shall, at a minimum, have the capability to—

(1) work closely with the Institutes, research and development centers, regional educational laboratories, the National Diffusion Network and its Developer-Demonstrator and State Facilitator projects, learning grant institutions established under the Goals 2000 Community Partnerships Program, Department of Education-supported technical assistance providers, and other entities to identify successful educational programs at the regional, State, local, or classroom level;

(2) review successful educational programs supported by the Department of Education through all of its programs;

(3) through cooperative agreements, review for possible inclusion in the system educational programs administered by the Departments of Health and Human Services (particularly the Head Start program), Labor, and Defense, the National Science Foundation, the Department of the Interior (particularly the Office of Indian Education Programs), and any other appropriate Federal agency; and

(4) provide for an active outreach effort to identify successful educational programs through cooperative arrangements with State and local education agencies, teachers and teacher organizations, curriculum associations, foundations, private schools, institutions of higher education, and other entities that could enhance the ability of the Secretary to identify programs for possible inclusion in the dissemination system.

(d) DESIGNATION OF EXEMPLARY AND PROMISING PROGRAMS.—

(1) IN GENERAL.—The Assistant Secretary, in consultation with the Board, shall establish 1 or more panels of appropriately qualified experts and practitioners to—

(A) evaluate educational programs that have been identified by the Secretary under subsection (c) or that have been submitted to the Secretary for such evaluation by some other individual or organization; and

(B) recommend to the Secretary programs that should be designated as exemplary or promising educational programs.

(2) CONSIDERATIONS IN MAKING RECOMMENDATIONS.—In determining whether an educational program should receive a recommendation under paragraph (1), a panel established under such paragraph shall consider—

(A) whether, based on empirical data, which may include test results, the program is effective and should be designated as exemplary and disseminated through the national dissemination system; or

(B) whether there is sufficient evidence to lead a panel of experts and practitioners to believe that the program shows promise for improving student achievement and should be designated as promising and disseminated through the national dissemination system while the program continues to be evaluated.

(3) REQUIREMENT REGARDING APPROVAL OF PROGRAMS.—In seeking out programs for approval under paragraph (2), the Assistant Secretary shall seek programs that may be implemented at the State, local, and classroom level.

(4) REQUIREMENTS REGARDING PANELS.—

(A) A panel shall not eliminate a program from consideration under this subsection based solely on the fact that the program does not have one specific type of supporting data, such as test scores.

(B) The Assistant Secretary may not designate a program as exemplary or promising unless a panel established under paragraph (1) has recommended that the program be so designated.

(C) The Secretary shall establish such panels under paragraph (1) as may be necessary to ensure that each program identified or submitted for evaluation is evaluated.

(D) Not less than ⅔ of the membership of a panel established under paragraph (1) shall consist of individuals who are not officers or employees of the United States. Members of panels under paragraph (1) who are not employees of the United States shall receive compensation for each day they are engaged in carrying out the duties of the panel as well as compensation for their expenses.

(e) DISSEMINATION OF EXEMPLARY AND PROMISING PROGRAMS.—In order to ensure that programs identified as exemplary or promising are available for adoption by the greatest number of teachers, schools, local and State education agencies, and Bureau-funded schools, the Assistant Secretary shall utilize the capabilities of—

(1) the Educational Resources Information Center Clearinghouses;

(2) electronic networking;

(3) the regional educational laboratories;

(4) the National Diffusion Network;

(5) entities established under the Goals 2000 Community Partnerships Program;

(6) department-supported technical assistance providers;

(7) the National Library of Education; and

(8) other public and private nonprofit entities, including existing education associations and networks, that have the capability to assist educators in adopting exemplary and promising programs.

(f) EDUCATIONAL RESOURCES INFORMATION CENTER CLEARINGHOUSES.—

(1) IN GENERAL.—The Assistant Secretary shall establish a system of 16 clearinghouses having, at a minimum, the functions and scope of work as the clearinghouses had on the day preceding the date of the enactment of this title. The Assistant Secretary shall establish for the clearinghouses a policy for the abstraction from, and inclusion in, the Educational Resources Information Center Clearinghouses system for books, periodicals, reports, and other materials related to education.

(2) ADDITIONAL FUNCTIONS.—In addition to those functions carried out by the clearinghouses on the day preceding the date of the enactment of this title, such clearinghouses may—

(A) periodically produce interpretive summaries, digests, and syntheses of the results and findings of education-related research and development; and

(B) contain and make available to users information concerning those programs designated as exemplary and promising under subsection (d).

(3) COORDINATION OF ACTIVITIES.—The Assistant Secretary shall assure that the functions and activities of such clearinghouses are coordinated with the activities of the Institutes, the regional educational laboratories, learning grant institutions, other clearinghouses supported by the Department of Education, the National Diffusion Network, and other appropriate entities within the Office and such Department.

(4) SPECIAL RESPONSIBILITIES OF THE SECRETARY.—To assure that the information provided through such clearinghouses is fully comprehensive, the Secretary shall—

(A) require that all reports, studies, and other resources produced directly or by grant or contract with the Department of Education are made available to clearinghouses;

(B) establish cooperative agreements with the Departments of Defense, Health and Human Services, Interior, and other Federal departments and agencies to assure that all education-related reports, studies, and other resources produced directly or by grant from or contract with the Federal Government are made available to such clearinghouses; and

(C) devise an effective system for maximizing the identification, synthesis, and dissemination of information related to the needs of Indian and Alaska Native children.

(5) COPYRIGHT PROHIBITED.—

(A) No clearinghouse or other entity receiving assistance under this subsection may copyright or otherwise charge a royalty or other fee that—

(i) is for the use or redissemination of any database, index, abstract, report, or other information produced with assistance under this subsection; and

(ii) exceeds the incremental cost of disseminating such information.

(B) For purposes of subparagraph (A), the incremental cost of dissemination does not include any portion of the cost of collecting, organizing, or processing the information which is disseminated.

(g) DISSEMINATION THROUGH NEW TECHNOLOGIES.—

(1) IN GENERAL.—The Assistant Secretary is authorized to award grants or contracts in accordance with this subsection to support the development of materials, programs, and resources which utilize new technologies and techniques to synthesize and disseminate research and development findings and other information which can be used to support educational improvement.

(2) ELECTRONIC NETWORKING.—

(A) ELECTRONIC NETWORK.—The Assistant Secretary, acting through the Office of Reform Assistance and Dissemination, shall establish and maintain an electronic network which shall, at a minimum, link—

(i) each office of the Department of Education;

(ii) the Institutes established by section 931;

(iii) the National Center for Education Statistics;

(iv) the National Library of Education; and

(v) entities engaged in research, development, dissemination, and technical assistance under grant from, or contract, or cooperative agreement with, the Department of Education.

(B) CERTAIN REQUIREMENTS FOR NETWORK.—The network described in subparagraph (A) shall—

(i) to the extent feasible, build upon existing national, regional, and State electronic networks and support video, telecomputing, and interactive communications;

(ii) at a minimum, have the capability to support electronic mail and file transfer services;

(iii) be linked to and accessible to other users, including State and local education agencies, institutions of higher education, museums, libraries, and others through the Internet and the National Research and Education Network; and

(iv) be provided at no cost (excluding the costs of necessary hardware) to the contractors and grantees described in clause (v) of subparagraph (A) and to educational institutions accessing such network through the Internet and the National Research and Education Network.

(C) INFORMATION RESOURCES.—The Assistant Secretary, acting through the Office of Reform Assistance and Dissemination, may make available through the network described in subparagraph (A)—

(i) information about grant and contract assistance available through the Department of Education;

(ii) an annotated directory of current research and development activities and projects being undertaken with the assistance of the Department of Education;

(iii) information about publications published by the Department of Education and, to the extent feasible, the full text of such publications;

(iv) statistics and data published by the National Center for Education Statistics;

(v) syntheses of research and development findings;

(vi) a directory of other education-related electronic networks and databases, including information about the means by which such networks and databases may be accessed;

(vii) a descriptive listing of materials and courses of instruction provided by telecommunications partnerships assisted under the Star Schools program;

(viii) resources developed by the Educational Resources Information Center Clearinghouses;

(ix) education-related software (including video) which is in the public domain;

(x) a listing of instructional materials available through telecommunications to local education agencies through the Public Broadcasting Service and State educational television networks; and

(xi) such other information and resources the Assistant Secretary considers useful and appropriate.

(D) EVALUATIONS REGARDING OTHER FUNCTIONS OF NETWORK.—The Assistant Secretary shall also undertake projects to test and evaluate the feasibility of using the network described in subparagraph (A) for—

(i) the submission of applications for assistance to the Department of Education; and

(ii) the collection of data and other statistics through the National Center for Education Statistics.

(E) TRAINING AND TECHNICAL ASSISTANCE.—The Assistant Secretary, acting through the Office of Reform Assistance and Dissemination, shall—

(i) provide such training and technical assistance as may be necessary to enable the contractors and grantees described in clause (v) of subparagraph (A) to participate in the electronic network described in such subparagraph; and

(ii) work with the National Science Foundation to provide, upon request, assistance to State and local educational agencies, the Department of the Interior's Office of Indian Education Programs, tribal departments of education, State library agencies, libraries, museums, and other educational institutions in obtaining access to the Internet and the National Research and Education Network.

(h) REGIONAL EDUCATIONAL LABORATORIES FOR RESEARCH, DEVELOPMENT, DISSEMINATION, AND TECHNICAL ASSISTANCE.—

(1) REGIONAL EDUCATIONAL LABORATORIES.—The Assistant Secretary shall enter into contracts with public or private nonprofit entities to establish a networked system of not less than 10 and not more than 12 regional educational laboratories which serve the needs of each region of the United States in accordance with the provisions of this subsection. The amount of assistance allocated to each laboratory by the Assistant Secretary shall reflect the number of local educational agencies and the number of school-age children within the region served by such laboratory, as well as the cost of providing services within the geographic area encompassed by the region.

(2) REGIONS.—The regions served by the regional educational laboratories shall be the 10 geographic regions in existence on the day preceding the date of the enactment of this title, except that in fiscal year 1996, the Assistant Secretary may support not more than 2 additional regional educational laboratories serving regions not in existence on the day preceding the date of enactment of this Act, provided that—

(A) the amount appropriated for the regional educational laboratories in fiscal year 1996 exceeds the amount appropriated for the regional educational laboratories in fiscal year 1995 by not less than $2,000,000;

(B) each such additional regional laboratory shall be supported by not less than $2,000,000 annually;

(C) the creation of any such additional laboratory region is announced at the time of the announcement of the competition for contracts for all regional educational laboratories;

(D) the creation of a regional educational laboratory that involves the combination or subdivision of a region or regions in existence on the day preceding the date of enactment of this Act in which States in 1 such region are combined with States in another such region does not result in any region in existence on such date permanently becoming part of a larger region, nor result in any such region permanently subsuming another region, nor creates within the continental United States a region that is smaller than 4 contiguous States, nor partitions a region in existence on the day preceding the date of the enactment of this Act to include less than 4 contiguous States included in the region on the day preceding the date of enactment of this Act;

(E) the Assistant Secretary has published a notice in the Federal Register inviting the public, for a period of not less than 60 days, to make recommendations with respect to the creation of 1 or 2 additional regional educational laboratories;

(F) the Assistant Secretary has solicited and received letters of support for the creation of any new region from the Chief State School Officers and State boards of education in each of the contiguous States that would be included in such new region.

(3) DUTIES.—Each regional educational laboratory receiving assistance under this section shall promote the implementation of broad-based systemic school improvement strategies and shall have as such laboratory's central mission and primary function to—

(A) develop and disseminate educational research products and processes to schools, teachers, local educational agencies, State educational agencies, librarians, and schools funded by the Bureau, as appropriate, and through such development and dissemination, and provide technical assistance, to help all students meet standards;

(B) develop a plan for identifying and serving the needs of the region by conducting a continuing survey of the educational needs, strengths, and weaknesses within the region, including a process of open hearings to solicit the views of schools, teachers, administrators, parents, local educational agencies, librarians, and State educational agencies within the region;

(C) provide technical assistance to State and local educational agencies, school boards, schools funded by the Bureau, as appropriate, State boards of education, schools, and librarians;

(D) facilitate school restructuring at the individual school level, including technical assistance for adapting model demonstration grant programs to each school;

(E) serve the educational development needs of the region by providing education research in usable forms in order to promote school improvement and academic achievement and to correct educational deficiencies;

(F) facilitate communication between educational experts, school officials, and teachers, parents, and librarians, to enable such individuals to assist schools to develop a plan to meet the National Education Goals;

(G) provide training in—

(i) the field of education research and related areas;

(ii) the use of new educational methods; and

(iii) the use of information-finding methods, practices, techniques, and products developed in connection with such training for which the regional educational laboratory may support internships and fellowships and provide stipends;

(H) use applied educational research to assist in solving site-specific problems and to assist in development activities;

(I) conduct applied research projects designed to serve the particular needs of the region only in the event that such quality applied research does not exist as determined by the regional education laboratory or the Department of Education;

(J) collaborate and coordinate services with other technical assistance providers funded by the Department of Education;

(K) provide support and technical assistance in—

(i) replicating and adapting exemplary and promising practices;

(ii) the development of high-quality, challenging curriculum frameworks;

(iii) the development of valid, reliable assessments which are linked to State, local, or Bureau-funded content and student performance standards and reflect recent advances in the field of educational assessment;

(iv) the improvement of professional development strategies to assure that all teachers are prepared to teach a challenging curriculum;

(v) expanding and improving the use of technology in education to improve teaching and learning;

(vi) the development of alternatives for restructuring school finance systems to promote greater equity in the distribution of resources; and

(vii) the development of alternative administrative structures which are more conducive to planning, implementing, and sustaining school reform and improved educational outcomes; and

(L) bring teams of experts together to develop and implement school improvement plans and strategies;

(4) NETWORKING.—In order to improve the efficiency and effectiveness of the regional laboratories, the governing boards of the regional laboratories shall establish and maintain a network to—

(A) share information about the activities each laboratory is carrying out;

(B) plan joint activities that would meet the needs of multiple regions;

(C) create a strategic plan for the development of activities undertaken by the laboratories to reduce redundancy and increase collaboration and resource-sharing in such activities; and

(D) otherwise devise means by which the work of the individual laboratories could serve national, as well as regional, needs.

(5) ADDITIONAL DUTIES.—Each regional education laboratory receiving assistance under this subsection shall carry out the following activities:

(A) Collaborate with the Institutes established under section 931 in order to—

(i) maximize the use of research conducted through the Institutes in the work of such laboratory;

(ii) keep the Institutes apprised of the work of the regional educational laboratory in the field; and

(iii) inform the Institutes about additional research needs identified in the field.

(B) Consult with the State educational agencies and library agencies in the region in developing the plan for serving the region.

(C) Develop strategies to utilize schools as critical components in reforming education and revitalizing rural communities in the United States.

(D) Report and disseminate information on overcoming the obstacles faced by rural educators and rural schools.

(E) Identify successful educational programs that have either been developed by such laboratory in carrying out such laboratory's functions or that have been developed or used by others within the region served by the laboratory and make such information available to the Secretary and the network of regional laboratories so that such programs may be considered for inclusion in the national education dissemination system.

(6) CERTAIN REQUIREMENTS.—In carrying out its responsibilities, each regional educational laboratory shall—

(A) establish a governing board that—

(i) reflects a balanced representation of the States in the region, as well as the interests and concerns of regional constituencies, and that includes teachers and education researchers;

(ii) is the sole entity that—

(I) guides and directs the laboratory in carrying out the provisions of this subsection and satisfying the terms and conditions of the contract award;

(II) determines the regional agenda of the laboratory;

(III) engages in an ongoing dialogue with the Assistant Secretary concerning the laboratory's goals, activities, and priorities; and

(IV) determines at the start of the contract period, subject to the requirements of this section and in consultation with the Assistant Secretary, the mission of the regional educational laboratory for the duration of the contract period;

(iii) ensures that the regional educational laboratory attains and maintains a high level of quality in the laboratory's work and products;

(iv) establishes standards to ensure that the regional educational laboratory has strong and effective governance, organization, management, and administration, and employs qualified staff;

(v) directs the regional educational laboratory to carry out the laboratory's duties in a manner as will make progress toward achieving the National Education Goals and reforming schools and educational systems; and

(vi) conducts a continuing survey of the educational needs, strengths, and weaknesses within the region, including a process of open hearings to solicit the views of schools and teachers.

(B) Comply with the standards developed by the Assistant Secretary and approved by the Board under section 912.

(C) Coordinate its activities, collaborate, and regularly exchange information with the Institutes established under section 941, the National Diffusion Network, and its Developer Demonstrator and State Facilitator projects, learning grant institutions and district education agents assisted under subsection (i), the Educational Resources Information Center Clearinghouses, and other entities engaged in technical assistance and dissemination activities which are supported by other offices of the Department of Education.

(D) Allocate the regional educational laboratory's resources to and within each State in a manner which reflects the need for assistance, taking into account such factors as the proportion of economically disadvantaged students, the increased cost burden of service delivery in areas of sparse populations, and any special initiatives being undertaken by State, intermediate, local educational agencies, or Bureau-funded schools, as appropriate, which may require special assistance from the laboratory.

(7) EVALUATIONS.—The Assistant Secretary shall provide for independent evaluations of each of the regional educational laboratories in carrying out the duties described in paragraph (1) in the third year that such laboratory receives assistance under this subsection in accordance with the standards developed by the Assistant Secretary and approved by the Board and shall transmit the results of such evaluations to the relevant committees of the Congress, the Board, and the appropriate regional educational laboratory board.

(8) INVITATION REGARDING COMPETITION FOR AWARDS OF ASSISTANCE.—Prior to awarding a grant or entering into a contract under this section, the Secretary shall invite applicants, including the regional educational laboratories in existence on the day preceding the date of enactment of this Act, to compete for such award through notice in the Federal Register and in the publication of the Department of Commerce known as the Commerce Business Daily.

(9) APPLICATION FOR ASSISTANCE.—Each application for assistance under this subsection shall—

(A) cover not less than a 5-year period;

(B) describe how the applicant would carry out the activities required by this subsection; and

(C) contain such additional information as the Secretary may reasonably require.

(10) RULE OF CONSTRUCTION.—No regional educational laboratory receiving assistance under this subsection shall, by reason of the receipt of that assistance, be ineligible to receive any other assistance from the Department of Education as authorized by law or be prohibited from engaging in activities involving international projects or endeavors.

(11) ADVANCE PAYMENT SYSTEM.—Each regional educational laboratory shall participate in the advance payment system at the Department of Education.

(12) ADDITIONAL PROJECTS.—In addition to activities described in paragraph (3), the Assistant Secretary, from amounts appropriated pursuant to subsection (h), is authorized to enter into agreements with a regional educational laboratory for the purpose of carrying out additional projects to enable such regional educational laboratory to assist in efforts to achieve the National Education Goals and for other purposes.

(13) PLAN.—Not later than July 1 of each year, each regional educational laboratory shall submit to the Assistant Secretary a plan covering the succeeding fiscal year, in which such laboratory's mission, activities, and scope of work are described, including a general description of—

(A) the plans such laboratory expects to submit in the remaining years of such laboratory's contract; and

(B) an assessment of how well such laboratory is meeting the needs of the region.

(14) CONSTRUCTION.—Nothing in this subsection shall be construed to require any modifications in the regional educational laboratory contracts in effect on the day preceding the date of enactment of this title.

(i) GOALS 2000 COMMUNITY PARTNERSHIPS PROGRAM.—

(1) PURPOSE.—The purpose of the Goals 2000 Community Partnerships program is to improve the quality of learning and teaching in the most impoverished urban and rural communities of the United States by supporting sustained collaborations between universities, schools, businesses, and communities which apply and utilize the results of educational research and development.

(2) GRANTS FOR GOALS 2000 COMMUNITY PARTNERSHIPS.—The Assistant Secretary is authorized to make grants to eligible entities to support the establishment of Learning Grant Institutions and District Education Agents and the activities authorized under this subsection within eligible communities.

(3) DEFINITION OF ELIGIBLE ENTITY AND ELIGIBLE COMMUNITY.—For the purposes of this subsection:

(A) The term "eligible entity" includes any institution of higher education, regional educational laboratory, National Diffusion Network project, national research and development center, public or private nonprofit corporation, or any consortium thereof, that—

(i) has demonstrated experience, expertise and commitment in serving the educational needs of at-risk students; and

(ii) is, by virtue of its previous activities, knowledgeable about the unique needs and characteristics of the community to be served.

(B) The term "eligible community" means a unit of general purpose local government (such as a city, township, or village), a nonmetropolitan county, tribal village, or a geographically distinct area (such as a school district, school attendance area, ward, precinct or neighborhood), or any group of such entities that—

(i) has a population of not less than 200,000 and not more than 300,000; and

(ii) in which not less than one-half of the school-age children have family incomes which are below the poverty line, as determined by the 1990 United States Census, participation in the National School Lunch program, or other current, reliable data concerning family income.

(4) GOALS 2000 COMMUNITY PARTNERSHIPS.—Each learning grant institution receiving assistance under this subsection shall establish a Goals 2000 community partnership to carry out the activities authorized under this subsection. Such partnership—

(A) shall include the participation of one or more local educational agencies, institutions of higher education, community-based organizations, parents, teachers, and the business community;

(B) may include the participation of human, social service and health care agencies, Head Start and child care agencies, libraries, museums, employment and training agencies, and the State educational agency or tribal department of education; and

(C) shall be broadly representative of all segments of the community in which the activities will be carried out.

(5) COMPREHENSIVE GOALS 2000 PLAN.—Each Goals 2000 Community Partnership shall develop a comprehensive plan for assuring educational success and high achievement for all students in the community. Each such plan shall—

(A) adopt the National Education Goals;

(B) identify additional needs and goals for educational improvement within the community;

(C) focus on helping all students reach challenging content and student performance standards;

(D) be consistent with the State and local improvement plans for system-wide education improvement developed pursuant to title III;

(E) establish a comprehensive community-wide plan for achieving such goals; and

(F) develop a means for measuring the progress of the community in meeting such goals for improvement.

(6) IMPLEMENTATION OF COMMUNITY-WIDE PLAN.—Each Goals 2000 Community Partnership

shall, utilizing the District Education Agent, provide assistance in implementing the community-wide plan for educational improvement by—

(A) supporting innovation, restructuring, and continuous improvement in educational practice by—

(i) disseminating information throughout the community about exemplary and promising educational programs, practices, products, and policies;

(ii) evaluating the effectiveness of federally funded educational programs within the community and identifying changes in such programs which are likely to improve student achievement;

(iii) identifying, selecting and replicating exemplary and promising educational programs, practices, products, and policies in both in- and out-of-school settings;

(iv) applying educational research to solve specific problems in the classroom, home and community which impede learning and student achievement; and

(v) supporting research and development by teachers, school administrators, and other practitioners which promise to improve teaching and learning and the organization of schools;

(B) improving the capacity of educators, school administrators, child care providers and other practitioners to prepare all students to reach challenging standards and to attain the goals set out in the comprehensive community-wide plan through such means as—

(i) the training of prospective and novice teachers (including preschool and early childhood educators) in a school setting under the guidance of master teachers and teacher educators;

(ii) training and other activities to promote the continued learning and professional development of experienced teachers, related services personnel, school administrators to assure that such teachers develop the subject matter and pedagogical expertise needed to prepare all students to reach challenging standards;

(iii) training and other activities to increase the ability of prospective, novice, and experienced teachers to teach effectively at-risk students, students with disabilities, students with limited-English proficiency, and students from diverse cultural backgrounds; and

(iv) programs to enhance teaching and classroom management skills, including school-based management skills, of novice, prospective, and experienced teachers;

(C) promoting the development of an integrated system of service delivery to children from birth through age 18 and their families by facilitating linkages and cooperation among—

(i) local educational agencies;

(ii) health and social services agencies and providers;

(iii) juvenile justice and criminal justice agencies;

(iv) providers of employment training; and

(v) child care, Head Start, and other early childhood agencies; and

(D) mobilizing the resources of the community in support of student learning and high achievement by facilitating effective partnerships and collaboration among—

(i) local educational agencies;

(ii) postsecondary educational institutions;

(iii) public libraries;

(iv) parents;

(v) community-based organizations, neighborhood associations, and other civic and community organizations;

(vi) child care, Head Start, and other early childhood agencies;

(vii) churches, synagogues and other religious institutions;

(viii) labor organizations; and

(ix) business and industry.

(7) ADDITIONAL REQUIREMENTS.—In carrying out its responsibilities under this subsection, each partnership receiving assistance under this subsection shall—

(A) appoint a District Education Agent who shall be responsible, on a full-time basis, for directing the implementation of the community-wide plan, who shall have significant experience and expertise in the field of education in—

(i) addressing the needs of at-risk students; and

(ii) conducting educational research and promoting the application of the results of such research to educational practice;

(B) provide for such other professional and support personnel as may be necessary to implement the community-wide plan under the direction of the District Education Agent; and

(C) coordinate the partnership's activities and work cooperatively with the National Diffusion Network State facilitators, regional educational laboratories, and other components of the Office to utilize most effectively Federal research, development, and dissemination resources in implementing the community-wide plan.

(8) APPLICATION FOR GRANTS.—Any eligible entity desiring a grant under this subsection shall submit an application to the Assistant Secretary at such time, in such manner, and accompanied by such information as the Assistant Secretary may reasonably require. Each such application shall—

(A) include a comprehensive plan for meeting the objectives and requirements of this subsection; and

(B) provide evidence of support for the application from local elected officials, the State educational agency, the local educational agency, parents, local community leaders, businesses, and other appropriate organizations.

(9) PRIORITY IN MAKING GRANTS; DURATION AND AMOUNT OF GRANT.—Each grant made under this subsection shall be—

(A) awarded on a competitive basis, with first priority given to those applications from communities with the greatest percentage of school-age children in families with poverty-level incomes;

(B) made for a 5-year period, with funding for the second and each succeeding year in such period conditioned upon a determination by the Assistant Secretary that the grant recipient has complied with the conditions of the grants during the previous year; and

(C) an amount equal to not less than $1,000,000 per year.

(10) LIMITATION OF ONE GRANT PER CONGRESSIONAL DISTRICT.—Not more than one grant under this subsection shall be awarded within a single congressional district.

(11) TECHNICAL ASSISTANCE; EVALUATIONS.—In administering the program authorized under this subsection, the Assistant Secretary shall, either directly or through grant or contract with an eligible nonprofit agency—

(A) upon request, provide technical assistance to eligible entities to assist in the development of a comprehensive community-wide plan to meet the requirements of this subsection and in the preparation of applications for assistance;

(B) regularly provide technical assistance to learning grant institutions receiving assistance under this subsection to assist with the development and implementation of the comprehensive community-wide plan for educational improvement;

(C) provide for an independent evaluation of the activities assisted under this subsection, including—

(i) the impact of the Goals 2000 Community Partnerships program on children and families within each community, including effects on the extent of educational achievement, rates of school retention and completion, and enrollment in postsecondary educational programs; and

(ii) whether an intensified effort to apply and utilize educational research within a limited geographic area significantly improves student learning and achievement; and

(D) plan for the expansion of the Goals 2000 Community Partnerships program throughout the remainder of the United States beginning in fiscal year 1999.

(j) TEACHER RESEARCH DISSEMINATION DEMONSTRATION PROGRAM.—

(1) FINDINGS.—The Congress finds that—

(A) education research, including research funded by the Office, is not having the impact on the schools of the United States that such research should;

(B) relevant education research and resulting solutions are not being adequately disseminated to and used by the teachers that need such research and solutions;

(C) there are insufficient linkages between the research and development centers assisted under this section, the regional educational laboratories described in subsection (h), the National Diffusion Network State facilitators, the Educational Resources Information Center Clearinghouses, the comprehensive technical assistance centers assisted under the Elementary and Secondary Education Act of 1965, and the public schools to ensure that research on effective practice is disseminated and technical assistance provided to all teachers;

(D) the average teacher has little time to plan or engage in a professional dialogue with peers about strategies for improved learning;

(E) teachers do not have direct access to information systems or networks;

(F) teachers have little control over what in-service education teachers will be offered; and

(G) individual teachers are not encouraged to move beyond the walls of their school buildings to identify and use outside resources.

(2) ESTABLISHMENT.—

(A) IN GENERAL.—The Secretary is authorized to make grants to, and enter into contracts or cooperative agreements with, public and private agencies and organizations, including institutions of higher education, the regional education laboratories, and the research and development centers, or consortia thereof—

(i) to develop and carry out projects that demonstrate effective strategies for helping elementary and secondary education teachers, in both urban and rural areas, become knowledgeable about, assist in the design and use of, and use, education research, including education research carried out under this section; and

(ii) to develop, implement, and evaluate models for creation of teacher research dissemination networks.

(B) PRIORITY.—In awarding grants and entering into contracts and cooperative agreements under subparagraph (A) the Secretary shall give priority to entities that have received Federal funds for research and dissemination.

(3) APPLICATIONS.—

(A) IN GENERAL.—An entity desiring to receive assistance under this subsection shall submit an application to the Secretary in such form, at such time, and containing such information and assurances as the Secretary may require.

(B) CONTENTS.—Each such application shall describe how the project described in the application—

(i) was developed with the active participation of elementary and secondary school teachers;

(ii) will include the continuing participation of elementary and secondary school teachers in the management of the project;

(iii) is organized around one or more significant research topics;

(iv) will involve collaboration with entities that have received Federal funds for research and dissemination; and

(v) will sustain over time teacher research dissemination networks after Federal funding for such networks terminates.

(4) USE OF FUNDS.—Funds provided under this subsection may be used—

(A) to train elementary and secondary education teachers (particularly new teachers) about the sources of education research findings, including research findings available through activities supported by the Office, and how to access and use such findings to improve the quality of instruction;

(B) to develop simple formats, both administrative and technological, that allow elementary and secondary education teachers easy access to and use of education research findings;

(C) to share strategies and materials;

(D) to support professional networks;

(E) to survey teacher needs in the areas of research and development; and

(F) for other activities designed to support elementary and secondary education teachers in becoming knowledgeable about, assisting in the design of, and using, educational research.

(5) STIPENDS.—The Secretary may provide for the payment of such stipends (including allowances for subsistence and other expenses for elementary and secondary teachers), as the Secretary determines to be appropriate, to teachers participating in the projects authorized under this subsection.

(6) COORDINATION.—Recipients of funds under this subsection shall, to the greatest extent possible, coordinate their activities with related activities under the Elementary and Secondary Education Act of 1965.

(7) REPORT.—The Secretary shall, within 5 years of the date of enactment of this Act, submit to the Congress a report on the effectiveness of activities assisted under this subsection.

PART E—NATIONAL LIBRARY OF EDUCATION

SEC. 951. ESTABLISHMENT WITHIN OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT.

(a) IN GENERAL.—There is established within the Department of Education a National Library of Education (hereafter in this section referred to as the "Library"), which shall be maintained by the Department of Education as a governmental activity.

(b) FUNCTIONS OF LIBRARY.—The functions of the Library are—

(1) to provide a central location within the Federal Government for information about education;

(2) to provide comprehensive reference services on matters related to education to employees of the Department of Education and its contractors and grantees, other Federal employees, and members of the public; and

(3) to promote greater cooperation and resource sharing among providers and repositories of education information in the United States.

(c) MISSION.—The mission of the Library shall be to—

(1) become a principal center for the collection, preservation, and effective utilization of the research and other information related to education and to the improvement of educational achievement;

(2) strive to ensure widespread access to the Library's facilities and materials, coverage of all education issues and subjects, and quality control;

(3) have an expert library staff; and

(4) use modern information technology that holds the potential to link major libraries, schools, and educational centers across the United States into a network of national education resources.

(d) ONE-STOP INFORMATION AND REFERRAL SERVICE.—The Library shall establish and maintain a central information and referral service to respond to telephonic, mail and electronic and other inquiries from the public concerning—

(1) programs and activities of the Department of Education;

(2) publications produced by the Department of Education and, to the extent feasible, education related publications produced by the Departments of Labor, Health and Human Services, and other Federal departments and agencies;

(3) services and resources available to the public through the Office, including the Educational Resources Information Center Clearinghouses, the research institutes, and the national education dissemination system;

(4) statistics and other information produced by the National Center for Education Statistics; and

(5) referrals to additional sources of information and expertise about educational issues which may be available through educational associations and foundations, the private sector, colleges and universities, libraries and bibliographic databases.

The Library shall maintain and actively publicize a toll-free telephone number through which public inquiries to the Library may be made.

(e) COMPREHENSIVE REFERENCE SERVICES.—

(1) IN GENERAL.—The Library shall, to the extent feasible, provide for the delivery of a full range of reference services on subjects related to education to employees of the Department of Education and such Department's contractors and grantees, other Federal employees, and members of the general public. Such services may include—

(A) specialized subject searches;

(B) search and retrieval of electronic databases;

(C) document delivery by mail and facsimile transmission;

(D) research counseling, bibliographic instruction, and other training services;

(E) interlibrary loan services; and

(F) selective dissemination of information services.

(2) PRIORITY.—The Library shall first give priority in the provision of reference services to requests made by employees of the Department of Education.

(f) COOPERATION AND RESOURCE SHARING.—The Library shall promote greater cooperation and resource sharing among libraries and archives with significant collections in the area of education through means such as—

(1) the establishment of information and resource sharing networks among such entities;

(2) the development of a national union list of education journals held by education libraries throughout the United States;

(3) the development of directories and indexes to textbook and other specialized collections held by education libraries throughout the United States; and

(4) cooperative efforts to preserve, maintain and promote access to items of special historical value or interest.

(g) ADMINISTRATION.—The Library shall be administered by an Executive Director who shall—

(1) be appointed by the Assistant Secretary from among persons with significant training or experience in library and information science; and

(2) be paid at not less than the minimum rate of basic pay payable for GS-15 of the General Schedule.

(h) TASK FORCE.—

(1) IN GENERAL.—The Assistant Secretary shall appoint a task force of librarians, scholars, teachers, parents, and school leaders (hereafter in this paragraph referred to as the "Task Force") to provide advice on the establishment of the Library.

(2) PREPARATION OF PLAN.—The Task Force shall prepare a workable plan to establish the Library and to implement the requirements of this section.

(3) CERTAIN AUTHORITIES.—The Task Force may identify other activities and functions for the Library to carry out, except that such functions shall not be carried out until the Library is established and has implemented the requirements of this section.

(4) REPORT.—The Task Force shall prepare and submit to the Assistant Secretary not later than 6 months after the first meeting of the Task Force a report on the activities of the Library.

(i) TRANSFER OF FUNCTIONS.—There are hereby transferred to the Library all functions of—

(1) the Department of Education Research Library;

(2) the Department of Education Reference Section; and

(3) the Department of Education Information Branch.

(j) COLLECTION DEVELOPMENT POLICY.—Not later than 180 days after the date of the enactment of this title, the Assistant Secretary shall promulgate a comprehensive collection development policy to govern the Library's operations, acquisitions, and services to users. Such collection development policy shall—

(1) be consistent with the functions of the Library described in subsection (b);

(2) emphasize the acquisition and maintenance of a comprehensive collection of reference materials; and

(3) avoid unnecessary duplication by putting a priority on meeting the information needs of the Library's users through cooperation and resource-sharing with other entities with significant collections in the field of education.

(k) ARREARAGE AND PRESERVATION.—On the basis of the collection development policy promulgated under subsection (j), the Executive Director shall develop a multiyear plan which shall set forth goals and priorities for actions needed to—

(1) eliminate within 3 years the arrearage of uncataloged books and other materials in the Library's collections; and

(2) respond effectively and systematically to the preservation needs of the Library's collections, relying, whenever possible, upon cooperative efforts with other institutions to preserve and maintain the usability of books and materials in the Library's collections.

PART F—STAR SCHOOLS

SEC. 961. STAR SCHOOLS.

Subsection (a) of section 908 of the Star Schools Assistance Act (20 U.S.C. 4085b(a)) is amended by striking "greater" and inserting "lesser".

PART G—OFFICE OF COMPREHENSIVE SCHOOL HEALTH EDUCATION

SEC. 971. OFFICE OF COMPREHENSIVE SCHOOL HEALTH EDUCATION.

(a) IN GENERAL.—Subsection (c) of section 4605 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3155(c)) is amended—

(1) in the matter preceding paragraph (1), by striking "Office of the Secretary" and inserting "Office of Elementary and Secondary Education"; and

(2) by adding at the end the following new paragraph:

"(4) To act as a liaison office for the coordination of the activities undertaken by the Office under this section with related activities of the Department of Health and Human Services and to expand school health education research grant programs under this section.".

(b) TRANSITION.—The Secretary shall take all appropriate actions to facilitate the transfer of the Office of Comprehensive School Health Education pursuant to the amendment made by subsection (a).

PART H—FIELD READERS

SEC. 981. FIELD READERS.

Section 402 of the Department of Education Organization Act (20 U.S.C. 3462) is amended—

(1) by inserting "(a) IN GENERAL.—" before "The Secretary"; and

(2) by adding at the end the following new subsection:

"(b) SPECIAL RULE.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may use not more than 1 percent of the funds appropriated for any education program that awards such funds on a competitive basis to pay the expenses and fees of non-Federal experts necessary to review applications and proposals for such funds.

"(2) APPLICABILITY.—The provisions of paragraph (1) shall not apply to any education program under which funds are authorized to be appropriated to pay the fees and expenses of non-Federal experts to review applications and proposals for such funds.".

PART I—AMENDMENTS TO THE CARL D. PERKINS VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION ACT

SEC. 991. NATIONAL OCCUPATIONAL INFORMATION COORDINATING COMMITTEE.

Section 422 of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2422) is amended—

(1) in paragraph (2) of subsection (a), by inserting "(including postsecondary employment and training programs)" after "training programs"; and

(2) in subsection (b)—

(A) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively;

(B) in the matter preceding paragraph (1) (as redesignated in subparagraph (A)), by inserting "the State board or agency governing higher education," after "coordinating council,"; and

(C) in paragraph (1) (as redesignated in subparagraph (A))—

(i) by striking "Act and of" and inserting "Act, of"; and

(ii) by inserting "and of the State board or agency governing higher education" after "Job Training Partnership Act";

(3) by redesignating subsection (d) as subsection (e); and

(4) by inserting after subsection (c) the following new subsection:

"(d) DATA COLLECTION SYSTEM.—In the development and design of a system to provide data on graduation or completion rates, job placement rates from occupationally specific programs, licensing rates, and awards of high school graduate equivalency diplomas (GED), each State board for higher education shall develop a data collection system the results of which can be integrated into the occupational information system developed under this section.".

TITLE X—MISCELLANEOUS

PART A—MISCELLANEOUS PROVISIONS

SEC. 1011. SCHOOL PRAYER.

No funds authorized to be appropriated under this Act may be used by any State or local educational agency to adopt policies that prevent voluntary prayer and meditation in public schools.

SEC. 1012. FUNDING FOR THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

(a) FINDINGS.—The Congress finds that—

(1) the Individuals with Disabilities Education Act was established with the commitment of forty percent Federal funding but currently receives only eight percent Federal funding;

(2) this funding shortfall is particularly burdensome to school districts and schools in low-income areas which serve higher than average proportions of students with disabilities and have fewer local resources to contribute; and

(3) it would cost the Federal Government approximately $10,000,000,000 each year to fully fund the Individuals with Disabilities Education Act.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the Federal Government should provide States and communities with adequate resources under the Individuals with Disabilities Education Act as soon as reasonably possible, through the reallocation of noneducation funds within the current budget monetary constraints.

SEC. 1013. NATIONAL BOARD FOR PROFESSIONAL TEACHING STANDARDS.

Section 551 of the Higher Education Act of 1965 (20 U.S.C. 1107) is amended—

(1) in paragraph (1) of subsection (b), by striking "the Federal share of";

(2) in subparagraph (B) of subsection (e)(1), by striking "share of the cost of the activities of the Board is" and inserting "contributions described in subsection (f) are"; and

(3) by amending subsection (f) to read as follows:

"(f) MATCHING FUNDS REQUIREMENT.—

"(1) IN GENERAL.—The Secretary shall not provide financial assistance under this subpart to the Board unless the Board agrees to expend non-Federal contributions equal to $1 for every $1 of the Federal funds provided pursuant to such financial assistance.

"(2) NON-FEDERAL CONTRIBUTIONS.—The non-Federal contributions described in paragraph (1)—

"(A) may include all non-Federal funds raised by the Board on or after January 1, 1987; and

"(B) may be used for outreach, implementation, administration, operation, and other costs associated with the development and implementation of national teacher assessment and certification procedures under this subpart.".

SEC. 1014. FORGIVENESS OF CERTAIN OVERPAYMENTS.

(a) IN GENERAL.—Notwithstanding section 1401 of the Elementary and Secondary Education Act of 1965 or any other provision of law—

(1) the allocation of funds appropriated for fiscal year 1993 under the Department of Education Appropriations Act, 1993, to Colfax County, New Mexico under section 1005 of the Elementary and Secondary Education Act of 1965, and any other allocations or grants for such fiscal year resulting from such allocation to such county under any program administered by the Secretary of Education, shall be deemed to be authorized by law; and

(2) in any program for which allocations are based on fiscal year 1993 allocations under section 1005 of such Act, the fiscal year 1993 allocations under such section deemed to be authorized by law in accordance with paragraph (1) shall be used.

(b) SPECIAL RULE.—Notwithstanding subsection (a)(1) of this section, in carrying out section 1403(a) of the Elementary and Secondary Education Act of 1965 for fiscal year 1994, the amount allocated to Colfax County, New Mexico under section 1005 of such Act for fiscal year 1993 shall be deemed to be the amount that the Secretary determines would have been allocated under such section 1005 had the correct data been used for fiscal year 1993.

SEC. 1015. STUDY OF GOALS 2000 AND STUDENTS WITH DISABILITIES.

(a) STUDY REQUIRED.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall make appropriate arrangements with the National Academy of Sciences or the National Academy of Education to conduct a comprehensive study of the inclusion of children with disabilities in school reform activities assisted under the Goals 2000: Educate America Act.

(2) DEFINITION.—For purposes of this section, the term "children with disabilities" has the same meaning given such term in section 602 of the Individuals with Disabilities Education Act.

(b) STUDY COMPONENTS.—The study conducted under subsection (a) shall include—

(1) an evaluation of the National Education Goals and objectives, curriculum reforms, standards, and other programs and activities intended to achieve those goals;

(2) a review of the adequacy of assessments and measures used to gauge progress towards meeting National Education Goals and any national and State standards, and an examination of other methods or accommodations necessary or desirable to collect data on the educational progress of children with disabilities, and the costs of such methods and accommodations;

(3) an examination of what incentives or assistance might be provided to States to develop improvement plans that adequately address the needs of children with disabilities;

(4) the relation of the Goals 2000: Educate America Act to other Federal laws governing or affecting the education of children with disabilities; and

(5) such other issues as the National Academy of Sciences or the National Academy of Education considers appropriate.

(c) STUDY PANEL MEMBERSHIP.—Any panel constituted in furtherance of the study to be conducted under subsection (a) shall include consumer representatives.

(d) FINDINGS AND RECOMMENDATIONS.—The Secretary shall request the National Academy of Sciences or the National Academy of Education to submit an interim report of its findings and recommendations to the President and Congress not later than 12 months, and a final report not later than 24 months, from the date of the completion of procurement relating to the study.

(e) FUNDING.—From funds appropriated to the Secretary for research related to individuals with disabilities the Secretary shall make available $600,000 for fiscal year 1994, and such sums as may be necessary for fiscal year 1995, to carry out this section. Amounts made available under this subsection shall remain available until expended.

SEC. 1016. AMENDMENTS TO SUMMER YOUTH EMPLOYMENT AND TRAINING PROGRAM.

(a) PROGRAM DESIGN.—

(1) ACADEMIC ENRICHMENT AUTHORIZED.—Paragraph (1) of section 253(a) of the Job Training Partnership Act (20 U.S.C. 1632(a)) is amended by inserting "academic enrichment" after "remedial education,".

(2) REQUIRED SERVICES AND DESIGN.—(A) Subsection (c) of such section 253 of the Job Training Partnership Act (20 U.S.C. 1632(c)) is amended by adding at the end the following new paragraphs:

"(3) BASIC EDUCATION AND PREEMPLOYMENT TRAINING.—The programs under this part shall provide, either directly or through arrangements with other programs, each of the following services to a participant where the assessment and the service strategy indicate such services are appropriate:

"(A) Basic and Remedial Education.

"(B) Preemployment and Work Maturity Skills Training.

"(4) INTEGRATION OF WORK AND LEARNING.—

"(A) WORK EXPERIENCE.—Work experience provided under this part, to the extent feasible, shall include contextual learning opportunities which integrate the development of general competencies with the development of academic skills.

"(B) CLASSROOM TRAINING.—Classroom training provided under this part shall, to the extent feasible, include opportunities to apply knowledge and skills relating to academic subjects to the world of work.".

(B) Section 253 of the Job Training Partnership Act (20 U.S.C. 1632) is further amended by adding at the end the following new subsection:

"(e) EDUCATIONAL LINKAGES.—In conducting the program assisted under this part, service delivery areas shall establish linkages with the appropriate educational agencies responsible for service to participants. Such linkages shall include arrangements to ensure that there is a regular exchange of information relating to the progress, problems and needs of participants, including the results of assessments of the skill levels of participants.".

(C) Section 254 of the Job Training Partnership Act is amended by adding at the end the following new subsection:

"(c) PROHIBITION ON PRIVATE ACTIONS.—Nothing in this part shall be construed to establish a right for a participant to bring an action to obtain services described in the assessment or service strategy developed under section 253(c).".

(b) TRANSFER OF FUNDS TO YEAR ROUND PROGRAM.—Section 256 of the Job Training Partnership Act is amended by striking "10 percent" and inserting "20 percent".

SEC. 1017. PROTECTION OF PUPILS.

Section 439 of the General Education Provisions Act (20 U.S.C. 1232g) is amended to read as follows:

"PROTECTION OF PUPIL RIGHTS

"SEC. 439. (a) All instructional materials, including teacher's manuals, films, tapes, or other supplementary material which will be used in connection with any survey, analysis, or evaluation as part of any applicable program shall be available for inspection by the parents or guardians of the children.

"(b) No student shall be required, as part of any applicable program, to submit to a survey, analysis, or evaluation that reveals information concerning—

"(1) political affiliations;

"(2) mental and psychological problems potentially embarrassing to the student or his family;

"(3) sex behavior and attitudes;

"(4) illegal, anti-social, self-incriminating and demeaning behavior;

"(5) critical appraisals of other individuals with whom respondents have close family relationships;

"(6) legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers; or

"(7) income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program),

without the prior consent of the student (if the student is an adult or emancipated minor), or in the case of an unemancipated minor, without the prior written consent of the parent.

"(c) Educational agencies and institutions shall give parents and students effective notice of their rights under this section.

"(d) ENFORCEMENT.—The Secretary shall take such action as the Secretary determines appropriate to enforce this section, except that action to terminate assistance provided under an applicable program shall be taken only if the Secretary determines that—

"(1) there has been a failure to comply with such section; and

"(2) compliance with such section cannot be secured by voluntary means.

"(e) OFFICE AND REVIEW BOARD—The Secretary shall establish or designate an office and review board within the Department of Education to investigate, process, review, and adjudicate violations of the rights established under this section.".

SEC. 1018. CONTRACEPTIVE DEVICES.

The Department of Health and Human Services and the Department of Education shall ensure that all federally funded programs which provide for the distribution of contraceptive devices to unemancipated minors develop procedures to encourage, to the extent practical, family participation in such programs.

SEC. 1019. ASSESSMENTS.

(a) TITLE II.—No funds provided under title II of this Act shall be used to develop or undertake assessments that will be used to make decisions regarding the graduation, grade promotion, or retention of students for 5 years after the date of enactment of this Act.

(b) TITLE III.—Assessments developed with funds under title III of this Act may be used for decisions regarding graduation, grade promotion, or retention of students only on the condition that students have been prepared in the content for which the students are being assessed.

SEC. 1020. PUBLIC SCHOOLS.

Except as provided in section 310, nothing in this Act shall be construed to authorize the use of funds under title III of this Act to directly or indirectly benefit any school other than a public school.

SEC. 1021. ASSESSMENT OF EDUCATIONAL PROGRESS ACTIVITIES.

Section 421(h) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2421(h)) is amended—

(1) by inserting "(1)" after "(h)"; and

(2) by inserting at the end the following:

"(2)(A) Notwithstanding any provision of section 406 of the General Education Provisions Act, the Commissioner of Education Statistics may authorize a State educational agency or a consortium of such agencies to use items and data from the National Assessment of Educational Progress for the purpose of evaluating a course of study related to vocational education, if the Commissioner has determined, in writing, that such use will not—

"(i) result in the identification of characteristics or performance of individual students or schools;

"(ii) result in the ranking or comparing of schools or local educational agencies;

"(iii) be used to evaluate the performance of teachers, principals, or other local educators for the purpose of dispensing rewards or punishments; or

"(iv) corrupt or harm the use and value of data collected for the National Assessment of Educational Progress.

"(B) Not later than 60 days after making an authorization under subsection (a), the Commissioner shall submit to the Committee on Education and Labor of the House of Representatives and to the Committee on Labor and Human Resources of the Senate, a report which contains—

"(i) a copy of the request for such authorization;

"(ii) a copy of the written determination under subsection (a); and

"(iii) a description of the details and duration of such authorization.

"(C) The Commissioner may not grant more than one such authorization in any fiscal year and shall ensure that the authorized use of items or data from the National Assessment is evaluated for technical merit and for its affect on the National Assessment of Educational Progress. The results of such evaluations shall be promptly reported to the committees specified in subparagraph (B).".

SEC. 1022. SENSE OF THE CONGRESS.

It is the sense of the Congress that—

(1) no funds appropriated pursuant to this Act should be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1993 (41 U.S.C. 10a–10c, popularly known as the "Buy American Act");

(2) in the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this Act, entities receiving such assistance should, in expending the assistance, purchase only American-made equipment and products;

(3) in providing financial assistance under this Act, the head of each Federal agency should provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress; and

(4) if it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning to any product sold in or shipped to the United States that is not made in the United States, such person should be ineligible to receive any contract or subcontract made with funds provided pursuant to this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations, as such sections existed on the date of enactment of this Act.

PART B—GUN-FREE SCHOOLS

SEC. 1031. SHORT TITLE.

This part may be cited as the "Gun-Free Schools Act of 1994".

SEC. 1032. GUN-FREE REQUIREMENTS IN ELEMENTARY AND SECONDARY SCHOOLS.

The Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.) is amended—

(1) by redesignating title X as title IX;

(2) by redesignating sections 8001 through 8005 as sections 9001 through 9005, respectively; and

(3) by inserting after title VII the following new title:

"TITLE VIII—GUN-FREE SCHOOLS

"SEC. 8001. GUN-FREE REQUIREMENTS.

"(a) REQUIREMENTS.—

"(1) IN GENERAL.—No assistance may be provided to any local educational agency under this Act unless such agency has in effect a policy requiring the expulsion from school for a period of not less than one year of any student who is determined to have brought a weapon to a school under the jurisdiction of the agency except such policy may allow the chief administering officer of the agency to modify such expulsion requirement for a student on a case-by-case basis.

"(2) DEFINITION.—For the purpose of this section, the term "weapon" means a firearm as such term is defined in section 921 of title 18, United States Code.

"(b) REPORT TO STATE.—Each local educational agency requesting assistance from the State educational agency that is to be provided from funds made available to the State under this Act shall provide to the State, in the application requesting such assistance—

"(1) an assurance that such local educational agency has in effect the policy required by subsection (a); and

"(2) a description of the circumstances surrounding any expulsions imposed under the policy required by subsection (a), including—

"(A) the name of the school concerned;

"(B) the number of students expelled from such school; and

"(C) the types of weapons concerned.".

PART C—ENVIRONMENTAL TOBACCO SMOKE

SEC. 1041. SHORT TITLE.

This part may be cited as the "Pro-Children Act of 1994".

SEC. 1042. DEFINITIONS.

As used in this part:

(1) CHILDREN.—The term "children" means individuals who have not attained the age of 18.

(2) CHILDREN'S SERVICES.—The term "children's services" means the provision on a routine or regular basis of health, day care, education, or library services—

(A) that are funded, after the date of the enactment of this Act, directly by the Federal Government or through State or local governments, by Federal grant, loan, loan guarantee, or contract programs—

(i) administered by either the Secretary of Health and Human Services or the Secretary of Education (other than services provided and funded solely under titles XVIII and XIX of the Social Security Act); or

(ii) administered by the Secretary of Agriculture in the case of a clinic (as defined in 7 CFR 246.2) under section 17(b)(6) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)(6)), or

(B) that are provided in indoor facilities that are constructed, operated, or maintained with such Federal funds, as determined by the appropriate Secretary in any enforcement action under this title,

except that nothing in clause (ii) of subparagraph (A) is intended to include facilities (other than clinics) where coupons are redeemed under the Child Nutrition Act of 1966.

(3) PERSON.—The term "person" means any State or local subdivision thereof, agency of such State or subdivision, corporation, or partnership that owns or operates or otherwise controls and provides children's services or any individual who owns or operates or otherwise controls and provides such services.

(4) INDOOR FACILITY.—The term "indoor facility" means a building that is enclosed.

(5) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

SEC. 1043. NONSMOKING POLICY FOR CHILDREN'S SERVICES.

(a) PROHIBITION.—After the date of the enactment of this Act, no person shall permit smoking within any indoor facility owned or leased or contracted for and utilized by such person for provision of routine or regular kindergarten, elementary, or secondary education or library services to children.

(b) ADDITIONAL PROHIBITION.—After the date of the enactment of this Act, no person shall permit smoking within any indoor facility (or portion thereof) owned or leased or contracted for by such person for the provision by such person of regular or routine health care or day care or early childhood development (Head Start) services to children or for the use of the employees of such person who provides such services, except that this subsection shall not apply to—

(1) any portion of such facility that is used for inpatient hospital treatment of individuals dependent on, or addicted to, drugs or alcohol; and

(2) any private residence.

(c) FEDERAL AGENCIES.—

(1) KINDERGARTEN, ELEMENTARY, OR SECONDARY EDUCATION OR LIBRARY SERVICES.—After the date of the enactment of this Act, no Federal agency shall permit smoking within any indoor facility operated by such agency, directly or by contract, to provide routine or regular kindergarten, elementary, or secondary education or library services to children.

(2) HEALTH OR DAY CARE OR EARLY CHILDHOOD DEVELOPMENT SERVICES.—After the date of the enactment of this Act, no Federal agency shall permit smoking within any indoor facility (or portion thereof) operated by such agency, directly or by contract, to provide routine or regular health or day care or early childhood development (Head Start) services to children, except that this paragraph shall not apply to—

(A) any portion of such facility that is used for inpatient hospital treatment of individuals dependent on, or addicted to, drugs or alcohol; and

(B) any private residence.

(3) APPLICATION OF PROVISIONS.—The provisions of paragraph (2) shall also apply to the provision of such routine or regular kindergarten, elementary or secondary education or library services in the facilities described in paragraph (2) not subject to paragraph (1).

(d) NOTICE.—The prohibitions in subsections (a) through (c) shall be incorporated by publication of a notice in the Federal Register by the Secretary (in consultation with the heads of other affected agencies) and by such agency heads in funding arrangements involving the provision of children's services administered by such heads. Such prohibitions shall be effective 90 days after such notice is published, or 270 days after the date of the enactment of this Act, whichever occurs first.

(e) SPECIAL WAIVER.—

(1) IN GENERAL.—On receipt of an application, the head of the Federal agency may grant a special waiver to a person described in subsection (a) who employs individuals who are members of a labor organization and provide children's services pursuant to a collective bargaining agreement that—

(A) took effect before the date of enactment of this Act; and

(B) includes provisions relating to smoking privileges that are in violation of the requirements of this section.

(2) TERMINATION OF WAIVER.—A special waiver granted under this subsection shall terminate on the earlier of—

(A) the first expiration date (after the date of enactment of this Act) of the collective bargaining agreement containing the provisions relating to smoking privileges; or

(B) the date that is 1 year after the date of the enactment of this Act.

(f) CIVIL PENALTIES.—

(1) IN GENERAL.—Any failure to comply with a prohibition in this section shall be a violation of this section and any person subject to such prohibition who commits such violation may be liable to the United States for a civil penalty in an amount not to exceed $1,000 for each violation, or may be subject to an administrative compliance order, or both, as determined by the Secretary. Each day a violation continues shall constitute a separate violation. In the case of any civil penalty under this section, the total amount shall not exceed the amount of Federal funds received by such person for the fiscal year in which the continuing violations occurred. For the purpose of the prohibition in subsection (c), the term "person" shall mean the head of the applicable Federal agency or the contractor of such agency providing the services to children.

(2) ADMINISTRATIVE PROCEEDING.—A civil penalty may be assessed in a written notice, or an administrative compliance order may be issued, by the Secretary only after an opportunity for a hearing in accordance with section 554 of title 5, United States Code. Before making such assessment or issuing such order, or both, the Secretary shall give written notice thereof to such person by certified mail with return receipt and provide therein an opportunity to request in writing not later than 30 days after the date of receipt of such notice such hearing. The notice shall reasonably describe the violation and be accompanied with the procedures for such hearing and a simple form to request such hearing if such person desires to use such form. If a hearing is requested, the Secretary shall establish by such certified notice the time and place for such hearing which should be located, to the greatest extent possible, at a location convenient to such person. The Secretary (or the Secretary's designee) and such person may consult to arrange a suitable date and location where appropriate.

(3) CIRCUMSTANCES AFFECTING PENALTY OR ORDER.—In determining the amount of the civil penalty or the nature of the administrative compliance order, the Secretary shall take into account, as appropriate—

(A) the nature, circumstances, extent, and gravity of the violation;

(B) with respect to the violator, any good faith efforts to comply, the importance of achieving early and permanent compliance, the ability to pay or comply, the effect of the penalty or order on the ability to continue operation, any prior history of the same kind of violation, the degree of culpability, and any demonstration of willingness to comply with the prohibitions of this section in a timely manner; and

(C) such other matters as justice may require.

(4) MODIFICATION.—The Secretary may, as appropriate, compromise, modify, or remit, with or without conditions, any civil penalty or administrative compliance order. In the case of a civil penalty, the amount, as finally determined by the Secretary or agreed upon in compromise, may be deducted from any sums that the United States or its agencies or instrumentalities owes to the person against whom the penalty is assessed.

(5) PETITION FOR REVIEW.—Any person aggrieved by a penalty assessed or an order issued, or both, by the Secretary under this section may file a petition for judicial review thereof with the United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which the person resides or transacts business. Such person shall provide a copy thereof to the Secretary or the Secretary's designee. The petition shall be filed within 30 days after the Secretary's assessment or order, or both, are final and have been provided to such person by certified mail. The Secretary shall promptly provide to the court a certified copy of the transcript of any hearing held under this section and a copy of the notice or order.

(6) FAILURE TO COMPLY.—If a person fails to pay an assessment of a civil penalty or comply with an order, after either or both are final under this section, or after a court under paragraph (5) has entered a final judgment in favor of the Secretary, the Attorney General, at the request of the Secretary, shall recover the amount of the civil penalty (plus interest at then currently prevailing rates from the day either or both are final) or enforce the order in an action brought in the appropriate district court of the United States. In such action, the validity and appropriateness of the penalty or order or the amount of the penalty shall not be subject to review.

SEC. 1044. PREEMPTION.

Nothing in this part is intended to preempt any provision of law of a State or political subdivision of a State that is more restrictive than a provision of this part.

PART D—MIDNIGHT BASKETBALL LEAGUE TRAINING AND PARTNERSHIP

SEC. 1051. SHORT TITLE.

This part may be cited as the "Midnight Basketball League Training and Partnership Act".

SEC. 1052. GRANTS FOR MIDNIGHT BASKETBALL LEAGUE TRAINING AND PARTNERSHIP PROGRAMS.

Section 520 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 11903a) is amended—

*(1) in the section heading by inserting "**AND ASSISTED**" after "**PUBLIC**";*

(2) in the subsection heading for subsection (a), by inserting "PUBLIC HOUSING" before "YOUTH"; and

(3) by adding at the end the following new subsection:

"(l) MIDNIGHT BASKETBALL LEAGUE TRAINING AND PARTNERSHIP PROGRAMS.—

"(1) AUTHORITY.—The Secretary shall make grants, to the extent that amounts are approved in appropriations Acts under paragraph (13), to—

"(A) eligible entities to assist such entities in carrying out midnight basketball league pro-

grams meeting the requirements of paragraph (4); and

"(B) eligible advisory entities to provide technical assistance to eligible entities in establishing and operating such midnight basketball league programs.

"(2) ELIGIBLE ENTITIES.—

"(A) IN GENERAL.—Subject to subparagraph (B), grants under paragraph (1)(A) may be made only to the following eligible entities:

"(i) Entities eligible under subsection (b) for a grant under subsection (a).

"(ii) Nonprofit organizations providing employment counseling, job training, or other educational services.

"(iii) Nonprofit organizations providing federally assisted low-income housing.

"(B) PROHIBITION ON SECOND GRANTS.—A grant under paragraph (1)(A) may not be made to an eligible entity if the entity has previously received a grant under such paragraph, except that the Secretary may exempt an eligible advisory entity from the prohibition under this subparagraph in extraordinary circumstances.

"(3) USE OF GRANT AMOUNTS.—Any eligible entity that receives a grant under paragraph (1)(A) may use such amounts only—

"(A) to establish or carry out a midnight basketball league program under paragraph (4);

"(B) for salaries for administrators and staff of the program;

"(C) for other administrative costs of the program, except that not more than 5 percent of the grant amount may be used for such administrative costs; and

"(D) for costs of training and assistance provided under paragraph (4)(I).

"(4) PROGRAM REQUIREMENTS.—Each eligible entity receiving a grant under paragraph (1)(A) shall establish a midnight basketball league program as follows:

"(A) The program shall establish a basketball league of not less than 8 teams having 10 players each.

"(B) Not less than 50 percent of the players in the basketball league shall be residents of federally assisted low-income housing or members of low-income families (as such term is defined in section 3(b) of the United States Housing Act of 1937).

"(C) The program shall be designed to serve primarily youths and young adults from a neighborhood or community whose population has not less than 2 of the following characteristics (in comparison with national averages):

"(i) A substantial problem regarding use or sale of illegal drugs.

"(ii) A high incidence of crimes committed by youths or young adults.

"(iii) A high incidence of persons infected with the human immunodeficiency virus or sexually transmitted diseases.

"(iv) A high incidence of pregnancy or a high birth rate, among adolescents.

"(v) A high unemployment rate for youths and young adults.

"(vi) A high rate of high school drop-outs.

"(D) The program shall require each player in the league to attend employment counseling, job training, and other educational classes provided under the program, which shall be held immediately following the conclusion of league basketball games at or near the site of the games and at other specified times.

"(E) The program shall serve only youths and young adults who demonstrate a need for such counseling, training, and education provided by the program, in accordance with criteria for demonstrating need, which shall be established by the Secretary, in consultation with the Advisory Committee.

"(F) The majority of the basketball games of the league shall be held between the hours of 10:00 p.m. and 2:00 a.m. at a location in the neighborhood or community served by the program.

"(G) The program shall obtain sponsors for each team in the basketball league. Sponsors shall be private individuals or businesses in the neighborhood or community served by the program who make financial contributions to the program and participate in or supplement the employment, job training, and educational services provided to the players under the program with additional training or educational opportunities.

"(H) The program shall comply with any criteria established by the Secretary, in consultation with the Advisory Committee established under paragraph (9).

"(I) Administrators or organizers of the program shall receive training and technical assistance provided by eligible advisory entities receiving grants under paragraph (8).

"(5) GRANT AMOUNT LIMITATIONS.—

"(A) PRIVATE CONTRIBUTIONS.—The Secretary may not make a grant under paragraph (1)(A) to an eligible entity that applies for a grant under paragraph (6) unless the applicant entity certifies to the Secretary that the entity will supplement the grant amounts with amounts of funds from non-Federal sources, as follows:

"(i) In each of the first 2 years that amounts from the grant are disbursed (under subparagraph (E)), an amount sufficient to provide not less than 35 percent of the cost of carrying out the midnight basketball league program.

"(ii) In each of the last 3 years that amounts from the grant are disbursed, an amount sufficient to provide not less than 50 percent of the cost of carrying out the midnight basketball league program.

"(B) NON-FEDERAL FUNDS.—For purposes of this paragraph, the term 'funds from non-Federal sources' includes amounts from nonprofit organizations, public housing agencies, States, units of general local government, and Indian housing authorities, private contributions, any salary paid to staff (other than from grant amounts under paragraph (1)(A)) to carry out the program of the eligible entity, in-kind contributions to carry out the program (as determined by the Secretary after consultation with the Advisory Committee), the value of any donated material, equipment, or building, the value of any lease on a building, the value of any utilities provided, and the value of any time and services contributed by volunteers to carry out the program of the eligible entity.

"(C) PROHIBITION ON SUBSTITUTION OF FUNDS.—Grant amounts under paragraph (1)(A) and amounts provided by States and units of general local government to supplement grant amounts may not be used to replace other public funds previously used, or designated for use, under this section.

"(D) MAXIMUM AND MINIMUM GRANT AMOUNTS.—

"(i) IN GENERAL.—The Secretary may not make a grant under paragraph (1)(A) to any single eligible entity in an amount less than $55,000 or exceeding $130,000, except as provided in clause (ii).

"(ii) EXCEPTION FOR LARGE LEAGUES.—In the case of a league having more than 80 players, a grant under paragraph (1)(A) may exceed $130,000, but may not exceed the amount equal to 35 percent of the cost of carrying out the midnight basketball league program.

"(E) DISBURSEMENT.—Amounts provided under a grant under paragraph (1)(A) shall be disbursed to the eligible entity receiving the grant over the 5-year period beginning on the date that the entity is selected to receive the grant, as follows:

"(i) In each of the first 2 years of such 5-year period, 23 percent of the total grant amount shall be disbursed to the entity.

"(ii) In each of the last 3 years of such 5-year period, 18 percent of the total grant amount shall be disbursed to the entity.

"(6) APPLICATIONS.—To be eligible to receive a grant under paragraph (1)(A), an eligible entity shall submit to the Secretary an application in the form and manner required by the Secretary (after consultation with the Advisory Committee), which shall include—

"(A) a description of the midnight basketball league program to be carried out by the entity, including a description of the employment counseling, job training, and other educational services to be provided;

"(B) letters of agreement from service providers to provide training and counseling services required under paragraph (4) and a description of such service providers;

"(C) letters of agreement providing for facilities for basketball games and counseling, training, and educational services required under paragraph (4) and a description of the facilities;

"(D) a list of persons and businesses from the community served by the program who have expressed interest in sponsoring, or have made commitments to sponsor, a team in the midnight basketball league; and

"(E) evidence that the neighborhood or community served by the program meets the requirements of paragraph (4)(C).

"(7) SELECTION.—The Secretary, in consultation with the Advisory Committee, shall select eligible entities that have submitted applications under paragraph (6) to receive grants under paragraph (1)(A). The Secretary, in consultation with the Advisory Committee, shall establish criteria for selection of applicants to receive such grants. The criteria shall include a preference for selection of eligible entities carrying out midnight basketball league programs in suburban and rural areas.

"(8) TECHNICAL ASSISTANCE GRANTS.—Technical assistance grants under paragraph (1)(B) shall be made as follows:

"(A) ELIGIBLE ADVISORY ENTITIES.—Technical assistance grants may be made only to entities that—

"(i) are experienced and have expertise in establishing, operating, or administering successful and effective programs for midnight basketball and employment, job training, and educational services similar to the programs under paragraph (4); and

"(ii) have provided technical assistance to other entities regarding establishment and operation of such programs.

"(B) USE.—Amounts received under technical assistance grants shall be used to establish centers for providing technical assistance to entities receiving grants under paragraph (1)(A) of this subsection and subsection (a) regarding establishment, operation, and administration of effective and successful midnight basketball league programs under this subsection and subsection (c)(3).

"(C) NUMBER AND AMOUNT.—To the extent that amounts are provided in appropriations Acts under paragraph (13)(B) in each fiscal year, the Secretary shall make technical assistance grants under paragraph (1)(B). In each fiscal year that such amounts are available the Secretary shall make 4 such grants, as follows:

"(i) 2 grants shall be made to eligible advisory entities for development of midnight basketball league programs in public housing projects.

"(ii) 2 grants shall be made to eligible advisory entities for development of midnight basketball league programs in suburban or rural areas.

"(iii) Each grant shall be in an amount not exceeding $25,000.

"(9) ADVISORY COMMITTEE.—The Secretary of Housing and Urban Development shall appoint an Advisory Committee to assist the Secretary in providing grants under this subsection. The Ad-

visory Committee shall be composed of not more than 7 members, as follows:

"(A) Not less than 2 individuals who are involved in managing or administering midnight basketball programs that the Secretary determines have been successful and effective. Such individuals may not be involved in a program assisted under this subsection or a member or employee of an eligible advisory entity that receives a technical assistance grant under paragraph (1)(B).

"(B) A representative of the Center for Substance Abuse Prevention of the Public Health Service, Department of Health and Human Services, who is involved in administering the grant program for prevention, treatment, and rehabilitation model projects for high risk youth under section 509A of the Public Health Service Act (42 U.S.C. 290aa–8), who shall be selected by the Secretary of Health and Human Services.

"(C) A representative of the Department of Education, who shall be selected by the Secretary of Education.

"(D) A representative of the Department of Health and Human Services, who shall be selected by the Secretary of Health and Human Services from among officers and employees of such Department involved in issues relating to high-risk youth.

"(10) REPORTS.—The Secretary shall require each eligible entity receiving a grant under paragraph (1)(A) and each eligible advisory entity receiving a grant under paragraph (1)(B) to submit to the Secretary, for each year in which grant amounts are received by the entity, a report describing the activities carried out with such amounts.

"(11) STUDY.—To the extent amounts are provided under appropriation Acts pursuant to paragraph (13)(C), the Secretary shall make a grant to one entity qualified to carry out a study under this paragraph. The entity shall use such grant amounts to carry out a scientific study of the effectiveness of midnight basketball league programs under paragraph (4) of eligible entities receiving grants under paragraph (1)(A). The Secretary shall require such entity to submit a report describing the study and any conclusions and recommendations resulting from the study to the Congress and the Secretary not later than the expiration of the 2-year period beginning on the date that the grant under this paragraph is made.

"(12) DEFINITIONS.—For purposes of this subsection:

"(A) The term 'Advisory Committee' means the Advisory Committee established under paragraph (9).

"(B) The term 'eligible advisory entity' means an entity meeting the requirements under paragraph (8)(A).

"(C) The term 'eligible entity' means an entity described under paragraph (2)(A).

"(D) The term 'federally assisted low-income housing' has the meaning given the term in section 5126 of the Public and Assisted Housing Drug Elimination Act of 1990.

"(E) The term "Secretary" unless otherwise specified, means the Secretary of Housing and Urban Development.

"(13) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

"(A) for grants under paragraph (1)(A), $2,650,000 in each of fiscal years 1994 and 1995;

"(B) for technical assistance grants under paragraph (1)(B), $100,000 in each of fiscal years 1994 and 1995; and

"(C) for a study grant under paragraph (11), $250,000 in fiscal year 1994.".

SEC. 1053. PUBLIC HOUSING MIDNIGHT BASKETBALL LEAGUE PROGRAMS.

Section 520(c) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C 11903a(c)) is amended by adding at the end the following new paragraph:

"(3) MIDNIGHT BASKETBALL LEAGUE PROGRAMS.—Notwithstanding any other provision of this subsection and subsection (d), a grant under this section may be used to carry out any youth sports program that meets the requirements of a midnight basketball league program under subsection (l)(4) (not including subparagraph (B) of such subsection) if the program serves primarily youths and young adults from the public housing project in which the program assisted by the grant is operated.".

And the House agree to the same.

From the Committee on Education and Labor, for consideration of the House amendment (except title II) to the Senate amendment, and the Senate amendment (except secs. 901–14), and modifications committed to conference:

WILLIAM D. FORD,
DALE E. KILDEE,
GEORGE MILLER,
TOM SAWYER,
MAJOR R. OWENS,
JOLENE UNSOELD,
JACK REED,
TIM ROEMER,
PATSY MINK,
ELIOT L. ENGEL,
XAVIER BECERRA,
GENE GREEN,
LYNN C. WOOLSEY,
KAREN ENGLISH,
TED STRICKLAND,
DONALD M. PAYNE,
CARLOS ROMERO-BARCELÓ,
BILL GOODLING,
STEVE GUNDERSON,
SUSAN MOLINARI,

From the Committee on Education and Labor, for consideration of title II of the House amendment to the Senate amendment, and secs. 901–14 of the Senate amendment, and modifications committed to conference:

WILLIAM D. FORD,
MAJOR R. OWENS,
DONALD M. PAYNE,
ROBERT C. SCOTT,
TOM SAWYER,
BILL GOODLING,
CASS BALLENGER,
BILL BARRETT,
HARRIS W. FAWELL,

As additional conferees from the Committee on Energy and Commerce, for consideration of title XII of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
HENRY A. WAXMAN,
MIKE SYNAR,
CARLOS J. MOORHEAD,
THOMAS J. BLILEY, Jr.,

As additional conferees from the Committee on Foreign Affairs, for consideration of sec. 921 of the Senate amendment, and modifications committed to conference:

LEE H. HAMILTON,
HOWARD L. BERMAN,
TOM LANTOS,
BEN GILMAN,
Managers on the Part of the House.

EDWARD M. KENNEDY,
CLAIBORNE PELL,
HOWARD M. METZENBAUM,
PAUL SIMON,
CHRISTOPHER DODD,
TOM HARKIN,
BARBARA A. MIKULSKI,
JEFF BINGAMAN,
PAUL WELLSTONE,
HARRIS WOFFORD,
NANCY LANDON KASSEBAUM,
JAMES M. JEFFORDS,
DAVE DURENBERGER,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the amendment of the Senate to the bill (H.R. 1804) to improve learning and teaching by providing a national framework for education reform; to promote the research, consensus building, and systemic changes needed to ensure equitable educational opportunities and high levels of educational achievement for all students; to provide a framework for reauthorization of all Federal education programs; to promote the development and adoption of a voluntary national system of skill standards and certifications; and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House amendment struck out all of the Senate amendment and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the House amendment and the Senate amendment. The differences between the Senate amendment, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

SHORT TITLE

Short Title: The House bill includes titles I through VI, including the National Skill Standards Board in the "Goals 2000: Educate America Act"; the Senate bill includes only titles I through IV in the "Goals 2000 Educate America Act" and establishes the National Skill Standards Board under the "National Skill Standards Act of 1993." The Conference Agreement includes the Skill Standards title and all other titles of the bill, with the exception of Title IX, as part of the "Goals 2000: Educate America Act."

TABLE OF CONTENTS

Table of Contents: The Senate bill, but not the House bill, contains a table of contents for the legislation. The House recedes.

PURPOSE

Purpose: The House bill includes improving the quality of learning in the classroom as well as in the workplace; the Senate bill includes improving the quality of learning in the classroom. The Senate recedes.

Purpose: The House bill refers to "education reform and lifelong learning"; the Senate bill refers to "education reform". The Senate recedes.

Purpose: The House bill, but not the Senate bill, includes "succeed in the world of employment and civic participation" as additional results to be achieved through equal educational opportunities. The Senate recedes, with an amendment including high academic and occupational skill standards.

Purpose: The House bill refers to "all students" and later defines the term; the Senate bill, following the term "all students", specifies that "all students" include "disadvantaged students, students with diverse racial,

ethnic, and cultural backgrounds, students with disabilities, students with limited-English proficiency, and academically talented students." The Senate recedes.

Purpose: The House bill, but not the Senate bill, includes the additional phrase, "enabling them [all children] to participate fully as workers, parents, and citizens." The Senate recedes, with an amendment to replace "enabling them to" with "to prepare them to".

Purpose: The Senate bill, but not the House bill, includes an additional objective of promoting the use of technology to enable all students to achieve the National Education Goals. The House recedes.

Purpose: The House bill, but not the Senate bill, includes an additional purpose of stimulating the development and adoption of a voluntary national system of skill standards and certification to serve as a cornerstone of the national strategy to enhance workforce skills. The Senate recedes.

Purpose: The House bill, but not the Senate bill, includes the additional purpose of assisting every elementary and secondary school that receives funds under this Act to actively involve parents and families in supporting the academic work of their children at home and in providing parents with skills to advocate for their children at school. The Senate recedes.

TITLE I—NATIONAL EDUCATION GOALS

SCHOOL READINESS

Objectives: The House bill includes "mental alertness necessary to be prepared to learn" as one of the aspects of readiness; the Senate bill includes "physical activity experiences" among the components children will receive to achieve school readiness. The House recedes, with an amendment adding "mental alertness necessary to be prepared to learn" to the list of components.

STUDENT ACHIEVEMENT AND CITIZENSHIP

Goal: The Senate bill, but not the House bill, includes economics as a subject matter. The House recedes.

Objective: The Senate bill, but not the House bill, includes "good health" in the list of items student activities should promote. The House recedes.

TEACHER EDUCATION AND PROFESSIONAL DEVELOPMENT

Goal: Both bills have a teacher education and professional development goal, but the objectives are different in the two bills. The House recedes to the Senate objectives. The House lists the teacher goal as Goal Four. The Senate lists the teacher goal as Goal Eight. The Senate recedes.

ADULT LITERACY

Objective: The House bill, but not the Senate bill, includes as an objective of the adult literacy goal that schools, in implementing comprehensive parent involvement programs, will offer more adult literacy, parent training and lifelong learning opportunities to improve the ties between home and school, and enhance parents' work and home lives. The Senate recedes.

SAFE, DISCIPLINED, AND ALCOHOL- AND DRUG-FREE SCHOOLS

Goal: The Senate bill, but not the House bill, clarifies that part of Goal 6 is to make schools free of alcohol and firearms. The House recedes, with an amendment clarifying that the goal refers to the unauthorized presence of alcohol and firearms.

Objective: The House and Senate bills both refer to creating a healthy environment and a safe haven for children, but the Senate bill includes governmental organizations as a group that will be working together toward the goal, and there are some drafting differences. The House recedes, with an amendment that combines the House and Senate language.

Objective: The House bill, but not the Senate bill, includes an objective of the safe schools goal that every school district will develop and implement a policy to ensure that all schools are free of weapons and violence. The Senate recedes, with an amendment saying that every school district will be free of "violence and the unauthorized presence of weapons."

Objective: The Senate bill, but not the House bill, includes an objective of the safe schools goal that every school should work to eliminate sexual harassment. The House recedes.

PARENTAL PARTICIPATION

Goal: The House bill titles the goal "School and Home Partnership"; the Senate bill titles the goal "Parental Participation". The House recedes.

Goal: With regard to increasing parental participation, the House bill states "every school and home will engage in partnerships"; the Senate bill states "every school will promote partnerships". The House recedes.

Objective: The House bill, but not the Senate bill, includes as an objective of the parent involvement goal that every home will be responsible for creating an environment of respect for education and providing the physical and emotional support needed for learning. The House recedes.

TITLE II—NATIONAL EDUCATION REFORM LEADERSHIP, STANDARDS, AND ASSESSMENTS

NATIONAL EDUCATION GOALS PANEL

Purpose: The Senate bill, but not the House bill, includes as a purpose of the Goals Panel periodically reviewing the goals and objectives described in title I and recommending adjustments to such goals and objectives, as needed, in order to guarantee education reform that continues to provide guidance for quality, world class education for all students. The Senate recedes.

It was agreed by both Houses that the term used throughout the bill regarding the subject of assessment throughout the bill would be "State assessments". This agreement eliminates all references to any form of assessment system throughout the bill.

The Senate amendment requires that the Goals Panel review and approve NESIC-certified standards and assessments, as well as the criteria for certifying such standards and assessments. The House bill requires that the Goals Panel review the standards, assessments, and criteria, with the option of disapproving them within 60 days. The Senate recedes, with an amendment changing the number of days from 60 to 90.

NATIONAL EDUCATION GOALS PANEL

Establishment

Establishment: The House bill establishes the National Education Goals Panel to "advise the President, the Secretary, and the Congress"; the Senate bill simply establishes the Panel. The Senate recedes.

Composition

Composition: With regard to members of State Legislatures appointed by the President of the National Conference of State Legislatures, the House bill says "not more than two may be of the same political party as the President of the United States", and the Senate bill says "of whom two shall be of the same political party as the President of the United States". The House recedes.

Special rule

Special Rule: The House bill, but not the Senate bill, requires that, to extent feasible, the membership of the Goals Panel shall be geographically representative and reflect the racial, ethnic, and gender diversity of the United States. The Senate recedes.

Chairperson

In General: The House bill authorizes the President to select a chairperson from among the membership of the Goals Panel; the Senate bill authorizes the members to select a chairperson from among the Governors who are members of the Goals Panel. The House recedes, with an amendment to expand the eligibility of the Chairperson to all members of the Goals Panel.

Conflict of Interest: The House bill, but not the Senate bill, includes a conflict of interest provision regarding members of the Goals Panel. The Senate recedes.

Ex-Officio Member: The House bill, but not the Senate bill, requires that if the President has not appointed the Secretary of Education as one of his 2 appointments, that the Secretary shall serve as an ex-officio, nonvoting member of the Panel. The Senate recedes.

Duties

In General: The House bill specifies that the Goals Panel is to report to the President, Secretary, and the Congress on the progress towards the goals in an annual report; the Senate bill requires the Panel to report on progress towards the goals in an annual national report card. The Senate recedes.

The Senate bill, but not the House bill, requires the Panel to submit to the President nominations for appointments to NESIC. The House recedes, consistent with changes in the NESIC appointment process agreed to by both Houses.

The House bill, but not the Senate bill, requires the Panel to report on State opportunity to learn standards and the progress of States in meeting such standards. The conference agreement requires the report to report on State opportunity to learn standards and strategies and the progress of states which are implementing such standards and strategies.

The House bill, but not the Senate bill, requires the Panel to take into consideration public comments. The Senate recedes.

National report card

Title: The House bill titles the provision "REPORT"; the Senate bill titles the provision "NATIONAL REPORT CARD". The Senate recedes.

The House bill, but not the Senate bill, requires the report to identify actions that should be taken by Federal, State, and local governments to enhance progress toward achieving State opportunity to learn standards. The Senate recedes, with an amendment rewriting the House provision to read as follows: "(B) identify actions that should be taken by Federal, State, and local governments to enhance progress toward achieving the National Education Goals and providing all students with a fair opportunity to learn."

The House bill, but not the Senate bill, requires the report to report on State opportunity to learn standards and the progress of States in meeting such standards. The conference agreement requires the report to report on State opportunity to learn standards and strategies and the progress of states which are implementing such standards and strategies.

Powers of the Goals Panel

Representation: The House bill refers to "voluntary national content and student

performance standards, assessments, and opportunity to learn standards"; the Senate bill refers to "voluntary national content, voluntary national student performance standards, voluntary national opportunity to learn standards, and State assessments or systems of assessments described in section 213(e)". The House recedes, with an amendment striking "or systems of assessments".

Gifts; Use of Facilities: The Senate bill, but not the House bill, allows the Goals Panel to accept, administer, and utilize gifts or donations of services. The Senate recedes.

Administrative provisions

Voting and Final Decisions: The Senate bill, but not the House bill, requires that final decisions of the Goals Panel be made by consensus or, if a vote is required, by a three-fourths vote of the members of the Goals Panel who are present and voting. The House recedes.

Early childhood assessment

In General: The House bill, but not the Senate bill, includes the phrase "that would lead to alternatives to currently used norm-referenced early childhood assessments." Senate recedes, with an amendment deleting 'norm-referenced".

Activities: The Senate bill, but not the House bill, asks the Groups to develop a model of elements of school readiness that address a broad range of early childhood developmental needs, including the needs of children with disabilities. The House bill requires that the groups create guidelines on the nature, functions, and uses of early childhood assessments including a model of school readiness; the Senate bill requires that the groups create guidelines on the nature, functions, and uses of early childhood assessments based on model elements of school readiness. The House recedes.

Activities: The Senate bill, but not the House bill, includes the phrase "including norm-referenced assessments and assessment formats that are appropriate for use in culturally and linguistically diverse communities,". The House recedes, with an amendment striking "norm-referenced assessments and".

Part B—National Education Standards and Improvement Council

PURPOSE

Purpose: The House bill says "certify and regularly review"; the Senate bill says "certify." The Senate recedes, with an amendment replacing "regularly" with "periodically".

Purpose: With regard to State content and performance standards being certified by NESIC, the House bill refers to "equal or higher quality"; the Senate bill refers to "comparable in rigor and quality to". The House recedes, with an amendment changing the provision to "comparable or higher in rigor and quality to".

Purpose: The House bill says "certify and regularly review"; the Senate bill says "certify." The Senate recedes, with an amendment replacing "regularly" with "periodically".

Purpose: The House bill says "opportunity-to-learn standards"; the Senate bill says "comprehensive State opportunity-to-learn standards". The Senate recedes.

The House bill authorizes certification of the State opportunity-to-learn standards if such standards are of "equal or higher quality" as compared with the voluntary national standards. The Senate bill authorizes certification of the State opportunity to learn standards if such standards "describe the conditions of teaching and learning necessary for all students to have a fair opportunity to learn" and if such standards meet the elements described in section 213(c)(3). The Senate recedes, with an amendment striking "if such standards are of equal or higher quality as compared with the voluntary national opportunity to learn standards" and inserting "if such standards are comparable or higher in rigor and quality to the voluntary national opportunity to learn standards certified by the National Education Standards and Improvement Council".

Purpose: The House bill allows submission of assessments by States; the Senate bill allows submission of assessments by States or groups of States. The House recedes.

Purpose: With regard to NESIC certifying assessments, the House bill specifies that the assessments must be "valid, reliable, and consistent with relevant, nationally recognized professional and technical standards for assessment"; the Senate bill specifies that the assessments must be "valid, reliable, and fair". The Senate recedes.

NATIONAL EDUCATION STANDARDS AND IMPROVEMENT COUNCIL

Composition: The House bill requires that the Council be composed of 20 members; the Senate bill requires that the Council be composed of 19 members. The House recedes.

Composition: The House bill has 8 members appointed by the President, 4 members appointed by the Speaker of the House, 4 members appointed by the Majority Leader of the Senate, and 4 members appointed by the Goals Panel; the Senate bill has the members appointed by the President from nominations received from the Goals Panel.

The conference agreement provides for the Council to be appointed by the President from nominations submitted as follows:

(1) 7 members from among 21 individuals nominated by the Secretary;

(2) 4 members from among 12 individuals nominated by the Speaker of the House of Representatives, in consultation with the majority and minority leaders of the House;

(3) 4 members from among 12 individuals nominated by the majority leader of the Senate, in consultation with the minority leader of the Senate;

(4) 4 members from among 12 individuals nominated by the National Education Goals Panel. The nominees in each group are to be distributed among the four categories of NESIC members (professional educators; representatives of business, labor, and post-secondary education; members of the public; and education experts) as outlined in the conference agreement.

QUALIFICATIONS

In General: The House bill says "including . . . and"; the Senate bill says "appointed from among . . . or". The House language indicates that all of the groups listed must be represented. The Senate language indicates that the five professional educators should be appointed from among the groups listed. The House recedes.

In General: The House bill requires that five members of the Council be from business and industry, organized labor, and post-secondary educational institutions, including at least one representative from each of the three groups (the required business representative must also be a member of the National Skill Standards Board).

The Senate bill requires that four members of the Council be from business and industry or postsecondary educational institution, including at least one representative of business and industry who is also a member of the Skill Standards Board. The Senate recedes, with an amendment changing the number of members to four from business and industry.

In General: The House bill says "including . . . and"; the Senate bill says "appointed from among . . . or". Same problem as above: The House language indicates that all of the groups listed must be represented. The Senate language states that the five representatives of the public should be appointed from among the groups listed. The House recedes.

In General: The Senate bill, but not the House bill, includes tribal government representatives. The House recedes, with an amendment specifying that policymakers may includes tribal school boards.

In General: The House bill says "including . . . and"; the Senate bill says "appointed from among . . . or". The House language indicates that all of the groups listed must be represented. The Senate language states that the five professional education experts should be appointed from among the groups listed. The House recedes.

Representation: The House bill requires that one-third of the Council consist of individuals with expertise in educational needs of children who are from low-income families, minority backgrounds, have limited English proficiency, or have disabilities. The Senate bill requires that, to the extent feasible, the membership of the Council shall include persons from each of the four categories with expertise in the education of subgroups of students who are at risk of school failure. The Senate recedes, with an amendment adding "or backgroup" after "expertise", to require that at least one-third of all nominations and appointments have such expertise or background, and adding a new subsection that will read as follows: "To the extent feasible, the membership of the Council will be equally represented by both major political parties."

TERMS

Initial Terms: The House bill requires that the Council establish by lot initial terms for individuals of one, two, or three years; the Senate bill requires the President to establish initial terms of 1, 2, or 3 years. The Senate recedes.

CONFLICT OF INTEREST

Conflict of Interest: The House bill conflict of interest provision bars members of the Council from serving concurrently on the Goals Panel. The Senate bill, but not the House bill, prohibits members, staff, experts, and consultants from being appointed to the Council if they have a fiduciary interest in an educational assessment unless they agree that they will not obtain such an interest for a period of 2 years from the date of termination of the member's service on the Council. The Senate recedes.

Conflict of Interest: The House bill, but not the Senate bill, requires that section 208 of title 18 of the United States Code, relating to criminal penalties, apply to members of the Council except that, for the purposes of making written determinations under subsection (b)(1), the Government official responsible for the appointment of any member of the Council is deemed to be the Director of the Office of Government Ethics. The Senate recedes, with an amendment striking the House language and replacing it with a sunshine provision which details why the individual's services outweigh the potential for a conflict of interest to the House and Senate committees of jurisdiction and a requirement that NESIC develop and submit to the

House and Senate committees of jurisdiction procedures to govern the recusal process, consistent with current regulations.

Conflict of Interest: The House bill, but not the Senate bill, says that a member of the Council who resides in a State which has developed standards and assessments "may not" participate in Council consideration of that State's standards and assessments. The Senate recedes.

DUTIES

Voluntary national content standards

In General: The House bill requires the Council to carry out certain duties; the Senate bill requires the Council to carry out certain duties based upon recommendations from a working group on voluntary national content standards. The Senate recedes, with an amendment, which allows the Council to consult with outside experts. (p. 53, #50)

In General: The House bill, but not the Senate bill, specifies that the Council shall use the criteria developed under paragraph (2)(A)(i) when certifying content standards and student performance standards. The Senate recedes. (p. 53, #51)

In General: The House bill, but not the Senate bill, requires the Council to develop a process for regularly reviewing any national voluntary content, student performance, and opportunity to learn standards that have been certified. The Senate recedes, with an amendment replacing "regularly" with "periodically". (p. 54, #53)

Criteria: The House bill requires the Council to develop criteria; the Senate bill requires the Council to develop criteria, upon the recommendation from a working group on the content and performance standards. The Senate recedes, with an amendment, which allows the Council to consult outside experts. (p. 54, #54)

Criteria: The House bill, but not the Senate bill, includes advocacy groups among those that should be involved in the process. The Senate bill, but not the House bill, includes secondary school students among those that should be involved in the process. The House recedes, with an amendment including advocacy groups among those that should be involved in the process. (p. 56, #56)

Voluntary State content standards

Voluntary State Content Standards: The House bill allows "States" to have standards certified; the Senate bill refers to "a State or groups of States". The House recedes. (p. 57, #57a)

Voluntary State Content Standards: The House bill, but not the Senate bill, specifies that the Council shall use the criteria developed under subsection (a)(2)(A)(i). The Senate recedes. (p. 57, #58)

Voluntary State Content Standards: The House bill refers to states standards of "equal or higher quality" than the national standards; the Senate bill refers to "comparable in rigor and quality". The House recedes, with an amendment to "comparable or higher in rigor and quality to". (p. 57, #58a)

Voluntary national opportunity-to-learn standards

In General: The House bill requires the Council to certify exemplary, voluntary national opportunity to learn standards; the Senate bill requires the Council to certify exemplary, voluntary national opportunity to learn standards based upon the recommendations from a working group on voluntary national opportunity to learn standards. The Senate recedes, with an amendment that the Council may consult outside experts. (p. 57, #59)

The Senate bill, but not the House bill, includes a provision clarifying that the Council and the working group may consider proposals for voluntary national OTL standards from groups other than those that receive OTL development grants from the Secretary. The House recedes. (p. 58, #60)

Elements addressed: The House bill, but not the Senate bill includes "distance learning" among the factors to be addressed when the Council certifies opportunity-to-learn standards. The Senate recedes. (p. 58, #61)

Elements addressed: The House bill, but not the Senate bill, includes "principals" in this list. The Senate recedes. (p. 58, #62)

Elements addressed: The House bill, but not the Senate bill, specifies that the voluntary national opportunity to learn standards shall address the extent to which schools utilize policies, curricula, and instructional practices which ensure nondiscrimination on the basis of gender. The Senate recedes. (p. 59, #63)

Additional Duties: The House bill requires NESIC to develop criteria for both "voluntary national and State opportunity to learn standards."

The Senate bill requires NESIC to develop criteria only for "voluntary national opportunity to learn standards." The Senate recedes. (p. 60, #64)

Voluntary State Opportunity to Learn Standards: The House bill, but not the Senate bill, requires that the Council use the criteria it developed under subsection (c)(3)(B) for certifying State opportunity to learn standards. The Senate recedes, with an amendment striking "if such standards are of equal or higher quality as compared with the voluntary national opportunity to learn standards" and inserting "if such standards are comparable or higher in rigor and quality to the voluntary national opportunity to learn standards certified by the National Education Standards and Improvement Council". (p. 62, #68)

Voluntary State Opportunity to Learn Standards: The House bill allows the Council to certify State opportunity to learn standards if they are of equal or higher quality as compared to the voluntary national opportunity to learn standards.

The Senate bill allows the Council to certify State opportunity to learn standards that—(1) describe the conditions of teaching and learning necessary for all students to have a fair opportunity to learn; and (2) address the same elements that the national opportunity to learn standards are required to address (outlined in Sec. 213(c)(3)). The Senate recedes. (p. 62, #68)

Requirement: The major difference here between the two bills is that the House provision [(e) GENERAL PROVISION REGARDING VOLUNTARY NATIONAL STANDARDS] refers to voluntary national content standards, student performance standards, and OTL standards, while the Senate provision [(2) REQUIREMENT] refers only to voluntary national OTL standards. The Senate recedes. (p. 62, #69)

ASSESSMENTS

The conferees intend that, if the Council deems it appropriate, the Council should include the notice and comment procedures in the Administrative Procedures Act (5 U.S.C. 553) in its process of certifying assessment criteria under this section.

In General: The House says the Council may certify assessments whereas the Senate says the Council shall certify such assessments. The Senate recedes. (p. 63, #69a)

In General: The House bill says that the Council may certify an assessment system that is "submitted voluntarily by a State" the Senate bill says "presented on a voluntary basis by a State or group of States". The Senate recedes, with an amendment adding "or group of States" after "State" and replacing "an assessment system" with "State assessments". (p. 63, no #)

In General: The House bill, but not the Senate bill, says that the Council should use the criteria it develops under paragraph (2)(A) below. The Senate recedes. (p. 63, #70)

In General: The Senate bill, but not the House bill, requires that the Council certify assessments "for a period not to exceed five years." The House recedes. (p. 63, #71)

In General: The House bill says that assessments may be certified if they are "aligned with the State's content standards certified by the Council." The Senate bill says the assessments shall be certified if the assessment or system of assessments—(1) is aligned with the State's or group of State's challenging content standards certified by the Council; (2) involves multiple measures of student performance; (3) provides for the participation of all students with diverse learning needs; and (4) provides for the accommodations and adaptations necessary to permit such participation. The Senate recedes. (p. 63, #72)

In General: The House bill, but not the Senate bill, includes related services personnel. The Senate recedes. (p. 64, #73)

In General: The House bill, but not the Senate bill, says that the Council shall certify a State's assessment system only if the State has established or adopted opportunity to learn standards. With an amendment, replacing "State's assessment system" with "State assessments". The Senate recedes, with an amendment rewriting the House provision to read as follows:

"(C) The Council shall certify State assessments only if—

"(i) a State can demonstrate that all students have been prepared in the content for which they are being assessed; (ii) such assessments will not be used to make decisions regarding graduation, grade promotion, or retention of students for a period of four years from the date of enactment of this Act; and" (p. 65, #74)

In General: Both the House and Senate bills say that the Council shall certify an assessment system only if it will not be used to make "high stakes" decisions. The House prohibition is for period of five years from the date of enactment of this act; The Senate prohibition is for a period of three years. The House recedes, with an amendment changing the period to four years. (p. 65, #75)

In General: The House bill, but not the Senate bill, says that the Council shall certify an assessment system only if the State has submitted—(1) a description of the purposes for which the assessment system has been designed; (2) the methodologies and process used to develop, select, validate, and use such assessment systems; and (3) a copy of the test instrument and other measures that will make up the system. The Senate recedes, with an amendment adding a fourth submission requirement stating, "a description of other measures the State will use to evaluate student performance", striking "and as appropriate, other measures that will make up the system", and changing "assessment system" to "State assessments" throughout the provision to "State assessments". (p. 65, #76)

In General: The House bill, but not the Senate bill, says that the Council shall certify an assessment system only if the State has submitted evidence that the test or tests are valid, reliable measures of their intended purposes, are aligned with State content

standards, are capable of assessing the progress of all students toward learning the material in the State content standards, and are consistent with relevant nationally recognized professional and technical standards. The Senate recedes. (p. 66, #77)

In General: The House bill, but not the Senate bill, requires the Council to, at the request of a State prior to developing an assessment system for a proposed use, review and provide guidance to that State on a proposed package of measures, including tests that would be included in an assessment system. The Senate recedes, with an amendment replacing "developing" with "submitting". (p. 66, #77a)

Implementation: The Senate bill adds the phrase ", if such State or group has challenging State content standards that have been certified by the Council." The Senate recedes. (p. 67, #78a)

Implementation: The Senate bill, but not the House bill, requires the certification criteria to address the extent to which a State's assessment will support effective curriculum instruction. The Senate bill, but not the House bill, refers to assessments being "fair". The House bill, but not the Senate bill, refers to assessments being "consistent with relevant, nationally recognized professional and technical standards for assessment". The Senate recedes. (p. 68, #79)

Implementation: The House bill, but not the Senate bill, refers to "emerging new State and local assessments". The Senate recedes. (p. 68, #80)

Implementation: The House bill requires the Council to certify an assessment only if it includes all students; Senate bill requires that the certification criteria address the extent to which assessments include all students, especially students with disabilities or with limited English proficiency. The Senate recedes, with an amendment saying that the assessment "provides for the adaptations and accommodations necessary to permit such participation." (p. 69, #81)

Performance of Duties: The House bill, but not the Senate bill, requires the Council to provide for a process of broad public input as part of the process of developing criteria for standards and assessments. The Senate recedes. (p. 70, #82)

Performance of Duties: The House bill, but not the Senate bill, requires the Council to periodically recertify the assessments it certifies. The Senate recedes. (p. 71, #83)

Construction: The House bill and the Senate bill have similar provisions regarding the voluntary nature of standards certification, but the House includes assessment certification. The House bill clarifies that State participation in title III of this Act shall not be a condition to participate in any Federal education program. The Senate recedes.

The Senate bill clarifies that the Act does not create a legal enforceable right for any person against a State, LEA, or school based on a standard or assessment certified by NESIC or the NESIC certification criteria. The House recedes.

POWER OF THE COUNCIL

Gifts; Use of Facilities: The Senate bill, but not the House, bill allows NESIC to accept, administer, and utilize gifts or donations of services. The Senate recedes. (p. 74, #84).

ADMINISTRATIVE ARRANGEMENTS AND SUPPORT

Contracts and Other Arrangements: The House bill, but not the Senate bill, requires the Council to transmit to the Secretary the criteria and proposed national content, performance, and opportunity to learn standards and assessments so that the Secretary may publish such criteria and proposed standards in the Federal Register in order to receive public comment. The Senate recedes. (p. 75, #85)

OPPORTUNITY-TO-LEARN DEVELOPMENT GRANTS

In General: The House bill authorizes the Secretary to make one OTL development grant; the Senate bill authorizes the Secretary to award more than one such grant. The House recedes. (p. 79, #86)

In General: The Senate bill, but not the House bill, requires the consortia which receive grants to develop a listing of model programs for use by States in assessing the capacity and performance of individual schools and developing appropriate actions to be taken in the event that schools fail to achieve opportunity to learn standards. The House recedes, with an amendment including a new provision to read as follows: "providing all students with an opportunity to learn;". (p. 79, #88)

Composition of Consortium: Both bills require that, to the extent possible, each consortium that receives a grant include the participation of certain people. The House includes "State level policy makers" (e.g. Governors, State legislators, chief State school officers, and State school board members), whereas the Senate requires each of these people separately; the House has one category called "local policymakers and administrators" (e.g., local school board members, superintendents, and principals), whereas the Senate requires each of these people separately; both bills include teachers, but the Senate bill, unlike the House bill, also includes related services personnel; both bills include parents, but the House bill, unlike the Senate bill, also includes individuals with experience in promoting parental involvement in education; the House bill, but not the Senate bill, includes experts in vocational-technical education; the House bill, but not the Senate bill, includes individuals with expertise in school finance and equity, the education of at-risk students, and the preparation and training of teachers and school administrators; both bills include representatives of advocacy groups, but the House specifies "student and civil rights advocacy groups." The Senate recedes, with an amendment to include related service personnel and representatives of advocacy groups including students and civil rights advocacy groups. (p. 80–81, #89)

Composition of Consortium: The House bill, but not the Senate bill, requires that the consortium draw upon current research about student achievement and the necessary conditions for effective teaching and learning, and provide for the development of several consecutive drafts of standards which incorporate the comments and recommendations of educators and other knowledgeable individuals across the Nation. The Senate recedes, with an amendment replacing "several consecutive" with "more than one". (p. 82, #90)

Composition of Consortium: The House bill, but not the Senate bill requires that one-third of the consortium's membership consist on individuals with expertise in the educational needs and assessment of children who are from low-income families, minority backgrounds, have limited-English proficiency, or have disabilities. The Senate recedes. (p. 82, #91)

Composition of Consortium: The House bill, but not the Senate bill, requires that the membership of the consortium be geographically representative and reflect the racial, ethnic, and gender diversity of the United States. The Senate recedes. (p. 82, #92)

Applications: The House bill, but not the Senate bill, requires the Secretary to give a priority to applications from consortia which involve individuals and organizations with the greatest diversity of perspectives and points of view. (p. 83, #93)

Report: The House bill, but not the Senate bill, requires the consortium to submit a report to the Secretary which discusses the background, important issues, and rationale regarding the voluntary national opportunity to learn standards. The Senate recedes. (p. 83, #94)

Assessment development and evaluation grants

General: The House bill and the Senate bill have similar provisions regarding grants for the development of assessments. They differ as follows: The House provision is in its own section and has a separate funding authorization; the Senate provision is in Section 313(b) and may be funded from a pool of funds (drawn from not more than 50% of the National Leadership money), which funds may also be used for assistance to urban and rural LEAs, schools, or consortia. The two possible uses of funds are connected by the word "or"—so the Secretary must provide either urban and rural assistance or assessment assistance, or both. The House bill lists the eligible entitles as "States and local educational agencies"; the Senate bill lists the eligible entities as a State or local educational agency, nonprofit organization or consortium thereof". The Senate recedes. It is the intent of the conferees that when the Secretary makes grants to SEAs or LEAs, such agencies can work with organizations of demonstrated effectiveness.

General: The Senate bill, but not the House bill, put a priority on grants or contracts for limited English proficient students or students with disabilities. The Senate recedes, with an amendment inserting "and for students with disabilities" at the end of the provision. (p. 84a, #96)

General: The House bill requires the Secretary to reserve a portion of the funds authorized for assessment grants to make grants to SEAs and LEAs for purposes of developing assessments in languages other than English. The Senate recedes, with an amendment inserting "and for students with disabilities" at the end of the provision. (p. 84a, #96)

Requirements: The House bill, but not the Senate bill, says that an assessment system developed and evaluated with funds under this section may not be used to make "high stakes" decisions for a period of five years from the date of enactment of this Act. The Senate recedes, with an amendment replacing "an assessment system" with "State assessments". (p. 85, #999)

EVALUATION

Grant: The House bill, but not the Senate bill, requires that the Secretary annually make a grant to the National Academy of Sciences or to the National Academy of Education to conduct an evaluation of technical quality of the work performed by the Goals Panel and the Council; the process used by the Council to develop criteria for certification and to certify standards and assessments; and the process used by the Goals Panel to approve certification criteria and standards. The grantee must also periodically provide the Goals Panel and the Council information from the evaluation, and report on the opportunity to learn and assessment development grants. Finally, the grantee must periodically report to Congress, the Secretary, and the public regard-

ing its findings, and shall make a final report not later than January 1, 1998. The Senate recedes, with an amendment specifying that the National Academy of Education is the group to do the study and that the study be done only once during reauthorization of the bill, with the final report finished by January 1, 1998. (p. 86, #100)

Part C—Leadership in Educational Technology

PURPOSES

Purpose: The Senate bill, but not the House bill, includes a new program in title II for Leadership in Educational Technology. The House recedes. (p. 88, 1st #101)

FEDERAL LEADERSHIP ACTIVITIES AUTHORIZED

In General: The Senate bill, but not the House bill, authorizes the Secretary, in consultation with the National Science Foundation, the Department of Commerce, and other appropriate Federal departments or agencies, to carry out activities designed to provide Federal leadership in promoting higher student achievement through the use of technology in education. The House recedes. (p. 91, 1st #101)

Transfer of Funds: The Senate bill, but not the House bill, in order to carry out coordinated or joint activities to achieve the purposes of this program, allows the Secretary to accept funds from, and transfer funds to, other Federal departments or agencies. The House recedes, with an amendment deleting "transfer funds to". (p. 91, 2nd #101)

NATIONAL LONG-RANGE PLAN

The Senate bill, but not the House bill, requires the Secretary to publish within 12 months of the enactment of this Act, a national long-range plan to carry out the purposes of this part. The Secretary must develop the plan in consultation with other Federal departments or agencies, State and local educators and policymakers, experts in technology, and providers of technology; transmit the plan to the President and Congress; and publish the plan. The plan must describe how the Secretary will encourage the use of technology in order to provide all students the opportunity to achieve State standards; joint activities to be conducted with other Federal agencies and departments; how the Secretary will work with educators and State and local educational agencies to facilitate the use of technology in education; how the Secretary will promote higher achievement of all students through the integration of technology in the curriculum, increased access to technology, the use of technology to assist in the implementation of State systemic reform strategies, the application of technological advances, and the professional development of teachers in the use of new technologies; how the Secretary will determine the feasibility and desirability of establishing guidelines to facilitate an easy exchange of data and effective use of technology; and the Secretary's long-range measurable goals and objectives relating to the purposes of this part. The House recedes.

The Senate bill, but not the House bill, requires the Secretary to provide assistance to the States to enable them to plan effectively for the use of technology in all schools. The House recedes.

OFFICE OF EDUCATIONAL TECHNOLOGY

Amendment to the Department of Education Organization Act: The Senate bill, but not the House bill, creates an Office of Educational Technology in the Department of Education. The House recedes, with an amendment striking the reference to the General Education Provisions Act. (p. 96, 2nd #101)

Establishment: The Senate bill, but not the House bill, delineates the functions of the Director of the Office of Educational Technology as carrying out part C of the Goals 2000: Educate America Act; providing leadership to the Nation in the use of technology and to promote the achievement of the National Education Goals; reviewing all programs and training functions administered by the Department in order to promote the infusion of technology and technology planning throughout all such programs; and performing additional functions as the Secretary may require. The House recedes, with an amendment putting the matter into the Department of Education Organization Act. (p. 97, #101)

Personnel: The Senate bill, but not the House bill, authorizes the Director, to select, appoint, and employ such officers and employees as may be necessary. The House recedes (p. 99, 1st #101)

Compensation of the Director: The Senate bill, but not the House bill, amends section 5315 of the U.S. code in order to provide for the compensation of the Director. The House recedes. (p. 99, 2nd #101)

USES OF FUNDS

In General: The Senate bill, but not the House bill, authorizes the Secretary to use funds appropriated for part to carry out activities to achieve the purpose of this part, including providing assistance to technical assistance providers so that they might improve their services; consulting with interested parties in carrying out this part; conducting research on and developing guidelines to facilitate maximum interoperability; conducting research on and developing educational applications of the most advanced and newly emerging technologies; developing and evaluating software, model strategies for preparing teachers to use technology, and model programs; conducting conferences; and other activities. The House recedes. (p. 100, #101)

Grants and Contracts: The Senate bill, but not the House bill, requires the Secretary to carry out activities directly by grant or contract, and requires that each grant or contract be awarded on a competitive basis and pursuant to a peer review process. The House recedes. (p. 103, #101)

NON-FEDERAL SHARE

In General: The Senate bill, but not the House bill, allows the Secretary to require any recipient of a grant or contract to share the costs of the activities under this part. The House recedes. (p. 103, no #)

OFFICE OF TRAINING TECHNOLOGY TRANSFER

Transfer: The Senate bill, but not the House bill, requires that the Office of Training Technology Transfer established under section 6103 of the Training Technology Act of 1988, be transferred to the Office of Educational Technology. The House recedes, with an amendment to add "and established in" before the Office. (p. 104, #101)

AUTHORIZATION OF APPROPRIATIONS

Authorization of Appropriations: The Senate bill, but not the House bill, amends section 6108 of the Training Technology Transfer Act of 1988 to authorize $3,000,000 to be appropriated in fiscal year 1995, and such sums as may be necessary in fiscal years 1996 through 1999. The Senate recedes. (p. 105, #101)

Opportunity to Learn Development Grant: The House bill authorizes $3,000,000 to be appropriated for fiscal year 1994 and such sums as may be necessary for fiscal year 1995 to carry out the opportunity to learn development grant program; the Senate bill authorizes $1,000,000 for fiscal year 1994, and such sums as may be necessary for fiscal year 1995 to carry out the opportunity to learn development grant program. The House recedes, with an amendment replacing "1,000,000" with "2,000,000". (p. 106, #102)

Assessment Development and Evaluation Grant: The House bill authorizes $5,000,000 for fiscal year 1994 and such sums as may be necessary for each of the fiscal years 1995 through 1998 to carry out the assessment development and evaluation grants program; the Senate bill allows the Secretary to use a portion of the funds reserved for National Leadership Activities under title III for the assessment development grants. The Senate recedes. (p. 107, #103)

Leadership in Educational Technology: The Senate bill, but not the House bill, authorizes $5,000,000 to be appropriated for fiscal year 1994 and such sums as may be necessary to each of the fiscal years 1995 through 1998 to carry out the technology program. The Senate recedes. (p. 107, #104)

TITLE III—STATE AND LOCAL EDUCATION SYSTEMIC IMPROVEMENT

FINDINGS

Titles: Different Titles (House: CONGRESSIONAL FINDINGS; Senate: FINDINGS). The House recedes. (p. 108, no #)

Findings: The House bill refers to "learn and achieve high standards"; the Senate bill refers to "learn to high standards". The Senate recedes. (p. 108, no #)

Findings: The House bill, but not the Senate bill, adds the phrase "in order to increase student learning". The Senate recedes. (p. 109, #105)

Fingings: The House bill refers to "child care"; the Senate bill refers to "early childhood education and child care". The House recedes. (p. 110, #106)

Findings: The House bill, but not the Senate bill, states that schools should provide information to business regarding how the business community can assist schools in meeting the goals of this Act. The Senate recedes. (p. 111, #108)

Findings: The House bill, but not the Senate bill, includes a finding regarding institutions of higher education entering into partnerships with schools. The Senate recedes. (p. 111, #109)

Findings: The House bill refers to "helping to bring all students the opportunity to learn"; the Senate bill refers to "helping to provide all students with the opportunity to learn". The House recedes. (p. 111, no #)

Findings: The Senate bill, but not the House bill, includes a finding stating that all students are entitled to teaching practices that are in accordance with accepted standards of professional practice. The Senate recedes. (p. 112, #110)

Findings: The Senate bill, but not the House bill, includes a finding stating that all students are entitled to participate in a broad and challenging curriculum and to have access to resources sufficient to address other education needs. The House recedes. (p. 112, #111)

Findings: The Senate bill, but not the House bill, includes a finding stating that quality education management services are being used by LEAs and schools that contract out for services. The House recedes. (p. 112, #112)

PURPOSE

Purpose: The House bill says the purpose of the title is to improve the quality of edu-

cation for all students "by improving student learning through a long-term, broad-based effort to promote" while the Senate refers to the same purpose "by supporting a long-term, broad-based effort to provide". The Senate recedes. (p. 112, no #)

Purpose: The House bill refers to "throughout the Nation at the local and State levels"; the Senate bill refers to "throughout our Nation at the State and local levels". The House recedes, with an amendment replacing "our Nation" with "the Nation". (p. 112, no #)

AUTHORIZATION OF APPROPRIATIONS

Authorization: The House bill authorizes $393,000,000 to be appropriated in FY 1994; the Senate bill authorizes $400,000,000 to be appropriated in FY 1994, and the wording is different. The House recedes. (p. 113, #113)

ALLOTMENT OF FUNDS

Reservation of Funds: The House bill refers to "funds appropriated under section 303"; the Senate bill refers to "funds appropriated pursuant to the authority of section 303 in each fiscal year". The Senate recedes. (p. 113, no #)

Reservation of Funds: The House bill, but not the Senate bill, includes the parenthetical phrase "(referred to in this Act as the 'Bureau')". The Senate recedes. (p. 114, #113a)

Reservation of Funds: The Senate bill, but not the House bill, includes assistance to Alaska Native students under this subsection. The House recedes. (p. 114, #114)

Reservation of Funds: The House bill reserves up to 6 percent for national activities; the Senate bill reserves not more than 4 percent for national activities. The House recedes, with an amendment that changes the reserved funds to 5 percent. (p. 114, #115)

Reservation of Funds: The Senate bill, but not the House bill, specifies the subsection of section 313 (National Leadership Activities) for which funds may be reserved under this paragraph. This is because the House and Senate bills have different versions of section 313. (See section 313 for details.) The Senate recedes. (p. 114, #115a)

Reservation of Funds: The House bill, but not the Senate bill, authorizes the cost of the evaluation activities to be met with the funds reserved for national activities. The Senate recedes. (p. 114, #116)

State Allotments: The House bill refers to "States"; the Senate bill refers to "State educational agencies". The House recedes. (p. 115, no #)

Reallotments: The House bill refers to "State's"; the Senate bill refers to "State educational agency's". The House recedes. (p. 116, no #)

Reallotments: The House bill refers to "States"; the Senate bill refers to "State educational agencies". The House recedes. (p. 116, no #)

Maintenance of Effort: The Senate bill, but not the House bill, includes a maintenance of effort requirement. The House recedes, with an amendment striking the last except clause and inserting the following after "received"; except that the Secretary may waive the applicability of this subsection when the recipient presents justifiable reasons for a reduction of expenditures. (p. 116, #118)

Supplement Not Supplant: The Senate bill, but not the House bill, includes a supplement not supplant requirement. The Senate recedes. (p. 117, #119)

STATE APPLICATIONS

Application

The conference agreement makes clear that states may apply for a one-year planning grant in order to develop a plan. Once they have a plan, states may use the plan as their application for implementation funds.

In General: The House bill refers to "State"; the Senate bill refers to "State educational agency". The House recedes. (p. 117, no #)

Additional Information: The House bill, but not the Senate bill, requires an assurance that the student achievement standards developed pursuant to this Act are not less rigorous than those standards used prior to enactment of this Act. The Senate recedes. (p. 118, #120)

Additional Information: The House bill, but not the Senate bill, requires an assurance that States will provide for broad public participation in the planning process. The Senate recedes. (p. 118, #121)

First Year: The House bill refers to "State's"; the Senate bill refers to "State educational agency's". The House recedes. (p. 119, no #)

Subsequent Years: The House bill refers to "A State's second application"; the Senate bill refers to "A State educational agency's application for the second year of assistance". The House recedes. (p. 119, no #)

STATE IMPROVEMENT PLANS

Basic scope of plan

Basic Scope of Plan: The House bill refers to "plan"; the Senate bill refers to "State improvement plan". The House recedes throughout the bill.

Basic Scope of Plan: The Senate bill, but not the House bill, eliminates the words "fundamental restructuring". The House recedes.

The House bill in this section requires any State that wishes to receive a grant to address the establishment of content and student performance standards and the means to have students achieve them. It lists the requirements that are repeated in subsections (c) through (i) below. The Senate bill requires only that any State that wishes to receive an allotment to develop a State improvement plan for education in the State. The Senate bill lists the requirements only in subsections (c) through (i) below.

The differences between the two bills in this subsections are compared in those subsections. The House recedes with an amendment, adding "Consistent with the requirements of this section," at the start of the provision and moving paragraph (7) to a new subsection in the State plan section, and amending that paragraph to read as follows: "(i) each state plan shall establish strategies to assist local educational agencies and schools to meet the needs of children aged 5 to 17 who have dropped out of school and the extent to which such children can be brought back into the education system and meet state standards;".

Plan development

In General: The House bill states that the State plan "must be developed by a broad-based panel (referred to in this title as the 'panel')"; The Senate bill states that the State plan "shall be developed by a broad-based panel". The House recedes. (p. 123, no #)

In General: The House bill refers to "teachers"; the Senate bill refers to "school teachers" and "related services personnel". The House bill includes deans of colleges of education. The Senate recedes, with an amendment changing deans of colleges of education to "deans or senior administrators of a college, school, or department of education". (p. 124, #125b)

In General: The House bill refers to "Indian tribes"; the Senate bill refers to "tribal agencies", and in the Senate bill, the "as appropriate" modifies tribal agencies; in the House bill the "as appropriate" modifies others. The Senate recedes, with an amendment deleting "Indian tribes" and inserting "Indian tribes and others" after "and, as appropriate". (p. 124, no #)

In General: The House bill refers to "State and local officials responsible for health, social services, and other related services"; the Senate bill refers to State and local officials". The Senate recedes. (p. 124, no #)

In General: The Senate bill, but not the House bill, refers to "organizations serving young children" and "secondary students". The House recedes. (p. 124, 1st #126)

In General: The House bill, but not the Senate bill, includes representatives from rural and urban local educational agencies. The Senate recedes, with an amendment adding "as appropriate" after "the State". (p. 124, 2nd #126)

In General: The Senate bill provides that a representative from a private, non-profit elementary and secondary school should be included on the panel. The House recedes, with an amendment that the representative must come from a private school that is participating in federal programs of aid to education. (p. 124, 3rd #126)

In General: The House bill, but not the Senate bill, includes experts in educational measurement and assessment. The Senate recedes. (p. 124, 4th #126)

Appointment: The House bill requires the State panel to establish procedures regarding the operation of the panel, including the designation of the panel chairperson; the Senate bill requires the Governor and the chief State school officer to jointly select the chairperson of the panel and the representative of a private, non-profit elementary and secondary school described in paragraph (1)(D). The Senate recedes, with an amendment that the Governor and chief State school officer jointly select a private school representative, and that the representative come from a private school participating in federal programs of aid to education. (p. 125, #127)

Representation: The House bill adds the words "To the extent feasible" before "The membership". The Senate recedes. (p. 125, #128)

Representation: The House bill, but not the Senate bill, requires that one-third of the panel members be individuals with expertise in educational needs and assessments of children who are from low-income families, minority group backgrounds, have limited English proficiency, or have disabilities. The Senate recedes, with an amendment establishing the number of panel members with expertise or background in the educational needs or assessments of children from low-income families, with minority group backgrounds, with limited-English proficiency, or with disabilities, in a proportion not less than the proportion that such children bear to all children in the state or one-third, whichever is less. (p. 125, #129)

Outreach: The House bill refers to "Indian tribes"; the Senate bill refers to "tribal government officials, as appropriate". The House recedes. (p. 126, no#)

Outreach: The Senate bill, but not the House bill, refers to specific groups within the State's diverse population of students and clarifies the definition of Native American students to include "American Indian, Alaska Native, and Native Hawaiian" students. The House recedes, with the amendment adding, "as appropriate". (p. 126, #130)

Outreach: The Senate bill, but not the House bill, refers to assuring that the devel-

opment and implementation of the State improvement plan reflects local needs and experiences and does not result in a significant increase in paperwork for teachers. The House recedes. (p. 126, #131)

Outreach: The House bill, but not the Senate bill, requires the State panel to develop a continuing process for interacting with local educational agencies and schools engaged in systemic reform which receive subgrants under this Act. The House recedes. (p. 127, #132)

Submission: The Senate bill requires the submission of both the State improvement plan and the plan developed by the panel with an explanation of the differences. The House bill requires the submission of the State's plan only if it has modified the panel's plan, and also requires an explanation of the changes. The Senate recedes. (p. 127, #133)

Monitoring; Revisions; Reporting: The House bill requires the panel to monitor the implementation and effectiveness of the State's plan after it has been approved by the Secretary. The Senate bill requires the SEA to inform the panel about progress of the State's plan, but the SEA monitors "the implementation and operation of the plan." The House recedes. (p. 128, #134)

Teaching, Learning, Standards, and Assessments: Both the House bill and the Senate amendment include a section on improving teaching and learning in the State plan. The House bill requires the plan to establish strategies and a timetable for improving teaching and learning; the Senate bill requires the plan to establish strategies for meeting the National Education Goals by improving teaching and learning, and requires that the strategies involve broad-based and ongoing classroom teacher input. The Senate bill, but not the House bill, also says the State improvement plan must establish strategies for improving students' mastery of basic and advanced skills to achieve a higher level of learning and academic accomplishment in English, math, science, history, geography, foreign languages and the arts, civics, government, economics, physics, and other core curricula.

The conference agreement combines elements of the two bills so that each State plan, with broad-based classroom teacher input, must establish strategies for meeting the National Goals by improving teaching and learning and students' mastery of basic and advanced skills in core content areas, such as English, mathematics, science (including physics), history, geography, foreign languages, the arts, civics and government, and economics.

Both the House bill and the Senate amendment included lists of activities under the Teaching, Learning, Standards, and Assessments subsection. In the House bill, these activities were required elements of the plan, while in the Senate amendment they were illustrative examples. The elements in the lists also differed somewhat.

The conference agreement makes four of these elements required—(1) a process for developing or adopting content and student performance standards for all students, including coordination with the Perkins Act; (2) a process for developing valid, nondiscriminatory, and reliable State assessments; (3) a process for aligning State or local curricula, instructional materials, and State assessments with the State content and performance standards; and (4) a process for familiarizing teachers with the State content and performance standards and developing the capability of teachers to provide high quality instruction within such content areas. All other elements from both the House bill and the Senate amendment are included in a second list of illustrative examples. Duplicative provisions are eliminated, and there are minor drafting changes.

On the required assessment provision, the House receded to the Senate language with minor changes.

Opportunity-to-Learn Standards: The House bill requires each State plan to establish a strategy and timetable for adopting and establishing opportunity to learn standards, and each item following is an item which must be addressed by the State plan. The Senate bill requires each State improvement plan to establish strategies for providing all students with an opportunity to learn. The conference agreement provides for the following with regard to the issue of opportunity to learn:

(d) OPPORTUNITY TO LEARN STANDARDS OR STRATEGIES.—

(1) Each State improvement plan shall establish standards or strategies for providing all students with an opportunity to learn. These standards or strategies shall include such factors that the State deems appropriate to ensure that all students receive a fair opportunity to achieve the knowledge and skills as described in content and performance standards adopted by the State.

(2) Notwithstanding any other provisions of this Act, the implementation of opportunity to learn standards or strategies shall be voluntary on the part of the States, local educational agencies, and schools.

(3) Nothing in this section shall be construed to—(A) mandate equalize spending per pupil for a State, local educational agency, or school; or (B) mandate national school building standards for a State, local educational agency, or school." It is the intent of the conferees that the factors referenced in subsection (d) include those listed in subsection (c).

Accountability and Governance and Management: The House and Senate bills both requires the State plan to establish strategies for improvement management; the House bill includes governance and management while the Senate bill includes accountability and management. The House bill lists a series of activities that a State may undertake while the Senate has no list. The Senate recedes, with amendment to add accountability to the title and the provision. (p. 134, #145)

The House bill's list of activities includes:

1. States may align responsibility, authority, and accountability throughout the education system. The Senate recedes, with an amendment striking "regarding content and student performance standards are coordinated with decisions". (p. 135, #145)

2. States may create an integrated and coherent approach to attracting, recruiting, preparing and licensing, appraising, rewarding, retaining, and supporting the professional development of teachers, administrators, and other educators. The Senate receded, striking the House language and replacing it with: "(2) creating an integrated and coherent approach to recruiting, retaining, and supporting the continued professional development of teachers (including vocational teachers) and other educators, with special attention to the recruitment and retention of qualified minorities into the education profession;", (p. 135, #145)

3. States may provide incentives for high performance. The House recedes. (p. 136, #145)

4. States may increase the proportion of State and local funds allocated to direct instructional purposes. The House recedes. (p. 136, #145)

5. States may increase flexibility for local educational agencies and schools. The House recedes. (p. 136, #145)

Parental and Community Support and Involvement: The House bill requires each State plan to describe strategies for how the State will involve parents and other community members in planning, designing, and implementing its plan and then goes on to list a series of allowable strategies; the Senate bill requires each State to describe comprehensive strategies to involve the community (and then list different parts of the community) in helping all students the challenging State standards. The Senate recedes, with an amendment replacing "members" with "representatives" after "community". (p. 137, #146)

The House list includes:

1. educating the public about the need for higher standards, systemic improvement, and awareness of diverse learning needs. The House recedes. (p. 137, #146)

2. involving parents, communities, and advocacy groups in the standards setting and improvement process. The House recedes. (p. 138, #146)

3. linking the family and school in supporting students in order to meet the standards. The House recedes. (p. 138, #146)

4. reporting to parents, educators, and the public on the progress of implementing the State plan and improving student performance. The House recedes. (p. 138, #146)

5. focusing public and private resources on prevention and early intervention. The Senate recedes, with an amendment striking "(B) improving communications and information exchange; and" and "(C) providing appropriate training to agency personnel,". (p. 138, #146)

6. increasing the access of all students to social services, health care, nutrition, related services and child care services. The Senate recedes. (p. 139, #146)

Making the Improvement System-Wide: The House bill requires State plans to described the strategies States will employ to help people provide all students throughout the State the opportunity to meet challenging State standards, and then list a series of allowable strategies; the Senate bill requires State improvement plans to describe the various strategies for ensuing that all local educational agencies and schools within the State are involved in developing and implementing needed improvements within a specified period of time in order to help provide all students throughout the State the opportunity to meet challenging State standards. The Senate recedes. (p. 139, #147)

The House list of allowable strategies includes:

1. ensuring that the improvement efforts expand from the initial local educational agencies, schools and educators involved to all such entities in the State. The House recedes. (p. 139, #147)

2. developing partnerships among preschools, elementary and secondary schools, institutions of higher education, cultural institutions, health and social service providers and employers. The House recedes. (p. 140, #147)

3. providing for the close coordination of standards development and improvements efforts among institutions of higher education, secondary and elementary schools. The House recedes. (p. 140, #147)

4. conducting parental involvement activities and outreach programs to involve all segments of the community in the develop-

ment of the State plan. The House recedes. (p. 140, #147)

5. developing partnerships with Indian tribes and schools funded by the Bureau of Indian Affairs. The Senate recedes, with an amendment moving this subsection to be in the last in the list. (p. 141, #147)

6. allocating all available local, State, and Federal resources to achieve systemwide improvement. The House recedes. (p. 141, #147)

7. providing for the development of objective criteria and measures against which the success of the local plans will be evaluated. The House recedes. (p. 141. #147)

8. providing for the available curricular materials, learning technologies, and professional development in a manner ensuring equal access by all local educational agencies in the State. The Senate recedes. (p. 141. #147)

9. taking steps to ensure that all local educational agencies, schools, and educators in the State benefit from successful programs and practices supported by funds under this title. The House recedes. (p. 141, #147)

10. providing assistance to students, teachers, schools and local educational agencies that are identified as needing assistance. The House recedes. (p. 142, #147)

Promoting Bottom-Up Reform: Both the House and Senate require the state plan to include strategies for ensuring that reform is promoted from the bottom up. The Senate recedes. (p. 142, #148)

The House bill also includes a list of allowable strategies:

1. ensuring that the State plan is responsive to the needs and experiences of local educational agencies, schools, teachers, the communities, and parents. The House recedes. (p. 142, #148)

2. establishing mechanisms for continuous input and feedback from schools, communities, advocacy groups, institutions of higher education, and local educational agencies. The House recedes. (p. 142, #148)

3. providing discretionary resources that enable teachers and schools to purchase needed professional development. The House recedes. (p. 143, #148)

4. establishing collaborative networks of teachers. The House recedes. (p. 143, #148)

5. providing flexibility to schools and local educational agencies. The Senate recedes. (p. 143, #148)

6. facilitating the provision of waivers from State rules and regulations that impede the local educational agency's ability to carry out plans. The Senate recedes. (p. 143, #148)

7. facilitating communication among educators and within local educational agencies. The House recedes. (p. 144, #148)

Coordination with School-to-Work Programs: The House bill, but not the Senate bill, requires that a State that has received a school to work grant include a description of how such program will be incorporated into school reform efforts, and requires the plan to demonstrate how secondary schools will be modified in order to provide certain services. The Senate recedes. (p. 144, #149)

Benchmarks and Timelines: The House bill, but not the Senate bill, requires State plans to include strategies for coordinating the integration of academic and vocational instruction. The Senate recedes. (p. 145, #150)

Benchmarks and Timelines: The House bill requires each State to describe how it will monitor progress toward implementing the State and local plans and the procedures that the State will use to ensure that schools and school districts meet State opportunity to learn and content standards within the established timelines. The Senate recedes, with an amendment rewriting paragraph (2) of the House language to read as follows: "(2) procedures the State plans to use, consistent with State law, to improve schools that are not meeting the content standards voluntarily adopted by the State within the established timelines;". With regard to this item and item regarding accountability, governance and management in disagreement, it is the intent of the conferees that each State plan, as part of monitoring progress, should provide for the periodic reporting to the public on the extent of the State's improvement in providng all students with an opportunity to achieve the knowledge and skill levels that meet the State's content and student performance standards. (p. 145, #151)

PROHIBITION ON FEDERAL MANDATES, DIRECTION, AND CONTROL

Prohibition: Both bills include a general prohibition on Federal mandates, direction, and control although the House bill limits the prohibition to this Section and the Senate bill applies it to the Act. The Senate version also says that this Act does not allow the Federal government to mandate a State or locality to incur costs not paid for under this act. The House recedes. (p. 146a, #152)

Construction: The Senate bill, but not the House bill, clarifies that nothing in this Act shall be construed to supersede the provisions of section 103 of the Department of Education Organization Act, and to require the teaching of values or the establishment of school-based clinics as a condition of receiving funds under this Act. The Senate bill also contains numerous specific prohibitions on federal mandates. The Senate recedes.

It is the intent of the conferees that nothing in this legislation supersedes Section 103 of the Department of Education Organization Act. This would include, but is not limited to, prohibiting the federal government from mandating to states, local educational agencies, or schools: limitations on class size, a Federal teacher certification system, teacher instructional practices, equalized per pupil spending, school building standards, curriculum content, or curriculum framework, instructional material, examination, or assessment for private, religious, or home schools.

STATE AND LOCAL GOVERNMENT CONTROL OF EDUCATION

Findings

Finding: The Senate bill includes a provision reaffirming State and local responsibility for the control of education. The House recedes. (p. 146c, #153)

Peer review and secretarial approval

In General: The House and Senate bills both require approval by the Secretary of Education, with advice. The Senate bill adds "within a reasonable period of time" and the word "peer" to review. The House recedes. (p. 146f, #154)

In General: Both Senate and House bills require involvement of advocates, but the House bill says "advocates of children with disabilities". The House recedes. (p. 146f, #155)

In General: The Senate bill, but not the House bill, does not require the Secretary to review a State application through the peer review process and conduct a site visit for a State educational agency in the first year. The House recedes, with an amendment to add "except during the period of when a grant is being developed" after "Such peer review process shall include at least 1 site visit to each State." (p. 147, #156)

Approval of Plan: Both the House and Senate bills require the Secretary to approve a state's plan after reviewing the peer reviewers' comments. There are some differences in what the bills require the Secretary to consider. The House adds "holds promise of enabling all students to achieve at high levels", meets the requirements of subsections (a) through (k), and allows schools, LEAs, and communities the flexibility to implement plans. The Senate version adds that the plan should have been submitted within two years after an SEA got its first allotment and if it "holds reasonable promise of helping all students." The Senate recedes, with an amendment to keep its provision of a two-year deadline and replacing "enabling" in the House provision with "helping". (p. 147, #157)

Disapproval: The House bill, but not the Senate bill, requires that each State plan include a process for regularly reviewing and updating standards and assessments. The Senate recedes, with an amendment replacing "regularly" with "periodically" and adding "or strategies" after "opportunity to learn standards". (p. 148, #158)

Amendments to plan

In General: The House bill refers to "Each State"; the Senate bill refers to "Each State educational agency". The House recedes. (p. 148, no #)

Review: The House bill requires the Secretary to review major amendments to the State plan through the same process used to review the original plan—i.e., peer review as described in (n)(1), criteria as described in (n)(2), and an opportunity for revision and a hearing as described in (n)(3).

The Senate bill also requires the Secretary to review any major amendment to the State improvement plan, but only specifies that the Secretary shall not disapprove any such amendment before offering the State educational agency an opportunity for revision and a hearing (the equivalent of (n)(3) in the House bill). The Senate bill does not require the Secretary to conduct a peer review for amendments to the plan. The House recedes. (p. 149, #159)

Preexisting State Plans and Panel: The House bill refers to a plan that "otherwise meets the requirements of this section"; the Senate bill refers to a plan that "meets the intent and purposes of section 302." The House recedes, with an amendment replacing "of section 302" with "of this section". (p. 149, #159a)

Preexisting State Plans and Panel: The House bill says the Secretary may approve preexisting plans; the Senate bill says the Secretary shall approve such preexisting plans if they meet all the requirements listed. The Senate recedes. (p. 149, #160)

The Senate bill, but not the House bill, requires that the preexisting plan ensures broad-based participation of representatives from education, political, community groups, and other appropriate groups. The Senate recedes. (p. 149, #161)

Special Rule: The House bill refers to meeting the "requirements of this section"; the Senate bill refers to meeting the "intent and purposes of section 302". The Senate recedes, with an amendment replacing "requirements" with "intents and purposes". (p. 150, #159a)

Special Rule: The House bill says the Secretary "may"; the Senate bill says the Secretary "shall". The Senate recedes. (p. 150, #161a)

The House bill allows the Secretary to treat the panel as "meeting the requirements of this title"; the Senate bill allows the Secretary to treat the panel as "meeting such requirements for all purposes of this title". The Senate recedes. (p. 150, #159aa)

The House bill refers to "statewide involvement of educators, parents, students, advocacy groups, and other interested members of the public"; the Senate bill refers to "substantial public and educator involvement". The Senate recedes. (p. 150, #162)

The Senate bill, but not the House bill, allows the Secretary to approve, at the request of the Governor and the State educational agency, an existing panel if the Secretary determines that the existing panel is serving a similar purpose and if the composition of the panel would ensure broad-based input from various education, political, community and other appropriate representatives. The Senate recedes. (p. 151, #163)

Secretarial review of applications; payments

First Year: The House bill refers to "the renewal application of the State will be able to develop"; the Senate bill refers to "the State will be able to develop". The Senate recedes. (p. 152, no #)

Second Through Fifth Years: The Senate bill, but not the House bill, requires that in order for a State to have its renewal application approved, it must implement its State improvement plan not later than the end of the second year of participation. The Senate recedes. (p. 152, #164)

State use of funds

First Year: The House bill, but not the Senate bill, requires that, if appropriations for section 304(b) is at least $50,000,000, States receiving a grant use at least 75 percent of such funds for subgrants to local educational agencies to allow such agency to develop or implement local improvement plans or for professional development activities; and a State may use the remainder of such funds for State activities under section 306. If appropriations for section 304(b) are less than $50,000,000, then a State is not required to make subgrants to local educational agencies. The Senate recedes, with an amendment setting the percentage at 60 percent. (p. 153, #165)

First Year: The Senate bill sets the trigger at $200 million, and then States must use at least 75% of funds for subgrants. The Senate bill also says that if funds appropriated are greater than $100,000,000 but less than $200,000,000, then the State shall use at least 50 percent of such funds for local educational agency subgrants; if funds appropriated are less than $100,000,000, then a State may make subgrant grants to local educational agencies. The Senate recedes. (p. 154, #165)

Succeeding Years: The House bill requires that States receiving an allotment for any year after the first year of participation use 90 percent of such funds for subgrants to local educational agencies to implement local and State improvement plans and for professional development activities; the Senate bill requires that 85 percent of such funds be used for subgrants. The Senate recedes. (p. 155, #166)

Succeeding Years: Senate adds "related service personnel" to educators. The Senate recedes. (p. 155, #166a)

Succeeding Years: The House bill says that, if the State uses its funds for developing or adopting standards, it must do so through consortia of States "and" in conjunction with NESIC. The Senate bill says that, if the State uses its funds for developing or adopting standards, it must do so through a consortia of States "or" in conjunction with NESIC. The House recedes. (p. 156, #167)

Succeeding Years: The House bill, but not the Senate bill, includes limited-English proficient students. The Senate recedes. (p. 157, #168)

Succeeding Years: The Senate bill, but not the House bill, includes as an allowable activity supporting innovative and proven methods of enhancing a teacher's ability to identify student learning needs, etc., including significantly reducing class size and promoting instruction in chess. The House recedes, with an amendment to strike the provision regarding chess, ending the provision with "creative resolution methods." (p. 157, #169)

Succeeding Years: The Senate bill includes organizations serving young children and includes training for parents. The House recedes. (p. 157, #171)

Succeeding Years: The House bill refers to "promoting public magnet schools, public 'charter schools', and other mechanisms for increasing choice among public schools"; the Senate bill refers to "promoting mechanisms for increasing public school choice, including information and referral programs which provide parents information on available choices and other initiatives to promote the establishment of innovative new public schools, including magnet schools and charter schools". The Senate recedes, with an amendment to include the Senate provision about information and referral programs. (p. 158, #172)

Succeeding Years: The Senate bill adds provisions for supporting activities related to start-up costs or evaluation costs associated with contracts between LEAs and private management contracts. The House recedes, with an amendment striking "start-up costs or" from the provision. It is the intent of the conferees that private companies engaging in these types of contracts must pay for start-up costs. (p. 158, #173)

Succeeding Years: The Senate bill also allows programs for mentoring and for programs that restore discipline and reduce violence. The House recedes. (p. 158, #174)

Succeeding Years: The Senate bill, but not the House bill, includes a special rule regarding any new public school that is established under this title. The House recedes. (p. 159, #175)

SUBGRANTS FOR LOCAL REFORM AND PROFESSIONAL DEVELOPMENT

Subgrants for local educational agencies

In General: The House bill, but not the Senate bill, allows States to make subgrants to consortia of local education agencies. The Senate recedes.

In General: The House bill says that State subgrants to LEAs must be consistent with sections 308 (a) (1) and 308(b)(1) (A)—these sections indicate how much of the money a State receives must be used for subgrants. The Senate bill says that SEA subgrants to LEAs must be used to carry out the authorized activities described in paragraph (4)—this paragraph describes how an LEA can use its subgrant and how the subgrant must be allocated. The Senate recedes, with an amendment specifying the cross-references to authorized activities.

In General: The House bill, but not the Senate bill, requires the State to make at least one subgrant to a rural local educational agency and at least one subgrant to an urban local educational agency. The Senate recedes, with an amendment adding "where appropriate".

Application Required: The House bill includes an additional first paragraph that refers to LEAs wishing to receive a subgrant "under this title" (not subsection). This paragraph also requires LEAs to include in their application assurances that they intend to develop a plan that meets the requirements of this section.

The House bill (in paragraph 3) requires LEAs to submit a "local plan"; the Senate bill requires an "application." (The House bill also requires an "application" in paragraph 2 above.) The Senate recedes, with an amendment adding "for one year only" after "under this title".

Application Required: The Senate bill includes related services personnel, secondary students, early childhood educators, and community-based organizations. The Senate recedes.

Application Required: The House bill includes advocacy groups. The Senate recedes.

Application Required: The House bill, but not the Senate bill, requires the local panel to establish the procedures regarding the operation of the panel, including the designation of the chairperson. The Senate recedes.

Application Required: The House bill requires, in the first year, a "comprehensive local plan" that is consistent with the State improvement plan (which is either approved or under development); the Senate bill requires a "comprehensive local improvement plan" that LEAs must include in the application submitted for the second year of participation. The Senate recedes, with an amendment replacing "includes a comprehensive local plan for" with "shall address" at the beginning of the provision, and inserting "reflecting the priorities of" after "benchmarks," and before "consistent".

Application Required: The House bill requires a strategy for implementing opportunity to learn standards; the Senate bill requires a strategy for ensuring that all students have a fair opportunity to learn. The House recedes.

Application Required: The House bill requires a strategy for "generating and strengthening parental and community involvement"; the Senate bill requires a strategy for "generating and maintaining parental and community involvement". The Senate recedes, with an amendment including "maintaining" along with "generating and strengthening" parental and community involvement.

Application Required: The House bill, but not the Senate bill, requires the local plan to promote the flexibility of local schools in developing plans which address the particular needs of their school and community and are consistent with the local plan. The Senate recedes.

Application Required: The House bill, but not the Senate bill, requires the local plan to describe a process of broad-based community participation in the development, implementation, and evaluation of the local plan. The Senate recedes.

Application Required: Both bills require a description of how the LEA help individual schools develop plans. The Senate bill includes "and implement." The House bill says "relevant" elements; the Senate bill says "each" element. The Senate recedes, with an amendment to include "and implement" after "develop" with regard to comprehensive school improvement plans.

Application Required: The House bill refers to "public and private agencies"; the Senate bill refers to "public and private nonprofit agencies". The House recedes (p. 164, no #)

Application Required: The House bill refers to "coordinated services"; the Senate bill refers to "coordinated nonsectarian services". The House recedes. (p. 164, no #)

Application Required: The House bill requires that a local educational agency submit its plan to the State for approval together with the modifications and comments from the local panel regarding such plan.

The Senate bill only requires participation of the broad-based panel in the development of the application and plan. The LEA is allowed to make modifications it deems appropriate. (see side by side 161) The Senate recedes. (p. 165, #187)

Monitoring: The House bill requires that the panel monitor the effectiveness of the local plan; the Senate bill has the LEA monitor its plan's progress to inform the panel of progress. In both bills, the panel may make recommendations to the LEA for revisions, and report to the public. The House recedes. (p. 165, #188)

Monitoring: In the Senate bill, the LEA must make assurances that the plan does not result in significant increase in paperwork for teachers. The House recedes. (p. 165, #188)

Monitoring: The House bill, but not the Senate bill, includes community members in the list of people to be consulted. The Senate recedes. (p. 165, #189)

Authorized Activities: The Senate bill, but not the House bill, allows local districts to use a portion of their planning money to establish innovative new public schools. The House recedes, with an amendment charging replacing "shall" with "may" after "the subgrant" and before "use". (p. 166, #190)

Authorized Activities: The House bill, but not the Senate bill, includes the phrase "which are tailored to meet the needs of their particular student populations". The Senate recedes, with an amendment to include "State content and performance standards" at the end of the provision. (p. 167, #191)

Authorized Activities: The House bill, but not the Senate bill, requires that a local educational agency use not more than 5 percent of its annual allotment under this Act for administrative expenses. The Senate recedes. (p. 167, #192)

Authorized Activities: The House bill, but not the Senate bill, requires the State educational agency to give priority to awarding subgrants to consortia of local educational agencies or to a local educational agency that makes assurances that funds will be used to assist a consortium of schools that has developed a plan for school improvement. The Senate recedes, with an amendment to replace "priority" with "special consideration". (p. 168, #193)

Subgrants for preservice teacher education and professional development activities

In General: Both bills require SEA to make peer reviewed subgrants for progressional development to consortia, but the Senate would also allow a single LEA to receive such a grant. The Senate recedes, with an amendment so that it reads: "(1)(A) Each State educational agency shall make subgrants to a local educational agency or a consortium of LEAs, in cooperation with institutions of higher education, nonprofit organizations, or any combination thereof". The Senate recedes, with an amendment replacing "consortia of local educational agencies," with "a local educational agency or a consortium of local educational agencies, in cooperation with". (p. 168, #194)

In General: The House bill lists "private nonprofit organizations" among the groups of which consortia are developed; the Senate bill lists "nonprofit education organizations". The Senate recedes, with an amendment to strike "private". (p. 168, no #)

In General: The Senate bill adds reheated services personnel education programs. The House recedes, with an amendment that inserts "and related services personnel working with educators" in subsection (ii) after "professional development activities for educators". (p. 168, #194a)

In General: The House bill requires that—(1) a consortium that applies for a preservice grant must include at least one local educational agency and at least one institution of higher education; (2) a consortium that applies for an inservice grant must include at least one local educational agency. The Senate bill requires that a consortium that applies for either kind of grant must include at least one local educational agency. Note: The Senate bill, unlike the House bill, also allows individual LEAs to receive grants on their own. Also, there are drafting differences ("to apply for" vs. "to be eligible to receive"). The House recedes. (p. 169, #197)

In General: The Senate bill requires that State educational agencies give a priority to awarding subgrants to a local educational agency or consortium that serves a greater number of percentage of disadvantaged students that the statewide average or a consortium that has a demonstrated record of working with schools, including consortia that prepare and screen teacher interns in professional development school sites, that focus on upgrading teachers knowledge of content areas or target teachers of students with limited English proficiency or students with disabilities. The House recedes, with an amendment striking item (b)(ii) and replacing it with the following (ii) a local educational agency or consortium that forms partnerships with collegiate educators to establish professional development sties; and (iii) a local educational agency or consortium that—(I) focuses on upgrading teachers' knowledge of content areas; or (II) targets preparation and continued professional development of teachers of students with limited-English proficiency and students with disabilities. (p. 169, #198)

In General: Throughout this application section, the House bill refers to "a consortium"; the Senate bill refers to "a local educational agency or a consortium". The Senate adds related services personnel. The House recedes, with an amendment starting the provision with "A local educational agency in cooperation with or a consortium in cooperation with". (p. 170, no#)

In General: The House bill, but not the Senate bill, allows subgrant funds to be used for costs related to release time for teachers to participate in professional development activities. The Senate recedes. (p. 172, #199)

In General: The House bill allows inclusion of related services personnel in professional development activities, as appropriate; the Senate bill requires that related services personnel be included in professional development activities under paragraph (B). The Senate recedes. (p. 172, no #)

In General: The House bill, but not the Senate bill, requires State educational agencies to place a priority on awarding subgrants to local educational agencies that form partnerships with collegiate educators to establish professional development schools. This provision is similar to Senate provision in (b)(1)(B) iii p. 169 & 170. The House recedes, with an amendment striking item (b)(ii) and replacing it with the following: (ii) a local educational agency or consortium that forms partnerships with collegiate educators to establish professional development sites; and (iii) a local educational agency or consortium that—(I) focuses on upgrading teachers' knowledge of content areas; or (II) targets preparation and continued professional development of teachers of students with limited-English proficiency and students with disabilities. (p. 172, #200)

SPECIAL AWARD RULES

In General: The House bill requires that 50 percent of subgrant funds be made to local educational agencies that have a greater percentage or number of disadvantaged students than the statewide average; the Senate bill requires that 65 percent of subgrants funds be awarded to those local educational agencies. The Senate recedes. It is the intent of the conferees for states to ensure that school districts serving numbers or concentrations of low-income students higher than the state average receive a share of local grant funds that is at least proportionate to their share of the total student population in the state. Too often, competitive grant programs end up serving those schools with political connections or the best grant writing team, rather than the schools that have the greatest need for improvement. This provision is intended to ensure that states provide the kind of support and assistance that is necessary so that all districts can develop quality innovative school reform proposals. This fifty-percent provision is intended as a floor, not a ceiling. (p. 173, #201)

AVAILABILITY OF INFORMATION AND TRAINING

Availability: The House bill, but not the Senate bill, provides for a waiver of the private school participation language if a State or local educational agency is either prohibited from providing for the equitable participation of private school teachers and administrators, or if the SEA or LEA has failed to provide or is unwilling to provide for their participation. In these cases, the Secretary shall arrange for training consistent with State goals and standards. Waivers are subject to section 1017 in ESEA. The Senate recedes. (p. 175, #202)

WAIVERS OF STATUTORY AND REGULATORY REQUIREMENTS

Waiver authority

In General: The Senate bill, but not the House bill, requires local educational agencies seeking a waiver to provide parents, community groups, and advocacy or civil rights groups with an opportunity to comment on the proposed waiver. The House recedes. (p. 177, #204)

Application: The House bill allows an LEA not receiving assistance under this Act but is undertaking school reform efforts that meet the state plan's objectives to request a waiver. The Senate bill has a similar provision, but says "a state approved reform plan." The Senate recedes, with an amendment including schools. (p. 177, #205)

Application: The House bill includes a requirement that the Secretary state the expected outcome from the granting of the waiver request and requires that the State identify the numbers and types of students to be impacted, a timetable for implementing the waiver, and a process for monitoring implementation. The Senate recedes. (p. 177, #206)

Application: The Senate bill has the SEA submit LEA or school requests that it has approved to the Secretary. The House recedes. (p. 177, #207)

Application: The Senate bill, but not the House bill, also allows any state with a state reform plan to request waivers. The Senate recedes. (p. 177, #208)

Duration

Duration: The House bill, but not the Senate bill, requires the Secretary's decision to be printed in the Federal Register and disseminated by the State educational agency. (p. 178, #209)

In General: The House bill requires the waivers to be for a period not to exceed 3 years; the Senate bill requires the waivers to be for a period not to exceed 5 years. The Senate recedes, with an amendment estab-

lishing the period not to exceed 4 years. (p. 179, #210)

Waivers Not Authorized: In the list of waivers not authorized, the House version has "or" between the first four and the fifth while the Senate version has "and". Leg. Counsel: It is the understanding of both bills that none of the requirements listed may be waived. (p. 180, #211)

Waivers Not Authorized: The Senate bill, but not the House bill, does not allow waivers unless the underlying purposes of the statutory requirements continue to be met to the satisfaction of the Secretary. The House recedes. (p. 180, #212)

Results-Oriented Accountability: The Senate bill specifies that when the Secretary makes the determination that performance justifies an extension of a waiver, that determination should be based on achieving the outcomes described in the application. The House recedes, with an amendment striking "Results-Oriented" in the title and replacing "outcomes" with "desired results". (p. 181a, #213)

Flexibility Demonstration: The Senate bill contains a flexibility demonstration pilot for up to 6 states. In this pilot, the Secretary would delegate to states the authority to grant waivers for the same programs as in (b) included programs. The House recedes, with amendments replacing "any" with "one or more" so that the Secretary can allow States to waive one or more federal regulations, replacing "shall" with "may" so that the Secretary may carry out an educational flexibility program; and change "State" to "State educational agency" throughout the provisions outlining the program. (p. 181aa, #214)

PROGRESS REPORTS

State Reports to the Secretary: The House bill adds "and increasing student learning," to local goals and plans. The Senate recedes. (p. 181e, #215)

Secretary's Report to Congress: The Senate bill includes reporting requirements on the waivers, including recommendations to Congress on which statutes impede reform and should be changed. The House recedes. (p. 182, #216a)

TECHNICAL AND OTHER ASSISTANCE REGARDING SCHOOL FINANCE EQUITY

Technical Assistance: The Senate bill includes a provision for technical assistance regarding school finance equity. This provision would provide help to states that request it on models and methods for equalizing resources within a state. The House recedes. (p. 182b, #217)

NATIONAL LEADERSHIP

Technical Assistance and Integration of Standards: The House bill requires the Secretary to carry out the national leadership activities through OERI; the Senate bill allows the Secretary to carry out some of the national leadership activities, and requires the Secretary to do others. The House recedes, with an amendment stating that any of these activities that are research-based shall be administered by the Office on Educational Research and Improvement. (p. 183, #218)

Required by the House:

(1) technical assistance to SEAs and LEAs on school planning (optional in Senate)

(2) grants to tribal agencies (optional in Senate)

(3) support for demonstration projects that unite LEAs and outside collaborators

The House recedes. (p. 183, #219)

Data and Dissemination: Both the House and Senate require dissemination on systemic improvement although the emphasis is different. Senate requires dissemination through existing systems in Department of Education. The House recedes, with an amendment adding "and how it affects student learning" after "evaluate systemic education improvement". (p. 183, #220)

Data and Dissemination: The Senate bill, but not the House bill, allows the Secretary to support model projects to integrate multiple content standards. The House recedes. (p. 185, #221)

Innovative Programs; Assessment; Evaluation: Both bills have provisions regarding grants and assistance the Secretary shall provide to urban and rural areas. The differences between the provisions are as follows:

(1) In the House bill, the grants and assistance are intended to assist urban and rural LEAs in developing and implementing local school improvement plans. In the Senate bill, the grants and assistance are for innovative and experimental programs in systemic education reform that are not being undertaken through grants under section 309(a) [Subgrants to LEAs]. Note: The House bill says that grants must be made "consistent with the provisions of section 209(a)". The Senate recedes, with the amendment that local educational agencies getting money under this provision cannot get money under section 309(a). (p. 185, 1st #222)

(2) In the House bill, grants and assistance may go to LEAs; the Senate bill says LEAs, schools, or consortia thereof. The House recedes, with an amendment to remove schools from the Senate provision. (p. 185, 2nd #222)

(3) Both bills say that grants and assistance must go to urban and rural LEAs (or, in the Senate bill, consortia, as described in note 2 above). The House bill says that the LEAs must have large numbers or concentrations of poor children or LEP children. The Senate bill says that the Secretary must give special consideration or priority to LEAs (or schools or consortia) that serve large numbers or concentrations or poor children, including LEP children. The Senate recedes. (p. 185, 3rd #222)

(4) The House bill reserves "at least 50%" of the national leadership funds for this subsection; the Senate bill reserves "not more than 50%" of the national leadership funds. Note: In the Senate bill, these reserved funds may also be used to provide grants and contracts for assessment development (see page 84a of side-by-side) The Senate recedes. (p. 185, 4th #222)

Innovative Programs; Assessment; Evaluation: The House bill, but not the Senate bill, requires the Secretary to use not less than $1,000,000 of the funds reserved for national leadership activities to survey coordinated services programs that have been found to be successful in helping students and families and in improving student outcomes. The Secretary is also required to disseminate information about such programs to schools that plan to develop coordinate service programs. The Senate recedes, with an amendment to replace "survey" with "replicate". (p. 186, #223)

ASSISTANCE TO THE OUTLYING AREAS AND TO THE SECRETARY OF THE INTERIOR

Outlying Areas

In General: The House bill requires that funds reserved under section 304(a)(1)(A) for the outlying areas be distributed among such areas by the Secretary according to the relative need; the Senate bill requires that funds reserved under section 304(a)(1)(A) shall be made available to, and expended by the outlying areas under such conditions and in such manner as the Secretary determines will best meet the purposes of this title. The Senate recedes. (p. 186, #223a)

Secretary of the Interior

Secretary: Both the House bill and the Senate bill have similar provisions regarding the use of funds reserved to the Secretary of Interior, but the House bill includes a series of detailed provisions regarding Bureau of Indian Affairs programs funded under this title. The Senate recedes (p. 187, #224)

Secretary: The House bill, but not the Senate bill, contains minimum assurances that must be contained in the agreement between the Secretary and the Secretary of Interior. The Senate recedes. (p. 187, #224a)

Voluntary Submission: The House bill, but not the Senate bill, requires that the provisions regarding State submission of standards and assessment systems to NESIC apply to the Bureau. The Senates recedes. (p. 189, #224b)

Plan Specifics: The House bill, but not the Senate bill, contains specific provisions that must be included in the reform and improvement plans. The Senate recedes. (p. 189, #224c)

Panel: The House bill, but not the Senate bill, requires the Secretary of Interior to establish a panel to develop the plan for system-wide reform and improvement (the House bill delineates the membership of that panel). The Senate recedes. (p. 189, #224d)

BIA COST ANALYSIS

In General: The House bill, but not the Senate bill, requires the Secretary of Interior to reserve an amount not to exceed $500,000 for the National Academy of Science, to do an analysis of the costs associated with meeting the academic and home-living residential standards of the Bureau of Indian Affairs. The Senate recedes. (p. 194, #224e)

CLARIFICATION REGARDING STATE STANDARDS AND ASSESSMENTS

Clarification: The Senate bill, but not the House bill, clarifies that standards, assessments, and systems of assessments described in the State improvement plan do not have to be certified by NESIC. The House recedes, with an assessment replacing ", assessments, and systems of assessments" with "State assessments". (p. 196, #225)

STATE PLANNING FOR IMPROVING STUDENT ACHIEVEMENT THROUGH INTEGRATION OF TECHNOLOGY INTO THE CURRICULUM

Purpose: The Senate bill, but not the House bill, includes a $10,000,000 program for States to plan effectively to improve student learning through the use of technology in all schools in the State. The House recedes, with an amendment to change the program to a $5 million authorization for 1994. (p. 197, #226)

PROGRAM AUTHORIZED

Authority: The Senate bill, but not the House bill, allows a State to submit, as part of its application under section 305, a request for a grant to develop a systemic statewide plan to increase the use of state-of-art technology in schools. The House receded. (p. 197, #226a)

Formula: The Senate bill, but not the House bill, would provide each State making a request for a grant an amount determined in the same basis as amounts are determined under subsections (b) and (c) of section 304, except that each State shall receive 1 and ½ percent of the amount appropriated for this program or $75,000, whichever is greater. The House recedes, with an amendment establishing the State minimum at $75,000. (p. 198, #226b)

Duration: The Senate bill, but not the House bill, provides for the duration of a

grant under this section to be for 2 years. The Senate recedes. (p. 198, #226c)

Plan Objectives: The Senate bill, but not the House bill, contains a listing of plan objectives that each systemic statewide plan must have. The House recedes. (p. 198, #226d)

Plan Requirements: The Senate bill, but not the House bill, contains minimum requirements that must be included in each systemic statewide plan. The House recedes, with an amendment including an additional requirement that shall read as follows: "(15) describe how the SEA will facilitate collaboration between the State Literacy Resource Centers (20 USC 1208aa), LEAs, and adult and family literacy providers, to ensure that technology can be used by adult and family literacy programs during after school hours.". (p. 199, #226e)

Reports: The Senate bill, but not the House bill, requires State educational agencies receiving grants under this section to submit a report to the Secretary within 1 year of the date that an agency submits its systemic statewide plan to the Secretary. The House recedes. (p. 202, #226f)

Reports: The Senate bill, but not the House bill, contains requirements regarding what should be included in the State reports. The House recedes. (p. 202, #226g)

Authorization of Appropriations: The Senate bill, but not the House bill, authorizes $10,000,000 for fiscal year 1994, and such sums as may be necessary for fiscal year 1995 to carry out this section. The House recedes, with an amendment changing the authorization to $5 million. (p. 203, #226h)

MISCELLANEOUS

Khalid Abdul Mohammed: The Senate bill includes a sense of the Senate provision condemning the speech made by Khalid Abdul Mohammed at Kean College on November 29, 1993. The Senate recedes. (p. 204b, #226i)

The Senate amendment contains three provisions relating to voluntary prayer or mediation in public schools. Section 405 provided for the cut-off of all federal education funds to state or local educational agencies that have a policy that prevents constitutionally protected prayer in public schools. Section 418 provided that federal education funds shall not be denied to state or local educational agencies because they have adopted a constitutional policy relative to prayer in public schools. Section 406 expressed the sense of the Senate that schools should encourage a period of daily silence. The House bill contained no provision. The House recedes with an amendment providing that funds authorized to be appropriated by the Act may not be used by state or local educational agencies to adopt policies that prevent voluntary prayer and meditation in public schools.

Students do not shed their right to religious liberty at the schoolhouse gate, just as they do not lose other constitutional rights. In addition, private reflection is valuable in permitting children to draw strength from their personal values and beliefs so that they are prepared to learn and grow. Children would do well to take time each day to consider what they hope to accomplish and how their actions will affect themselves and others around them.

This section promotes these important values by providing that funds made available under this Act may not be used to adopt policies designed to prevent students from engaging in constitutionally protected prayer or silent reflection. The conferees do not intend that this section confer new legal rights. Instead, the section respects our long tradition of local control over educational decisions, while ensuring that funds made available under this Act are not spent preventing the exercise of cherished constitutional rights.

Funding for the Individuals with Disabilities Education Act: The Senate bill includes a provision expressing the sense of the Senate that the Federal government should fully fund IDEA, through the reallocation on funds within the current budget monetary constraints. The House recedes, with an amendment specifying the expenditure would originate from the reallocation of non-educational funds. (p. 204d, #226m)

National Board for Professional Teaching Standards: The Senate bill includes a provision regarding the National Board for Professional Teaching Standards. The House recedes. (p. 204e, #226n)

Forgiveness of Certain Overpayments: The Senate bill includes a provision (Sec. 405) correcting a Department of Education error in Chapter One allocations to Colfax County, New Mexico. The House recedes. (p. 204f, #226o)

Study of Goals 2000 and Students with Disabilities: The Senate bill includes a provision of requiring the Secretary of Education to make arrangements with the National Academy of Sciences to conduct a study of the inclusion of children with disabilities in Goals 200 school reform activities. The House recedes, with an amendment stating that funding come from funds available to the Secretary for research related to individuals with disabilities, the Secretary shall make available, and to give the option to make arrangements with the National Academy of Sciences or the National Academy of Education. (p. 204g, #226p)

Mentoring, Peer Counseling and Peer Tutoring: The Senate bill includes a provision expressing the sense of the Congress that federal education programs should include authorizations for mentoring, peer counseling, and peer tutoring programs. The Senate recedes. (p. 204j, #226q)

Content and Performance Standards: The Senate bill includes a provision expressing the Sense of the Senate regarding the importance of high academic standards in state reform plans. The Senate recedes. (p. 204k, #226r)

State-Sponsored Higher Education Trust Fund Savings Plan: The Senate bill includes a provision expressing the Sense of the Senate that Federal tax laws should not preclude States from promoting higher education savings plans. The Senate recedes. (p. 204l, #226s)

Amendments to Summer Youth Employment and Training Program: The Senate bill includes a provision amending the Summer Youth Employment and Training Program. The House recedes. (p. 204m, #226t)

Protection of Pupils: The Senate bill includes a provision which amends Section 439 of the General Education Provisions Act regarding students' right to privacy. The House recedes. It is the intent of the conferees that the language in Section 439, part a, referring to "any applicable program" applies to programs funded in whole or in part by the Department of Education. It is not intended to cover, nor does it cover, programs funded through other Departments or Agencies of the Federal government. It is also the intent of the conferees that full discretion is left to the local school district in deciding how to comply with the law. There are other federal education laws that require that certain notice be given to parents (FERPA) for example), and a school has discretion to determine their methodology. (p. 204o, #226u)

Contraceptive Devices: The Senate bill includes a provision instructing the Departments of Education and Health and Human Services to ensure that all federally funded programs which provide for the distribution of contraceptive devices to unemancipated minors encourage, to the extent practical, family participation in such programs. The House recedes. It is the intent of the conferees to make clear that, while family involvement is to be encouraged, to the extent practical, in federally funded programs which provide for the distribution of contraceptive devices to emancipated minors, nothing shall be construed to mandate parental consent or parental notification in accessing or utilizing these services. (p. 204r, #226v)

DEFINITIONS

Definitions: The House bill defines the terms "all student and all children" in the same definition and uses the term "students" throughout the definition; the Senate bill separates the definitions of the terms "all children" and "all students", but uses the same definition for both, and also uses the term "children" and the term "all students" in the appropriate definitions. The House bill, but not the Senate bill, includes American Indians, Alaska Natives, Native Hawaiians, and migrant children. The House bill refers to "school-aged children who have dropped out"; the Senate bill refers to "students who have dropped out of school". The Senate recedes, with the amendment that eliminates one of the two references to "migrant children" and replaces every instance of "students" or "children" with "students and children". (p. 239, #227)

Definitions: The House bill defines the term "assessment system" to mean at least 1 test, and may include other measures of student performance, for a specific purpose and use which are intended to evaluate the progress of all students in the State toward learning the material in State content standards in 1 or more subject areas; the Senate bill defines the term "assessment" to mean the overall process and instrument used to measure student attainment of content standards, except that such term need not include the discrete items that comprise each assessment. The House recedes, with an amendment changing the term to "State assessment" and defining the term as "means measures of student performance which includes at least one instrument of evaluation, and may include other measures of student performance, for a specific purpose and use which are intended to evaluate the progress of all students in the State toward learning the material in State content standards in one or more subject areas;" (p. 240, #228)

Definitions: The House bill, but not the Senate bill, defines the terms "community", "public", and "advocacy group," all in one definition. The Senate recedes. (p. 240, no #)

Definitions: The House bill includes the definitions of the terms "local educational agency" and "State educational agency" within the same definition and defines them as they are defined in section 1471 of ESEA; the Senate bill has separate definitions of the terms "local educational agency" and "State educational agency", and defines local educational agency to have the same meaning as under section 1471(12) of ESEA except that the term may include a public school council if such council is mandated by State law, and defines State educational agency as having the same meaning as under section 1471 (23) of ESEA. The Senate recedes. (p. 241, #229)

Definitions: The House bill defines "opportunity to learn standards" as the criteria

for, and the basis of assessing the sufficiency or quality of the resources, practices, and conditions necessary at each level of the education system (schools, local educational agencies, and States) to provide all students with an opportunity to learn the material in national or State content standards; the Senate bill defines opportunity to learn as the conditions of teaching and learning necessary for all students to have a fair opportunity to learn, including ways of measuring the extent to which such standards are being met. The Senate recedes to the House definition of OTL standards, with the understanding that there be no definition in the act of the term "opportunity to learn strategies." The conferees chose not to include a definition of the term "opportunity to learn strategies" in order to acknowledge that the nature of such strategies will vary from state to state.

Definitions: The Senate bill, but not the House bill, includes the Freely Associated States in the definition of outlying areas. The House recedes. (p. 242, #231)

Definitions: The House bill refers to "school", but has a later provision specify that only public schools should receive assistance under title III; the Senate bill refers to "public school". The House recedes. (p. 242. #231a)

Definitions: The House bill, but not the Senate bill, includes the proviso of "except as otherwise provided" in its definition of "State", and includes the outlying areas in that definition. The Senate recedes. (p. 242, #232)

LIMITATIONS

Assessments: The House bill, but not the Senate bill, prohibits funds provided under titles II or III to be used to undertake assessments that will be used for high stakes purposes for a period of five years from the date of enactment of this Act. The conference agreement preserves the five-year restriction on high stakes uses for title II assessments, but it modifies the title III restriction to say that assessments developed with Title III funds may be used for high stakes decisions only if students have been prepared in the content for which they are being assessed.

ASSESSMENT OF EDUCATIONAL PROGRESS ACTIVITIES

Assessment: The House bill, but not the Senate bill, includes an amendment to the Carl D. Perkins Vocational and Applied Technology Act to allow a State educational agency to use items and data from NAEP for the purpose of evaluating a course of study related to vocational education. The Senate recedes.

COMPLIANCE WITH BUY AMERICAN ACT

Compliance: The House bill, but not the Senate bill, requires that no funds appropriated pursuant to this Act may be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with the Buy American Act. The Senate recedes, with an amendment making the provision a Sense of the Congress provision.

SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE

Purchase of American-Made Equipment and Products: The House bill, but not the Senate bill, includes a sense of the Congress that funds provided under this Act, when used for purchasing products, should purchase American made equipment and products, and requires the head of each Federal agency providing such assistance to notify each recipient of this statement. The Senate recedes.

PROHIBITION OF CONTRACTS

Prohibition: The House bill, but not the Senate bill, requires that if a court of law determines that person intentionally affixed a "Made in America" inscription on a foreign-made product, then that person shall be ineligible to receive funds under this Act. The Senate recedes, with an amendment making the provision a Sense of the Congress provision.

PARENTAL INFORMATION RESOURCE CENTERS

The House bill, but not the Senate amendment, includes a provision called Parental Information and Resource Centers. It authorizes the Secretary to make annual grants to nonprofit organizations to providing training and information to parents of children aged birth to 5 years, and children enrolled in participating schools, to individuals who work with such parents. The grants should be distributed geographically throughout the United States, include funds to establish, expand, and operate Parents as Teachers programs.

The Senate amendment, but not the House bill, includes a provision authorizing the Parents As Teachers Program.

The Senate amendment, but not the House bill, includes a section amending ESEA to allow 20% of a State's Even Start funds to be used to fund the Home Instruction Program for Preschool Youngsters (HIPPY).

On these three provisions, the Senate recedes, with an amendment including funding for Parents as Teachers and HIPPY programs in a modified provision called Parental Assistance.

ENVIRONMENTAL TOBACCO SMOKE

The Senate amendment includes Title XII regarding Environmental Tobacco Smoke, which provides that within 180 days after enactment the Administrator of the Environmental Protection Agency (EPA) would issue guidelines for instituting and enforcing a non-smoking policy at each indoor facility where children's services are provided. The term "children" is defined to mean persons who have not attained the age of 18. Children's services include health services and other direct services routinely provided to children, including educational services that are funded, directly or indirectly, by federal funds. The policy would, at a minimum, prohibit smoking in each portion of an indoor facility where such services are provided that is not ventilated separately from other portions of the facility. The title would provide for technical assistance and civil penalties.

The House has no comparable provision.

The conference agreement adopts the Senate title with some revisions aimed at making the specified prohibitions self-executing. The agreement deleted from the Senate bill provisions mandating guidelines. The objective is to make it unnecessary to issue either guidelines or regulations. Indeed, the agreement does not include any provision authorizing guidelines or regulation. The conferees understand that in the context of enforcement, the Secretary of Health and Human Services may need to develop guidelines. Presumably, that would be a public process. The revisions provide for enforcement by the Secretary of Health and Human Services.

An "indoor facility" is defined as an enclosed building.

The conference agreement prohibits smoking within any indoor facility, or portion thereof, owned or leased or contracted for and utilized by the children's service provider to provide health, day care, or Head Start services to children or for the use of the employees of such provider. Where the health or day care or Head Start service is provided in a building that also has other uses, such as for law offices, retail establishments, or even for the making of steel of the building of cars, the prohibitions would not apply to those portions of the facility. However, any portion of the facility is covered to the extent it is routinely or regularly used by employees of the service provider.

The prohibitions apply for enforcement purposes to the person who provides the children's services. Any enforcement action would be against that person. The conferees intend that the official who controls the operation of the facility would be responsible for complying with the prohibitions.

The conference agreement does not apply to health programs for which Titles 18 or 19 of the Social Security Act are the sole sources of funding. However, programs such as Community or Migrant Health Centers which receive funds under the Public Health Services Act as well as Title 19 of the Social Security Act are covered by this agreement.

The conference agreement provides that the provision by federal agencies of routine or regular kindergarten, elementary, or secondary education or library services within the United States is to be governed by the facility-wide prohibition in the first sentence of section 1204(c), while the provision of such services by federal agencies outside the United States is to be governed by the prohibition in the second sentence of 1204(c).

One test of covered children's services is that they are provided by the service provider in an indoor facility whose services are funded, after the effective date of the title, with federal grant, loan, loan guarantee, or contract monies, either directly or through a state or local government, from either the Secretary of Education or the Secretary of Health and Human Services or from, in the case of clinics under the Child Nutrition Act of 1966, the Secretary of Agriculture. In the latter case, the conferees specifically referred to section 17 of the Child Nutrition Act and the Code of Federal Regulations to make it clear that it covers clinics and it does not include any food establishments (that are not clinics) where vouchers under that Act are redeemed. The second test is that the service provider provides the services in an indoor facility that is operated, constructed, or maintained with such funds provided after the effective date of the title from such Secretaries. Where these tests are met and the services identified above are provided to children, the applicable provisions apply.

In order to give the widest possible notice, the revisions provide that the prohibitions must be published by the Secretary of Health and Human Services in the *Federal Register*. Ninety days after publication, they will be effective. The Secretary is to consult with all the affected agencies. The conferees afford the Secretary up to 270 days to do this ministerial act. They intend that the Secretary act early in this period in order to provide the full 90-day lead time. If the Secretary delays, the prohibitions are automatically effective at the end of 270 days.

Enforcement is by either civil penalty or administrative compliance order, or both. The amendment spells out the procedures.

GUN-FREE SCHOOLS

The Senate amendment, but not the House bill, contains provisions amending the Elementary and Secondary Education Act requiring local educational agencies to adopt a policy to expel for at least one year students found to have brought a gun to school. The

policy may authorize the superintendent to modify the expulsion on a case-by-case basis.

The House recedes. It is the intent of the conferees that local educational agencies adopt their own polices regarding the legitimate and illegitimate possession of guns by students on public school property based on the particular circumstances of the district and its public schools. The expulsion required under the amendment should be considered a minimum sanction for the violation of that particular school district's policy regarding gun possession and is not meant to be the only alternative for the treatment of a violator. Further, the amendment should be interpreted as applying to expulsion from the regular school program. It would not preclude the student violator's attendance in alternative educational programs or receipt of educational services outside the regular school program during the period of the expulsion.

MIDNIGHT BASKETBALL

The Senate bill includes a provision authorizing the establishment of a Midnight Basketball program in the Department of housing and Urban Development. The House bill includes no such provision. The House recedes.

YOUTH VIOLENCE IN SCHOOLS AND COMMUNITIES

The Senate bill includes a provision regarding Youth Violence in Schools and Communities. The House includes no such provision. The Senate recedes. However, it is the intent of the conferees to request that the Secretary of Education and the Attorney General jointly undertake a study of the scope of disciplinary measures available under State and Federal law to school districts and schools for dealing with violent behavior on school premises, and the types and sources of information, concerning, among other things, prior convictions and pending arrests for violent offenses, that schools and school districts should have access to in order to minimize violent behavior on school premises. The study shall identify any changes in law necessary to provide schools and school districts with necessary information.

GENERAL PROVISIONS REGARDING THE OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

The House bill, but not the Senate bill, includes in its title "development, dissemination and excellence" along with "research".

The Senate recedes with an amendment to incorporate "improvement" into the title to read, "Educational Research, Development, Dissemination and Improvement."

The table of contents reflect differences of the bills.

The table will be redrawn to reflect the final bill.

The House bill, but not the Senate bill, lists findings.

The Senate recedes with editorial and clarifying changes to the text and adds "minorities" to the list of youths identified as educational research targets.

The Senate bill, but not the House bill removes OERI from the General Education Provisions Act.

The House recedes.

The House and Senate bills contain similar language contained in "policy/mission" of House bill and "purpose" of Senate bill.

The Senate recedes with an amendment to define the mission of the Office as one of expanding knowledge about education, promoting excellence and equity, promoting the use of research and monitoring the state of education.

Both bills authorize the Office to carry out the stated purposes. The Senate bill provides greater detail on the types of activities authorized. The House bill states that OERI will be guided by the priorities established by the Board.

The House recedes with an amendment to require that the Office be guided by a long-range plan which is developed by the Assistant Secretary, working collaboratively with the Board, and approved by the Board. It is the intent of the conferees that should there be disagreement between the Assistant Secretary and the Board during the development of the long-range plan on discrete items, final disposition of such items shall rest with the Assistant Secretary during the development process.

The Senate bill describes the functions of the Assistant Secretary as follows: provides for broad involvement in the planning of OERI activities, free from partisan influence; provides for standards for research; provides for a long-term agenda developed in consultation with the Board; provides information and technical assistance to States; and includes teacher advisory boards for all programs. The House has comparable provisions elsewhere in the bill.

The House recedes with an amendment to require the Assistant Secretary to develop a long-range plan, working collaboratively with the Board, which must subsequently be approved by the Board.

The House and Senate bills contain similar provisions concerning the administrative structure of the Office.

The conference substitute conforms the section to the final bill.

The House bill, but not the Senate bill, requires that certain research areas of the Institutes receive priority within OERI.

The House recedes.

Both bills contain similar provisions concerning the appointment of employees, with the added provisions in the House bill concerning public notice of vacancies and of opportunities to compete for such positions; and the requirement that such employees provide expertise that is not otherwise available among permanent employees.

The Senate recedes with an amendment requiring a public notice of vacancies of 30 days.

The House bill, but not the Senate bill, provides that the Assistant Secretary may publish reports without prior clearance once quality assurances have been met.

The Senate recedes.

Both bills require biennial reports be submitted to the Congress on the activities of the Office, the House bill by December 30th, the Senate bill by January 15th. The House bill spells out in more detail than the Senate bill what the report shall contain.

The Senate recedes with a conforming change.

The House bill provides for the coordination of education research within the Department and among the federal agencies. The bill requires the Assistant Secretary to compile and update an inventory of all federal education research. The Senate bill requires the Assistant Secretary to coordinate research activities within the Department of Education.

The Senate recedes with an amended first paragraph on coordination as follows, "With the advice and assistance of the Board, the Assistant Secretary shall work cooperatively with the Secretary and the other Assistant Secretaries of the Department to establish and maintain an ongoing program of activities designed to improve the coordination of education, research, development, and dissemination activities within the Department and within the Federal government . . ." The Secretary's report on federal research and development activities is amended to strike the word "all".

Both bills require the awards be made with the principles of peer review, in the House bill for awards above $100,000 and in the Senate bill for all awards, except for where it would be "clearly inappropriate". The House bill requires further that the Assistant Secretary establish standards for the evaluation of research and standards for the review panels.

The Senate recedes on the following sections of the contents of standards specified in the House bill: section (A) relating to a system of peer review, subsection (B)(iii) relating to a description of general procedures to be used in peer reviews, subsections (i) and (ii) of (C) concerning specific procedures to be used in evaluations, subsection (D)(i) and subsection (E)(i), concerning evaluations of performance.

The Senate bill requires that the Assistant Secretary develop standards. The House bill requires the same, but requires further that the proposed standards for evaluating research be published for comment and then be submitted to the Board for approval. The Senate bill requires that all awards be made through an open competition and peer review.

The conference substitute amends the section to merge all language in both bills.

The House and Senate bills have similar provisions concerning the Assistant Secretary's role on public involvement, long-range plans and research that is free from partisan influence. The House bill requires further that the Assistant Secretary be guided by the Research Priorities Plan and requires the Assistant Secretary to report by sex in the collection of data.

The conference substitute amends the section to merge all language in both bills.

The Senate bill, but not the House bill, requires an independent evaluation of the activities of OERI.

The House recedes with clarifying changes and an amendment which requires the Assistant Secretary to report the results of the evaluation within four years of enactment.

DEFINITIONS

The House bill but not the Senate bill defines "at-risk" student.

The Senate recedes with an amendment to include "race" among the categories and to drop from the definition the phrase, "greater potential for dropping out of school", and insert instead, "reduced academic expectations." The conferees specifically included students "who because of . . . race . . . face a greater risk of low educational achievement or *reduced academic expectations* (emphasis added)" in the definition of at-risk student. It is the entent of the conferees that the Institute on At-Risk Students examine the causes and methods to improve, low identification and service of gifted and talented minorities.

Both bills have Boards, but the House bill includes in its definition "policy" and the Senate bill includes "advisory".

The Senate recedes.

Both bills have similar definitions for "research", but the Senate bill adds "applying tested knowledge gain to specific settings".

The House recedes.

Both bills contain similar definitions for "development."

The Senate recedes.

Both bills contain similar definitions for "technical assistance."

The House recedes.

Both bills contain similar definitions for "dissemination" with the addition of technical assistance and the provision of comparative evaluations under the House bill.

The House recedes with an amendment to incorporate the idea that dissemination includes the provision of technical assistance.

The House bill, but not the Senate bill, includes a definition for "national education dissemination system".

The Senate recedes.

The House bill, but not the Senate bill, includes a definition for "national research institute".

The Senate recedes.

The House bill, but not the Senate bill, includes a definition of the United States and State.

The Senate recedes with an amendment to include the Virgin Islands and the outlying territories. We intend that the labs should continue to serve the outlying territories beginning in fiscal year 1996.

The Senate bill, but not the House bill includes a definition for the term "field-initiated research."

The House recedes.

APPROPRIATIONS

The House bill authorizes appropriations from fiscal year 1994 through fiscal year 1998 and the Senate bill makes the authorization from fiscal year 1995 through fiscal year 1995.

The House recedes.

	House	Senate
Institute/Directorates	Fiscal year 1994, $37m (at-risk). Fiscal year 1995, $100m total.	$100m total
	Minimum amount	
	House above $70m	Senate at or below $70m
$20m (at-risk)	10%	10%
$20m (assessment)	30%	25%
$20m (governance)	10%	5%
$20m (early child)	10%	10%
$20m (lifelong)	10%	5%
	Maximum amount	
Crosscut	10%	10%
Office of Dissemination	Fiscal year 1994, $22m	
	Fiscal year 1995 such sums.	$5m
	ERIC ($7.175m)	$10m
Regional labs	Fiscal year 1994, $37m.	
	Fiscal year 1995, "such sums".	$41m
Teacher research dissemination.	Fiscal year 1994, $30m	
	Fiscal year 1995 "such sums".	$10m

The conference substitute provides $68 million prior to implementation of the Institutes in fiscal year 1995. It combines the Student Assessment and At-Risk Institutes into a single line item funded in Fiscal Year 1996 at $60 million with the requirement that each of the Institutes receives 50% of the funds appropriated in any year. The substitute provides for separate authorizations of appropriations for the remaining three Institutes beginning in fiscal year 1996, with $15 million for the Early Childhood Institute, $10 million for the Institute on Governance and $15 million for the Institute on Lifelong Learning. The substitute allows the Assistant Secretary to use up to 10% of funds appropriated for the combined Institutes for synthesis and coordination, provided that no single Institute shall have more than one-third of its funds used for this purpose. The substitute incorporates the House proposal for the Office of Dissemination and the Senate proposal for the regional laboratories and $20 million for the Teacher Research Dissemination program, from which .2% may be used for peer review.

The House bill, but not the Senate bill, authorizes $30 million for Community Partnerships.

The Senate recedes.

The Senate bill, but not the House bill, authorizes $10 million for fiscal year 1995 for National Diffusion State Facilitators.

The Senate recedes.

The Senate bill, but not the House bill, authorizes $10 million for fiscal year 1995 for the National Education Library. House bill assumes expenses to be covered under Salaries and Expenses of the Department.

The Senate recedes.

The House bill, but not the Senate bill, makes available 2% of appropriations for institutes/dissemination or $1 million (whichever is less) available for Board.

The Senate recedes with an amendment to allow funds to be used for expenses of the Board and consensus building activities by the Assistant Secretary.

The House bill requires that 95% of the funds from the amounts provided to the Institutes and to the programs under the Office of Dissemination be made available through grants or contracts. The Senate bill applies the same provision to only those funds available through the Directorates.

The Senate recedes.

The House bill, but not the Senate bill, makes appropriations for fiscal year 1995 and beyond contingent on appointment of Board.

The Senate recedes with an amendment to change the effective date to fiscal year 1996.

The House bill, but not the Senate bill, authorizes a grant of $5 million for fiscal year 1995 for a State-by-State poll.

The Senate recedes with a clarifying change and amendment to allow the grant for "any" fiscal year.

The Senate bill, but not the House bill, authorizes the Office to act for all agencies when more than one federal agency supports a single project.

The House recedes.

Both bills have language to require that existing contracts for the regional labs and grants for the research centers fulfill the time for which they were granted. The Senate bill also adds a funding mechanism to carry out the provision.

The House recedes with a clarifying change.

The Senate bill, but not the House bill, sets forth provisions regarding the continuation of legal documents, proceedings, suits and actions.

The Senate recedes.

The House bill, but not the Senate bill, specifies required qualifications for the position of Assistant Secretary.

The Senate recedes with an amendment to include "practitioners" and to modify a phrase to give "due consideration to the recommendations from the Board."

The Senate bill, but not the House bill, provides for funding of field readers.

The House recedes.

NATIONAL EDUCATIONAL RESEARCH POLICY AND PRIORITIES BOARD

The House bill establishes a Board within the Office to develop priorities for guiding the work of the Office; to review the standards for the conduct and evaluation of research; to oversee the implementation of its recommended priorities. The House bill requires further that the Board establish a long-range research priorities plan and provide biennial evaluative summaries of the research and development activities carried out by the federal government during the preceding two years. The Senate bill establishes an advisory board. The bill requires the Board to provide oversight of the Office, and requires the Board to report recommendations for improvement to the Nation.

The Senate recedes to clauses (b) (1) and (2) of the House bill with an amendment to strike, "acting through the Assistant Secretary", and to change the function of the Board to "approve" rather than "determine" the long-range plan. The House recedes on all provisions in the Senate bill, requiring that they be moved to the section concerning the duties of the Assistant Secretary.

The House bill requires the Assistant Secretary, every two years, to publish the proposed research priorities of the Office for comment and to submit the proposed priorities and comments to the Congress. The Senate bill requires the Secretary to submit a 6-year research priorities plan to the Congress, along with a progress report, every two years for meeting that plan.

The conference substitute merges all aspects of each bill.

The Senate bill, but not the House bill, requires the Assistant Secretary to publish the proposed research agenda of the directorates and allow for public comment every two years.

The House recedes.

The House bill, but not the Senate bill, requires the Board to make recommendations for the position of the Assistant Secretary and for the positions of directors of Institutes. It also requires the Board to approve standards for the conduct and evaluation of research.

The Senate recedes.

The House bill requires the Board to appoint standing subcommittees for each institute. The Senate bill gives the Board authority to establish committees.

The Senate recedes with an amendment to make the establishment of subcommittees permissive.

The House bill, but not the Senate bill, makes certain requirements on the composition of subcommittees.

The House recedes.

The House bill, but not the Senate bill, gives the Board the authority to hire staff. It establishes rates of pay. It provides the Board such powers as the authority to review grants and contracts made by the Office, to enter into contracts, to convene workshops. The Senate bill gives the Assistant Secretary the authority to hire staff which the Board can assign.

The Senate recedes with an amendment to authorize the Board to appoint an executive director and require that additional staff be provided by the Office.

Both bills require consideration be given to gender and race in the selection of Board members. The Senate bill also requires the consideration of classroom teachers.

The Senate recedes.

Both bills impose certain limitations on Board members. The House bill also includes language prohibiting "conflict of interest."

The conference substitute merges all provisions.

Both bills establish minimum qualifications for membership on the Board.

The conference substitute merges all provisions.

The House bill establishes an 18-member Board. The Senate bill establishes a 9-member Board.

The conference substitute provides for a 15 member board.

The House bill specifies that the composition of the Board shall include researchers

nominated by the National Academy of Sciences and the National Academy of Education and 7 other categories of people. The Senate bill requires the Secretary to consider nominations from a wide variety.

The conference substitute establishes three categories from which 5 nominees each shall be selected. The categories are (1) school practitioners, (2) nominees made by the National Academy of Sciences, and (3) other individuals knowledgeable about education.

The House bill, but not the Senate bill, defines the conditions under which nominations may be considered from the National Academy of Sciences/Education.

The Senate recedes with a clarifying amendment.

The House bill, but not the Senate bill, requires the Secretary to solicit and to consider recommendations for Board membership from specified organizations.

The Senate recedes with a technical change.

The House bill, but not the Senate bill, lists additional nonvoting members from Federal agencies who may serve on the Board.

The Senate recedes.

Both bills select the chair in the same manner. The House bill provides the chair a two-year renewable term.

The House recedes with an amendment to keep the two-year renewable term.

The House bill gives Board members 5-year terms, renewable for another 5 years followed by a break of the same length before serving again. The Senate bill applies the same conditions to its 6-year terms.

The House recedes.

The House bill, but not the Senate bill, specifies the Board shall meet by a date certain, followed by quarterly meetings. A quorum is constituted in same fashion under both bills.

The Senate recedes with an amendment to strike the initial meeting date.

The House bill, but not the Senate bill, requires that the Board comply with the Sunshine Act.

The Senate recedes.

NATIONAL RESEARCH INSTITUTES

The House bill establishes 5 Institutes; the Senate bill establishes 5 Directorates.

The Senate recedes with an amendment to insert the conference agreements on the titles of each Institute. A technical change is also made to conform to the bill.

Both bills require that the Assistant Secretary appoint a Director for each Institute. The House bill requires additionally that nominations from the Board be considered.

The Senate recedes.

The House bill, but not the Senate bill, limits each director to a renewable 3-year term.

The House recedes.

Both bills make directors report directly to the Assistant Secretary and charges them to work with each other.

The conference substitute merges these provisions. The managers of the conference wish to note that the Committee believes that the directors of the Institutes and the Office of Dissemination in the Office of Educational Research and Improvement should be in the Senior Executive Service. It is important that OERI be advised by persons selected by virtue of their professional qualifications and expertise in research, practice, dissemination, and statistics.

Both bills authorize the same types of activities, but the House bill adds "regional laboratories" and the Senate adds "consortia". The House bill provides this authority to the Assistant Secretary. The Senate bill provides the authority to the directorates.

The conference substitute merges both bills.

The House bill requires funding of at least $2 million per year for R&D centers. They must be funded for a least 6, but not more than 10, years. The Senate bill requires that the directorates reserve at least ⅓ of their funds for R&D centers, funded at a minimum of $1.1 million per year. They must be funded for at least 5 years, renewable for another 5.

The conference substitute requires a minimum of $1.5 million per center with a funding cycle of 5 years renewable for an additional 5 years.

The Senate bill, but not the House bill, makes provisions concerning the eligibility of existing R&D centers to receive grants.

The House recedes.

The House bill, but not the Senate bill, authorizes public-private partnerships funded up to 50% with federal funds. It also authorizes funds for other solicited and unsolicited proposals and for dissertation grants.

The Senate recedes with an amendment to strike the public-private partnerships.

Both bills authorize grants for fellowships. The House bill gives meritorious 3-year fellowships to individuals traditionally under represented in research. The bill requires a level of funding comparable to those offered by the NSF.

The conference substitute merges both bills making them permissive authorities.

The House bill, but not the Senate bill, requires a balance between applied and basic research in the institutes.

The Senate recedes.

The House bill requires a minimum of 15%, the Senate bill requires 33⅓%, be reserved by the Institutes/Directorates for field-initiated studies.

The conference substitute requires a minimum of 20% be reserved in fiscal years 1996 through 1997, and that 25% be reserved in fiscal years 1998, and 1999.

The Senate bill, but not the House bill, authorizes directorates to conduct research on schools funded by the Bureau of Indian Affairs.

The House recedes with a conforming change.

The Senate bill, but not the House bill, requires directorates to conduct basic and applied research in all levels of education in the core subjects.

The House recedes with clarifying changes.

The Senate bill, but not the House bill, requires the directorates to serve as a database on model programs in the public and private sector.

The Senate recedes with an amendment placing this function within the Office of Reform Assistance and Dissemination.

The Senate bill, but not the House bill, requires the directorates to disseminate their research to the classroom.

The Senate recedes.

The House bill promotes cross-cutting issues, the Senate bill promotes synthesis, of work of the institutes/directorates. The House bill requires the cross-cutting issues be consistent with research priorities of the Board and the areas selected by the Assistant Secretary. The Senate bill requires synthesis be developed across the directorates in all levels of education. The House authorizes cross-cutting to also include collaboration with entities other than the institutes.

The conference substitute merge all provisions.

The House bill, but not the Senate bill requires that procedures regarding public notice, peer review and evaluation standards be followed before a grant or contract may be made.

The Senate recedes.

Both bills specify similar criteria to be used for the review of research centers. The Senate bill specifies how research will be disseminated. Both bills differ on the amount of time required of the director of the research center to be spent on center activities—with the House bill requiring "adequate time" and the Senate bill requiring "full-time."

The conference substitute requires that center directors and support staff devote a majority of their time to center activities.

The House bill, but not the Senate bill, requires the Assistant Secretary to submit any grant or contract proposal in excess of $500,000 to the Board for comment before being issued.

The Senate recedes.

The House bill, but not the Senate bill, requires the Assistant Secretary to maintain initiatives to increase the participation of historically under represented groups in research.

The Senate recedes.

The House bill, but not the Senate bill, gives the Assistant Secretary the authority to use outside experts, to use services and equipment made available through other public entities and to accept unconditional gifts.

The Senate recedes with an amendment striking "gift" authority.

The House bill, but not the Senate bill, sets forth findings for each of the institutes.

The Senate recedes with clarifying and editorial changes.

Both bills provide overlapping areas of research in the At-Risk Institute, but the House bill adds (1) research on how parents and communities can help students achieve (2) research on culturally sensitive assessments and research on gender equity; the Senate bill adds (1) research on effective institutional practices and (2) research on students with disabilities.

The House recedes to Senate provision (1), (3), (4), (7) and (8) and the Senate recedes to House provisions (A)(i), (ii), (iv), (v), (vi), and (b).

Both bills provide overlapping areas of research in the National Institute for Innovation in Educational Governance, Finance, Policy-making and Management. The House bill, but not the Senate bill includes research on: choice, financial incentives for achievement, expanded role for teachers, increased involvement of parents, increased representation of women and minorities, coordinated services, school to work. The Senate bill includes research on: inner workings of schooling, policy decisions at all levels, amount of dollars spent on classroom instruction, use of technology and adult education needs.

The conference substitute merges the two bills and includes "public school choice."

The House bill, but not the Senate bill, requires research on educational leadership.

The House recedes.

The House, but not the Senate bill requires research on educational choice.

The House recedes with a provision making research on public school choice permissive.

Both bills describe the similar authorized activities of the National Institute for Early Childhood Development and Education. The House bill authorizes research on learning within families with a special emphasis on character development. The Senate bill references research on instruction that considers differing cultural experiences of children.

The conference substitute merges the provisions.

The House bill, but not the Senate bill, requires that the Early Childhood Institute place an emphasis on research of at-risk children, girls and children with disabilities. It also requires that the research be aimed at improving other federal programs for young children.

The Senate recedes with an amendment striking the required emphasis.

Both bills describe similar activities to be conducted under the National Institute on Curriculum, Assessment, and Student Achievement. The Senate bill, but not the House bill, also includes research on standards of what students should know. The House bill describes in greater detail than the Senate bill, research on testing and requires that the research comply with the Standards for Educational and Psychological Tests.

The Senate recedes with an amendment striking the standards of assessment requirement and the definition of development.

The House and Senate bill describe similar activities to be conducted under the National Institute for Postsecondary Education, Libraries, and Lifelong Learning. The House bill requires collaboration with many other federal entities. The House bill is more descriptive than the Senate bill and includes in its description of areas of research, research of effective models in corrective settings and models in libraries. It requires that research be conducted on the effectiveness of various postsecondary education institutions in serving underserved populations. The Senate bill enumerates 5 areas in which research shall occur.

The conference substitute merges the House and Senate provisions.

The House bill, but not the Senate bill, requires the Assistant Secretary to coordinate a research program on teacher education.

The Senate recedes with modification.

The House bill, but not the Senate bill, requires the Assistant Secretary to coordinate a research program on technology in education.

The House recedes.

The House bill, but not the Senate bill, requires OERI to be reorganized into administrative units which parallel the institute structure.

The House recedes.

The House bill, but not the Senate bill, requires that all 5 institutes be established by October 1994.

The Senate recedes, changing the date to 1995.

NATIONAL EDUCATION DISSEMINATION SYSTEM

The House bill, but not the Senate bill, includes a "findings", "purpose" and "definition of educational program" for its Office of Dissemination.

The Senate recedes with technical changes.

Both bills establish an office of dissemination and reform within OERI. The Senate bill requires that the office be headed by a director with experience in dissemination.

The conference substitute incorporates the requirement that the office include programs or activities which are enumerated in the Senate bill under (1) and in the House bill under "Additional Duties".

Both bills require that specific duties be performed within the dissemination office. The House bill requires the Office to identify programs for dissemination and to assist programs in their assessment. It also requires assistance for the implementation of promising programs and requires research on models for dissemination. The Senate bill requires the Office to establish a depository for Department of Education products, to coordinate all OERI dissemination functions, to help link schools with labs, and to report to the Assistant Secretary on the products or services most frequently requested.

The conference substitute merges all provisions.

The House bill, but not the Senate bill, establishes a program for identifying, designating, and disseminating successful educational programs for dissemination.

The Senate recedes with technical changes.

The House bill, but not the Senate bill, requires the Assistant Secretary to keep entities apprised of dissemination programs and to make assistance available when needed.

The House recedes.

Both bills establish ERIC with similar intent, but differing language. The Senate adds the requirement that the Assistant Secretary develop a coherent policy for abstractions from literature. The House bill allows the clearinghouses to produce a variety of written formats to update its users on education research.

The House recedes on (1) with an amendment to incorporate "16 educational resource information clearinghouses" and on paragraph (2)(A). The Senate recedes on (2).

The House bill, but not the Senate bill, requires the Assistant Secretary to coordinate the activities of listed entities involved with dissemination.

The Senate recedes.

The House bill, but not the Senate bill, requires the Assistant Secretary to perform various functions to help ensure the information stored for dissemination is comprehensive.

The Senate recedes.

The House bill, but not the Senate bill, prohibits matter stored in or retrieved from the Clearinghouse from being copyrighted.

The Senate recedes.

The House bill, but not the Senate bill, authorizes the Assistant Secretary to award grants and contracts to conduct dissemination activities using technology. Smartline is among those activities authorized.

The Senate recedes with an amendment changing the term "smartline" to "electronic networking" in order to be more descriptive of the activities authorized.

The Senate bill, but not the House bill, authorizes NDN state facilitators to provide information on model or demonstration projects without program effectiveness panel approval.

The Senate recedes.

Both bills establish regional educational labs, but the Senate bill renames them. The House bill requires the Assistant Secretary to award funds through contracts.

The conference substitute takes the title of the Senate bill, with the House provisions regarding contracts, modifying the language to reflect the agreement to allow up to 12 labs.

The Senate bill, but not the House bill, expands the number of labs from 10 to not more than 20.

The conference substitute allows up to 12 labs with the following conditions: (1) creation of new labs, if at all, should take place in fiscal year 1996 as part of the recompetition of all labs; (2) provide a 60-day public comment period regarding where new regions should be formed; (3) in order for a new region to be formed, must be letters of support for new configuration from the Chief State Schools Officers and the State Boards of Education that would comprise a new region; (4) minimum of four contiguous states to form a new region, excluding those entities outside the continental United States; (5) the amount of assistance allocated to each laboratory shall reflect the total number of children within the region served by such laboratory, as well as the cost of providing services within the region. Section 941(h) requires that the existing laboratory regions be maintained except under the circumstances and conditions set forth in the legislation. These existing regions are: (i) Connecticut, Maine, Massachusetts, New Hampshire, New York, Puerto Rico, Rhode Island, Vermont, Virgin Islands; (ii) Delaware, District of Columbia, Maryland, New Jersey, Pennsylvania; (iii) Kentucky, Tennessee, Virginia, West Virginia; (iv) Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina; (v) Illinois, Indiana, Iowa, Michigan, Minnesota, Ohio, Wisconsin; (vi) Arkansas, Louisiana, New Mexico, Oklahoma, Texas; (vii) Colorado, Kansas, Missouri, Nebraska, North Dakota, South Dakota, Wyoming; (viii) Arizona, California, Nevada, Utah; (ix) Alaska, Idaho, Montana, Oregon, Washington; (x) American Samoa, Guam, Hawaii, the Northern Mariana Islands, and Palau.

The Senate bill changes the definition of lab. The House bill codifies the regulatory definition of a lab.

The House recedes with clarification.

The Senate bill, but not the House bill, allows the Assistant Secretary to support a new regional lab once appropriations reach $40 million, to be funded at a minimum of $2 million and it describes the procedure for forming a new region.

The conference substitute requires a trigger year to be fiscal year 1996 with $2 million above the amount provided in that year.

Both bills describe many overlapping required duties. The Senate bill also emphasizes the labs' role of disseminating products to help students reach challenging standards. The House bill emphasizes using labs for assisting schools with systemic improvements and requires labs to provide support and technical assistance to the NDN state facilitators.

The House recedes with an amendment to insert "implementing broad-based, systemic school improvement strategies."

Both bills require labs to form networks among themselves, with the House bill more descriptive. The House bill requires the governing Board to establish the newtork.

The Senate recedes.

Both bills have similar language concerning the coordination of the labs with the Institutes/Directorates. The House bill requires attention to rural schools and educators.

The Senate recedes.

Both bills require the establishment of a governing board. The Senate bill adds the requirement that boards include teachers and education researchers.

The conference substitute merges all provisions.

The House bill requires the work of the labs to be determined by its governing board. The Senate bill requires the work of the lab to be determined by statute and by the board in consultation with the Secretary. In addition, the Senate bill holds the governing board accountable for the quality of work performed.

The conference substitute merges all provisions with a redraft of the Senate bill's first paragraph to read as follows: "subject to the requirements of this section, engage in an on-going dialogue with the Assistant Secretary concerning its goals, activities and priorities."

The House bill, but not the Senate bill, requires the Board to comply with standards of the House bill.

The Senate recedes.

Both bills require coordination with other entities, but the Senate bill focuses that coordination exclusively on Technical Assistance Centers.

The Senate recedes.

The House bill, but not the Senate bill, requires competitions for lab contracts to be announced in several publications.

The Senate recedes.

Both bills require evaluations of the work of labs. The Senate requires them every 3 years. The House requires them periodically, and requires that the review be done by an independent entity.

The House recedes.

Both bills make similar requirements concerning an application by an entity desiring to become a lab.

The Senate recedes.

Both bills make similar requirements concerning the ability of labs to be eligible to receive other assistance from the Office. The Senate bill would also allow labs to become involved in international projects or endeavors.

The House recedes.

The Senate bill, but not the House bill, authorizes the Assistant Secretary to enter into agreements with labs to use their funds for additional purposes.

The House recedes.

The Senate bill, but not the House bill, requires labs to submit a plan for the Assistant Secretary's approval. The Senate bill requires that the expiration of labs' contracts coincide with the reauthorization cycle.

The House recedes with an amendment to strike the provision concerning the expiration of labs contracts and to place the provision in statement of managers language.

The Senate bill, but not the House bill, provides that nothing in the bill shall be construed to modify existing contracts for the labs.

The House recedes.

The House bill, but not the Senate bill, authorizes Goals 2000 partnerships.

The Senate recedes.

Both bills have a teacher research dissemination program with differing title and identical findings.

The House recedes.

The House bill requires a contract for the teacher research dissemination program be given to regional labs in partnership with another entity. The Senate bill allows the Assistant Secretary to provide funds through grants, contracts or cooperative agreements, and makes a variety of institutions eligible.

The House recedes.

The House bill requires the Assistant Secretary to correlate the amount of funding for each teacher dissemination contract with the number of schools, students, etc. served. Contracts are for 3 years. The Senate bill requires the Secretary to give priority to entities which have received federal funds for research and dissemination.

The House recedes.

Both bills describe some overlapping activities of the teacher dissemination program which may be funded along with other areas unique to each bill. For example, the House bill authorizes the teacher dissemination program to train teachers in applied research, to offer sabbaticals, to train teachers in change management.

The Senate recedes with an amendment to include Senate language in the House provisions.

The House bill makes certain requirements of those who have participated in the teacher dissemination program. No comparable Senate provision.

The House recedes.

Both bills use different language for the similar purpose concerning applications to receive assistance.

The House recedes.

Both bills contain overlapping requirements for applications. The House requires, the Senate allows, participants to be offered stipends. The House requires that following participation of a teacher, funds be provided to his school districts for an additional 2 years for program continuity.

The House recedes.

The House bill, but not the Senate bill, describes selection procedures for teacher participants.

The House recedes.

Both bills require an evaluation of the teacher dissemination program, within 3 years and by an independent evaluator in the House bill, within 5 years and through a report in the Senate bill.

The Senate recedes with an amendment to change the number of years to "four."

The House bill, but not the Senate bill, allows the Assistant Secretary to reserve up to $250,000 for evaluations of the program.

The House recedes.

The Senate bill, but not the House bill, provides for coordination of activities of this program with those of the programs of the Elementary and Secondary Education Act.

The House recedes.

THE NATIONAL LIBRARY OF EDUCATION

Both bills establish a National Education Library, within OERI by the House bill, within the Department of Education by the Senate bill.

The House recedes.

The Senate bill, but not the House bill, gives an in-depth description of the library with a mission statement.

The House recedes.

Both bills list overlapping functions of the library. The House bill requires the library to establish an information and referral service on federal programs accessible through a toll-free number; it requires the library to provide comprehensive reference services; and it requires the library to foster cooperative arrangements with other libraries.

The conference substitute merges all provisions.

The House bill requires the Library to be headed by an executive director, trained in library science, to serve for renewable 5-year terms. The Senate bill requires a librarian to be selected after the Secretary solicits nominations, with no fixed term.

The Senate recedes with an amendment to strike the House provision authorizing the administrator of the Library to serve for a renewable term of 5 years.

The House bill, but not the Senate bill, requires the Assistant Secretary to appoint a task force to develop a plan for implementing the Library.

The Senate recedes.

The House bill, but not the Senate bill, requires that certain functions within the Department of Education be transferred to the Library.

The Senate recedes.

The House bill, but not the Senate bill, requires a policy be developed governing the Library's collections.

The Senate recedes.

The House bill, but not the Senate bill, requires cataloging and preservation activities.

The Senate recedes.

ADDITIONAL PROGRAMS

The Senate bill, but not the House bill, authorizes the "international education program" to study effective practices in other countries and to provide for educational exchanges. The authorization of appropriations for the combined activities is $11 million for fiscal year 1995 and "such sums" for fiscal year 1996 through fiscal year 1999.

The House recedes with an amendment striking in section 921(c)(1)(A) "The Secretary shall carry out" and inserting in lieu thereof "The Secretary, with the concurrence of the Director of the United States Information Agency and with the foreign policy guidance of the Secretary of State, shall carry out".

The committee of conference notes that the U.S. Government has already begun extensive education and exchange programs with the independent states of the former Soviet Union and Central and Eastern Europe. These programs are conducted under the authorities of the Mutual Educational and Cultural Exchange Act of 1961, the FREEDOM Support Act, and the SEED Act. The committee of conference expects that the program of international educational exchange authorized under this section will be consistent with and not duplicate, and be carried out under the same authorities and guidelines, of the ongoing programs in the region. In carrying out the purposes of this section, the committee of conference expects the Secretary of Education, the Secretary of State, and the Director of the United States Information Agency to work closely to ensure efficient uses of resources for international education programs for the NIS and Central and Eastern Europe.

In order to monitor the coordination and implementation of programs authorized under this section, the committee of conference expects the Secretary of Education, the Secretary of State, and the Director of the United States Information Agency to submit to the Committees on Foreign Affairs and on Education and Labor of the House and the Committees of Foreign Relations and on Labor and Human Resources of the Senate periodic reports on activities and programs conducted under this section.

The Senate bill, but not the House bill, amends the Perkins Vocational and Applied Technology Act to add higher education data to that which the National Occupational Information Coordinating Committee currently collects.

The House recedes.

The Senate bill, but not the House bill, amends the Elementary and Secondary Education Act to authorize a formula driven program to State Educational Agencies to provide state and local educational agencies with funds to provide science equipment in elementary schools. $10m is authorized to be appropriated in fiscal year 1995, with such sums from fiscal year 1996 through fiscal year 1997.

The Senate recedes.

The Senate bill, but not the House bill, authorizes the Secretary of Education to enter into a contract for television-based projects to help improve literacy among elementary school children. $5m is authorized to be appropriated in fiscal year 1995, with such sums in fiscal year 1996 through fiscal year 1997.

The Senate recedes.

The Senate bill, but not the House bill, amends the Star Schools Assistance Act to change the amount reserved from any appropriations for a study of the Star Schools to the "lesser" of, rather than the "greater" of 5% or $500,000.

The House recedes.

The Senate bill, but not the House bill, amends the ESEA to remove the Office of

Comprehensive School Health Education from the Secretary's Office and place it in the Office of the Assistant Secretary of Elementary and Secondary Education and to authorize the Office to act as liaison to HHS for the purpose of coordinating school health activities.

The House recedes.

The Senate bill, but not the House bill, authorizes a competitive grant program, "the minority-focused civics education program" to be administered by the Dept. of Education. $5m is authorized to be appropriated in fiscal year 1995 with "such sums" for fiscal year 1996 through fiscal year 1998.

The House recedes.

The Senate bill, but not the House bill, authorizes a new program, "Parents As Teachers" to assist families with children aged zero through three, funded at $20 million in fiscal year 1993, with "such sums" in fiscal year 1994 through fiscal year 1997.

The Senate recedes.

The Senate bill, but not the House bill, amends the Elementary and Secondary Education Act to authorize a State which receives a grant under section 1052 to reserve 20% of its funds to establish a Home Instruction Program for Preschool Youngsters.

The Senate recedes.

The Senate bill, but not the House bill, provides that under this Act the definitions for the following terms shall be the same as those under current law: "elementary school", "institution of higher education", "local educational agency", "Elementary and Secondary Education Act", "secondary school", "Secretary" and "State educational agency".

The House recedes.

TITLE VII—THE SAFE SCHOOLS ACT

1. The Senate included the Safe Schools Act as part of Goals 2000; the House bill is drafted as a freestanding provision. The conference agreement makes the Safe Schools provision Title VII of Goals 2000: Educate America Act.

2. The Senate amendment provides for 2-year grants; the House bill provides for 1-year grants. The conference agreement provides for 2-year grants.

3. The House bill directs the Secretary to develop a written safe schools model. The Senate recedes with an amendment moving this project to the National Leadership activity section.

4. The House bill provides a 1-year $50 million authorization. The Senate provides a 2-year authorization—$75 million in the first year, $100 million in the second. The Senate recedes.

5. The Senate sets aside 10% of funds for national leadership activities with 50% of that designated for a Model City Project. The House sets aside 5%. The conference agreement provides for a set aside of 5% of funds for national leadership activities with one-half of the 5% designated for a model city project.

6. The Senate provides a funding priority for districts that qualify for Chapter 1 concentration grants, that demonstrate local commitment to the project, and incorporate a high level of youth participation in related activities. The conference agreement provides for funds to be distributed to programs that demonstrate a local commitment to the project and that incorporate a high level of youth participation.

7. The House bill includes a requirement for the development of educational materials in the second most predominate language of the schools and communities. The conference agreement provides that materials be developed in the second most predominate language "other than English".

8. The Senate requires that Safe Schools activities be coordinated with Goals 2000 activities; the House requires that Safe Schools activities be coordinated with all federal education funds. The Senate recedes.

9. The House bill includes additional application requirements: description of how Safe Schools activities will be integrated with Drug-free Schools activities; description of coordination with other federal violence prevention activities; (Senate provides for Secretary to coordinate in separate section.) description of parental participation efforts. The Senate recedes.

10. The Senate includes a requirement that LEAs' applying for grants have a policy prohibiting sexual contact between school personnel and students. The Senate recedes.

11. The Senate requires the submission of a long-term school safety plan in the second year of the grant. The House recedes.

12. The House use of funds is permissive; the Senate requires funds to be used in specific areas. The House recedes.

13. The House includes additional areas for coordination. The Senate recedes.

14. Throughout the bill, the House uses the term, "combat," to describe general activities and the Senate uses the terms, "address," "reduce," and "prevent." The House recedes.

15. The Senate amendment, but not the House bill, includes training as a use of funds. The House recedes.

16. The House bill, but not the Senate amendment, includes activities to promote parental involvement as a use of funds. The Senate recedes.

17. The Senate rewords the paragraph on community education programs and includes technology-based programs. The House recedes.

18. The House bill, but not the Senate amendment, includes coordination with juvenile justice programs. The Senate recedes.

19. The House bill, but not the Senate amendment, includes the development of materials. The Senate recedes.

20. The House bill, but not the Senate amendment, includes mentoring and community service programs. The Senate recedes.

21. The Senate includes several other use of funds: minor remodelling, metal detectors, reimbursement of law enforcement. The conference agreement deletes "remodelling" and adding language specifying that assistance for these measures is only available through the United States Department of Education if it is not available in other departments.

22. The Senate limits spending on security-related measures to 10%. The conference agreement provides for security-related measures to be funded at no more than 5%.

23. The Senate bill includes dissemination as a leadership activity; the House includes the production and distribution of video-based projects. The conference agreement combines the two activities together.

24. The Senate amendment, but not the House bill, provides that the National Center on Educational Statistics to collect data on school violence. The House recedes.

25. The House requires a report to Congress. The conference agreement provides for the report to be sent to the House Committee on Education and Labor and the Senate Committee on Labor and Human Resources.

26. The Senate includes language providing for coordination with other federal efforts. The House recedes with an amendment replacing "Attorney General, through" and the "Secretary of Education, as a member of".

27. The Senate amendment, but not the House bill, includes an effective date. The House recedes.

From the Committee on Education and Labor, for consideration of the House amendment (except title II) to the Senate amendment, and the Senate amendment (except secs. 901–14), and modifications committed to conference:

WILLIAM D. FORD,
DALE E. KILDEE,
GEORGE MILLER,
TOM SAWYER,
MAJOR R. OWENS,
JOLENE UNSOELD,
JACK REED,
TIM ROEMER,
PATSY MINK,
ELIOT L. ENGEL,
XAVIER BECERRA,
GENE GREEN,
LYNN C. WOOLSEY,
KARAN ENGLISH,
TED STRICKLAND,
DONALD M. PAYNE,
CARLOS ROMERO-BARCELÓ,
BILL GOODLING,
STEVE GUNDERSON,
SUSAN MOLINARI,

From the Committee on Education and Labor, for consideration of title II of the House amendment to the Senate amendment, and secs. 901–14 of the Senate amendment, and modifications committed to conference:

WILLIAM D. FORD,
MAJOR R. OWENS,
DONALD M. PAYNE,
ROBERT C. SCOTT,
TOM SAWYER,
BILL GOODLING,
CASS BALLENGER,
BILL BARRETT,
HARRIS W. FAWELL,

As additional conferees from the Committee on Energy and Commerce, for consideration of title XII of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
HENRY A. WAXMAN,
MIKE SYNAR,
CARLOS J. MOORHEAD,
THOMAS J. BLILEY, Jr.,

As additional conferees from the Committee on Foreign Affairs, for consideration of section 921 of the Senate amendment, and modifications committed to conference:

LEE H. HAMILTON,
HOWARD L. BERMAN,
TOM LANTOS,
BEN GILMAN,

Managers on the Part of the House.

EDWARD M. KENNEDY,
CLAIBORNE PELL,
HOWARD M. METZENBAUM,
PAUL SIMON,
CHRISTOPHER DODD,
TOM HARKIN,
BARBARA A. MIKULSKI,
JEFF BINGAMAN,
PAUL WELLSTONE,
HARRIS WOFFORD,
NANCY LANDON KASSEBAUM,
JAMES M. JEFFORDS,
DAVE DURENBERGER,

Managers on the Part of the Senate.

IMPROVING AMERICA'S SCHOOLS ACT OF 1994

The SPEAKER pro tempore. Pursuant to House Resolution 366 and rule

XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the Bill, H.R. 6.

□ 1433

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 6) to extend for 6 years the authorizations of appropriations for the programs under the Elementary and Secondary Education Act of 1965, and for certain other purposes, with Mr. PRICE of North Carolina in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, March 9, 1994, title V of the proposed Elementary and Secondary Education Act had been designated and is now open for amendment.

Mr. GOODLING. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time to indicate to all of my colleagues that H.R. 6 is to extend for 5 years the authorization of appropriations for the programs under the Elementary and Secondary Education Act of 1965. That is the purpose of the Elementary and Secondary Education Act. I repeat that just so we do not get into the business of trying to reform all the school districts out there the way we think they would be reformed.

As I said, each time when we start this discussion it is just as wrong from my side of the aisle as from the other side of the aisle to micromanage school districts unless we are sending all the funds.

The CHAIRMAN. Are there amendments to title V?

AMENDMENT OFFERED BY MR. MILLER OF FLORIDA

Mr. MILLER of Florida. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MILLER of Florida: Beginning on page 456, strike line 5 and all that follows through line 15 on page 458 (and redesignate the subsequent parts accordingly).

Mr. MILLER of Florida. Mr. Chairman, the gentleman from Ohio [Mr. BOEHNER] and I have been offering a series of amendments to cut some spending in this particular H.R. 6 bill.

Mr. Chairman, as we continue debate on H.R. 6, Mr. BOEHNER and I have focused on trying to bring some semblance of fiscal sanity to this Chamber, and to maintain some minimum level of autonomy for State and local officials to make the education decisions best suited for their unique circumstances.

And, here we go again. The technical assistance for funding equalization is another small, new spending program totaling $8 million for fiscal year 1995, intended to promote funding equalization on the State level. This spending is unnecessary. Not one cent of this $8 million will ever reach a student. It will only go to feed the education bureaucracy.

This program is based on the questionable assumption that equality of resources is somehow the key to solving our education problems in America. If pouring more money into education funding was the key to solving all our problems, we would not be debating this issue today. Unlike some Members of this body, I do not believe that Federal spending, per se, is the magical solution to improved education. As a nation, we are already spending more on the education of our children than our competitors with too few results to show for it.

We simply cannot afford to keep spending money we don't have.

Also, there is a presumption here that the States somehow need the Federal Government to teach them what is in their best interests. State and local education officials, and more importantly parents, disagree. They do not want important questions, such as funding equalization, determined by politicians and bureaucrats in Washington. In truth, nearly half of the States have already developed funding equity solutions without federal micromanaging. This program gets the Federal Government involved in an issue it has no business being involved in.

Before we attempt to get more involved in an issue that I believe is best left to States and parents, let's get our own fiscal house in order. We can start by passing the Boehner amendment, and eliminating another poorly thoughtout program from H.R. 6.

Mr. KILDEE. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Florida. I yield to the gentleman from Michigan.

Mr. KILDEE. I thank the gentleman for yielding.

Mr. Chairman, we have read the amendment offered by the gentleman from Florida, and we accept his amendment.

Mr. BOEHNER. Mr. Chairman, I rise today to offer an amendment to eliminate an $8 million program which would give technical assistance to States and school districts so they can try to equalize their funding.

Let us look closely at what this program does. It provides for centers, conferences, and expert advice on finance equalization, research and analysis of school funding equity, and the development and dissemination of school finance models.

I must ask, should this be a Federal priority at all? Nearly half of the States have already undergone funding equity challenges and have been able to craft their own solutions without Federal help. This program is another Federal venture into an area better left to the States and is unneeded.

In addition, with this program, we are again looking at a situation where we are disrupting our focus and getting away from programs which would actually have an impact on the vast majority of American children. Let me ask, are we willing to take money away from title I to pay the bureaucrats called for in this program? Are we willing to take money away from chapter 2 or professional development? Do we really need to spend our resources on this program? Do we really want to say this is a Federal priority? The honest answer to these questions is "no."

I have argued throughout the consideration of this bill that we cannot have small targeted programs interfering with larger programs aimed at broad national educational concerns. This program is a small, targeted program and should be eliminated.

On a final note, I cannot help but think that the better way to help schools have adequate funding is to funnel this money directly to the students, instead of wasting it on bureaucrats.

I urge adoption of this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. MILLER].

The amendment was agreed to.

AMENDMENT OFFERED BY MRS. MINK OF HAWAII

Mrs. MINK of Hawaii. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. MINK of Hawaii: Page 458, after line 10, insert the following:

SEC 5202. STATISTICAL AND POLICY ANALYSIS.

"(a) NATIONAL CENTER FOR EDUCATION STATISTICS.—The National Center for Education Statistics (established under section 403 of the Improving America's Schools Act of 1994) using standard statistical methods, shall conduct analysis of issues such as—

"(1) Federal policy issues regarding educational access and equity;

"(2) spending inequities at the State and local levels and alternative mechanisms for financing:

"(3) the ability and willingness of States and local educational agencies to generate new revenue sources for education;

"(4) the effect of Federal education assistance on the equalization of education funding at the State and local levels;

"(5) the effects of school finance equalization on the quality of education;

"(6) the costs in providing education to students with special needs;

"(7) the effects of high and low population density on education needs and costs;

"(8) the effects of different teacher compensation policies on costs of providing education services;

"(9) relationships among expenditures, the quality and quantity of instruction, and the different backgrounds of students; and

"(10) how legislation and judicial decisions regarding school finance programs affect education and equalization of funding.

"(b) DATA AND INFORMATION.—In addition to the issues reviewed in subsection (a), the National Center for Education Statistics may utilize data and information which includes—

"(1) sources of revenue and types of taxes;

"(2) tax assessment rates and ability of the State or local educational agency to generate additional revenues;

"(3) the cost of providing services to students with different abilities and needs; and

"(4) student enrollment, per pupil expenditures, and average daily attendance figures.

SEC. 5203. STUDY OF EDUCATIONAL EQUITY.

"(a) STUDY.—The Secretary shall enter into appropriate arrangements with the Na-

tional Academy of Sciences to conduct an in-depth study of school finance. The study by the National Academy of Sciences shall include the following:

"(1) Review Federal policy issues regarding educational access and equity with respect to fiscal and educational resources.

"(2) Review existing State and local systems and evaluate alternative mechanisms for school financing programs with regard to equity and adequacy.

"(3) Review the legal and constitutional context of school finance and equalization programs.

"(4) Evaluate the costs of providing education to students with special needs.

"(5) Evaluate the costs entailed in providing education that promotes the student outcomes called for in the National Education Goals.

"(6) Review the relationships between resources, instruction and children's learning needs, explore a variety of indicators of need, how to measure need, and how to link need to expenditure, and develop illustrative indicators of student achievement and other desired outcomes that might clarify the relationship between education expenditures, the quality and quantity of instruction and resources available, and the background characteristics of students.

"(7) Propose funding models for States and local educational agencies to consider and explicate the conceptual framework of each approach with regard to tax policy, equity, compensatory aid to populations with special needs, and a performance-oriented education policy.

"(b) INTERIM REPORT.—(1) The National Academy of Sciences shall prepare and submit to the Secretary and the Congress an interim report not later than 24 months after the procurement is made and a final report not later than 36 months after the date of procurement. The interim report shall—

"(A) review the data collection design prepared by the Secretary and any preliminary data on the current state of education finance; and

"(B) communicate appropriate findings to date.

"(2) The final report shall—

"(A) provide a comprehensive analysis of education finance structures and the legal context of school finance;

"(B) provide guidance on the resources that will be needed at the school district, and State level to implement reform plans and meet the National Education Goals;

"(C) bring together the best thinking on equity and adequacy as philosophical underpinnings of education finance systems; and

"(D) propose and explicate a variety of funding models."

—Page 458, strike lines 11 through 15 and insert the following:

"SEC 5205. AUTHORIZATION OF APPROPRIATIONS.

"(a) TECHNICAL ASSISTANCE.—For the purpose of carrying out sections 5201 and 5202, there are authorized to be appropriated $8,000,000 for fiscal year 1995 and such sums as may be necessary for each of the fiscal years 1996, 1997, 1998, and 1999.

"(b) NATIONAL ACADEMY OF SCIENCES.—For the purpose of carrying out section 5203, there are authorized to be appropriated $3,865,000 to be available until expended.

Mrs. MINK of Hawaii (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Hawaii?

There was no objection.

Mrs. MINK of Hawaii. Mr. Chairman, the amendment I offer seeks to provide detailed and accurate information on the status of education financing across the country. It authorizes the National Center for Educational Statistics to collect and analyze data on school finances and requires the National Academy of Sciences to conduct an in-depth study on school finance issues.

Ensuring that all students have equal educational opportunities has always been a Federal priority and one of the greatest barriers to equity for many students is inadequate financing at a local level.

Currently, there are 34 States that have or are currently facing a legal challenge to their education financing system on the grounds that it is inequitable. As of November 1993, the financing system of 12 States have been ruled unconstitutional by a State supreme court. While the Federal Government has nothing to do with State school financing, it can play a significant role by assisting the States in developing adequate financing systems through data collection, analysis, and model development. Furthermore, many States are already moving toward equalizing education funding across school districts, as mandated by a court as part of systemwide school reform. However, this is not an easy task. States have been confronted with a host of legal, financial, and ethical issues.

As States continue to grapple with these issues, the Federal Government can help by giving us a better idea of what the stages have been doing, what success has been arrived at, and how that has resulted comparability of educational services for all children.

The National Center for Educational Statistics and the National Academy of Sciences are both well-respected institutions with the expertise and capability of collecting the necessary data, analyzing it, and putting forth a comprehensive study.

I urge my colleagues to support this amendment to provide us with the data information and analysis and a comprehensive examination of the school finance issues which will be of enormous help to the States that have these problems.

Mr. GOODLING. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

I hate to rise in opposition to the amendment of my dear friend, the gentlewoman from Hawaii [Mrs. MINK], but I do have some real concerns. I would hope the chairman would have hearings on this issue before we make this kind of an investment.

There are some concerns which I have, with this amendment. For instance, the proposal really goes beyond research because we are asking them to make recommendations which could be setting policies in a way that represents a new and unwarranted Federal intrusion into the very heart of State and local control of education; that is, taxing and funding decisions.

□ 1440

The actions required by the amendment may be the foundation activities for involving the Federal Government in creating funding equity across the States, so I would hope that we could delay this and have hearings on the whole issue, and perhaps come back and not include it in this reauthorization.

Mr. BOEHNER. Mr. Chairman, I rise in opposition to the amendment offered by the gentlewoman from Hawaii [Mrs. MINK].

Mr. Chairman, this amendment offered by the gentlewoman from Hawaii adds a new part to the technical assistance for funding equity section for title V that will involve the National Center for Educational Statistics in collecting and analyzing data on this issue, and it creates a major study for funding of equity concerns, and I know the gentlewoman is sincere in offering this amendment, and she believes this data will help school districts and States around our country, but I have grave concerns that it is another mandate in this bill that takes away the focus of this bill and, more importantly, over 22 or 23 States have already dealt with the issue of funding equity. I believe that the States are the right place to continue this problem in our education system, and there is no role for the Federal Government to play in it.

Mr. KILDEE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I think the gentlewoman from Hawaii [Mrs. MINK] has brought to us an area of very great interest to all of us, something that we have expressed interest in for the last few authorizations, and I would like to do this:

I would like to have a hearing on this issue itself, and, if the gentlewoman, and I have talked to her, would be willing to withdraw this amendment, we would have hearings just on this one subject.

Mrs. MINK of Hawaii. Mr. Chairman, will the gentleman yield?

Mr. KILDEE. I yield to the gentlewoman from Hawaii.

Mrs. MINK of Hawaii. Mr. Chairman, this is a matter not of concern necessarily to the Congress, but certainly to the 30-plus States that are in a situation of having their financial systems contested by local communities, and so it is a vital issue, and the Congress has addressed it on several occasions. But I understand the other side indicating that perhaps it would be meritorious to have hearings, and with the assurance

of the chairman of our subcommittee that hearings will be called shortly, Mr. Chairman, I will agree to withdrawing my amendment.

Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Hawaii?

There was no objection.

The CHAIRMAN. The amendment is withdrawn.

Are there further amendments to this title?

If not, the Clerk will designate title VI.

The text of title VI is as follows:

"TITLE VI—INDIAN EDUCATION

"SEC. 6001. FINDINGS.

"The Congress finds that—

"(1) the Federal Government has a special responsibility to ensure that educational programs for all American Indian and Alaska Native children and adults—

"(A) are based on high-quality, internationally competitive content and student performance standards and build on Indian culture and the Indian community;

"(B) assist local educational agencies, Indian tribes, and others in providing Indian students the opportunity to achieve those standards; and

"(C) meet the special educational and culturally related academic needs of American Indian and Alaska Native students;

"(2) since enactment of the original Indian Education Act in 1972, Indian parents have become significantly more involved in the planning, development, and implementation of educational programs that affect them and their children, and schools should continue to foster such involvement;

"(3) although the numbers of Indian teachers, administrators, and university professors have increased since 1972, teacher training programs are not recruiting, training, or retraining sufficient numbers of Indian persons as educators to meet the needs of a growing Indian student population in elementary, secondary, vocational, adult, and higher education;

"(4) the dropout rate for Indian students is unacceptably high; for example, nine percent of Indian students who were eighth graders in 1988 had already dropped out of school by 1990;

"(5) from 1980 to 1990, the percentage of Indian persons living in poverty increased from 24 percent to 31 percent, and the readiness of Indian children to learn is hampered by the high incidence of poverty, unemployment, and health problems among Indian children and families; and

"(6) research related specifically to the education of Indian children and adults is very limited, and much of it is poor in quality or focused on limited local or regional issues.

"SEC. 6002. PURPOSE.

"(a) PURPOSE.—It is the purpose of this title to support the efforts of local educational agencies, Indian tribes and organizations, postsecondary institutions, and other entities to meet the special educational and culturally related academic needs of American Indians and Alaska Natives, so that they can achieve to the same challenging State performance standards expected of all students.

"(b) PROGRAMS AUTHORIZED.—This title carries out the purpose described in subsection (a) by authorizing programs of direct assistance for—

"(1) meeting the special educational and culturally related academic needs of American Indians and Alaska Natives;

"(2) the education of Indian children and adults;

"(3) the training of Indian persons as educators and counselors, and in other professions serving Indian people; and

"(4) research, evaluation, data collection, and technical assistance.

"PART A—FORMULA GRANTS TO LOCAL EDUCATIONAL AGENCIES

"SEC. 6101. PURPOSE.

"It is the purpose of this part to support local educational agencies in their efforts to reform elementary and secondary school programs that serve Indian students in order to ensure that such programs—

"(1) are based on challenging State content and student performance standards that are used for all students; and

"(2) are designed to assist Indian students meet those standards and assist the Nation in reaching the National Education Goals.

"SEC. 6102. GRANTS TO LOCAL EDUCATIONAL AGENCIES.

"A local educational agency is eligible for a grant under this part for any fiscal year if the number of Indian children who were enrolled in the schools of the agency, and to whom the agency provided free public education, during the preceding fiscal year—

"(1) was at least 20; or

"(2) constituted not less than 25 percent of the agency's total enrollment.

"SEC. 6103. AMOUNT OF GRANTS.

"(a) AMOUNT OF GRANTS.—(1) The Secretary is authorized to allocate to each local educational agency which has an approved application under this part an amount equal to the product of—

"(A) the number of Indian children described in section 6106; and

"(B) the greater of—

"(i) the average per-pupil expenditure of the State in which the agency is located; or

"(ii) 80 percent of the average per-pupil expenditure in the United States.

"(2) The Secretary shall reduce the amount of each allocation determined under paragraph (1) in accordance with subsection (e) of this section.

"(b) MINIMUM GRANT AMOUNT.—The Secretary shall not make a grant to a local educational agency if the amount determined under subsection (a) is less than $4,000, except that the Secretary may make a grant to a consortium of local educational agencies, one or more of which does not qualify for such a minimum award, if—

"(1) the total amount so determined for such agencies is not less than $4,000;

"(2) such agencies, in the aggregate, meet the eligibility requirement of either section 6102(1) or 6102(2); and

"(3) the Secretary determines that such a grant would be effectively used to carry out the purpose of this part.

"(c) DEFINITION.—For the purpose of this section, the average per-pupil expenditure of a State is determined by dividing—

"(1) the aggregate current expenditures of all the local educational agencies in the State, plus any direct current expenditures by the State for the operation of such agencies, without regard to the sources of funds from which such local or State expenditures were made, during the second fiscal year preceding the fiscal year for which the computation is made; by

"(2) the aggregate number of children who were in average daily attendance for whom such agencies provided free public education during such preceding fiscal year.

"(d) SCHOOLS OPERATED OR SUPPORTED BY THE BUREAU OF INDIAN AFFAIRS.—(1) In addition to the grants determined under subsection (a), the Secretary shall allocate to the Secretary of the Interior an amount equal to the product of—

"(A) the total number of Indian children enrolled in schools that are operated by—

"(i) the Bureau of Indian Affairs; or

"(ii) an Indian tribe, or an organization controlled or sanctioned by an Indian tribal government, for the children of that tribe under a contract with, or grant from, the Department of the Interior under the Indian Self-Determination Act (25 U.S.C. 450f et seq.) or the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.); and

"(B) the greater of—

"(i) the average per-pupil expenditure of the State in which the school is located; or

"(ii) 80 percent of the average per-pupil expenditure in the United States.

"(2) The Secretary shall transfer the amount determined under paragraph (1), reduced as may be necessary under subsection (e), to the Secretary of the Interior in accordance with, and subject to, section 9205 of this Act.

"(e) RATABLE REDUCTIONS.—If the sums appropriated for any fiscal year under section 6602(a) are insufficient to pay in full the amounts determined for local educational agencies under subsection (a)(1) and for the Secretary of the Interior under subsection (d), each of those amounts shall be ratably reduced.

"SEC. 6104. APPLICATIONS.

"(a) GENERAL.—Any local educational agency that desires to receive a grant under this part shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

"(b) COMPREHENSIVE PROGRAM REQUIRED.—Each such application shall include a comprehensive program for meeting the needs of Indian children in the local educational agency, including their language and cultural needs, that—

"(1) provides programs and activities to meet the culturally related academic needs of American Indian and Alaska Native students,

"(2)(A) is consistent with, and promotes the goals in, the State and local plans, either approved or being developed, under title III of the Goals 2000: Educate America Act or, if such plans are not approved or being developed, with the State and local plans under sections 1111 and 1112 of this Act; and

"(B) includes academic content and student performance goals for such children, and benchmarks for attaining them, that are based on the challenging State standards adopted under title III of the Goals 2000: Educate America Act or under title I of this Act for all children;

"(3) explains how Federal, State, and local programs, especially under title I of this Act, will meet the needs of such students;

"(4) demonstrates how funds under this part will be used for activities authorized by section 6105;

"(5) describes the professional development to be provided, as needed, to ensure that—

"(A) teachers and other school professionals who are new to the Indian community are prepared to work with Indian children; and

"(B) all teachers who will be involved in the project have been properly trained to carry it out; and

"(6) describes how the agency—

"(A) will periodically assess the progress of all Indian children in its schools, including Indian children who do not participate in programs under this part, in meeting the goals described in paragraph (2);

"(B) will provide the results of that assessment to the parent committee described in subsection (c)(6) and to the community served by the agency; and

"(C) is responding to findings of any previous such assessments.

"(c) ASSURANCES.—Each such application shall also include assurances that—

"(1) the local educational agency will use funds received under this part only to supplement the level of funds that, in the absence of such Federal funds, the agency would make available for the education of Indian children, and not to supplant such funds;

"(2) the local educational agency will submit such reports to the Secretary, in such form and containing such information, as the Secretary may require to—

"(A) carry out the Secretary's functions under this part; and

"(B) determine the extent to which funds provided under this part have been effective in improving the educational achievement of Indian students in the local educational agency;

"(3) the program for which assistance is sought has been based upon a local assessment and prioritization of the special educational and culturally related academic needs of the American Indian and Alaska Native students for which the local educational agency is providing an education;

"(4) the program for which assistance is sought will use the best available talents and resources, including persons from the Indian community;

"(5) the local educational agency has developed the program in open consultation with parents of Indian children, teachers, and, where appropriate, secondary school Indian students, including holding public hearings at which such persons have had a full opportunity to understand the program and to offer recommendations regarding such program;

"(6) the local educational agency has developed the program with the participation and written approval of a committee—

"(A) that is composed of, and selected by, parents of Indian children in the local educational agency's schools, teachers, and, where appropriate, secondary school Indian students and of which at least half the members are such parent;

"(B) that sets forth such policies and procedures, including policies and procedures relating to the hiring of personnel, as will ensure that the program for which assistance is sought will be operated and evaluated in consultation with, and with the involvement of, parents of the children and representatives of the area to be served; and

"(C) that, in the case of an application which includes a schoolwide project (as specified in section 6105(c) of this part) finds that such project will not diminish the availability of culturally related activities for American Indians and Alaskan Native students; and

"(D) that adopts and abides by reasonable bylaws for the conduct of the activities of the committee.

"(d) STATE EDUCATIONAL AGENCY REVIEW.—(1) Before submitting its application to the Secretary, the local educational agency shall obtain comments on the application from the State educational agency.

"(2) The local educational agency shall send the State educational agency's comments to the Secretary with its application.

"SEC. 6105. AUTHORIZED SERVICES AND ACTIVITIES.

"(a) GENERAL REQUIREMENTS.—Each local educational agency that receives a grant under this part shall use the grant funds for services and activities, consistent with the purpose of this part, that—

"(1) are designed to carry out its comprehensive plan for Indian students, described in its application under section 6104(b);

"(2) are designed with special regard for the language and cultural needs of those students; and

"(3) supplement and enrich the regular school program.

"(b) PARTICULAR ACTIVITIES.—Such services and activities include—

"(1) culturally related activities which support the program set out in the application, as required in section 6104;

"(2) early childhood and family programs that emphasize school readiness;

"(3) enrichment programs that focus on problem-solving and cognitive skills development and that directly support the attainment of challenging State content and student performance standards;

"(4) integrated educational services in combination with other programs meeting similar needs;

"(5) school-to-work transition activities to enable Indian students to participate in programs such as those supported by the School-to-Work Opportunities Act of 1993 and the Carl D. Perkins Vocational and Applied Technology Education Act, including tech-prep, mentoring, and apprenticeship programs;

"(6) prevention of, and education about, substance abuse; and

"(7) acquisition of equipment, but only if such acquisition is essential to meet the purpose of this part.

"(c) SCHOOLWIDE PROGRAMS.—Notwithstanding any other provision of this part, a local educational agency may use funds it receives under this part to support a schoolwide program under section 1114 of title I of this Act, in accordance with such section, if the Secretary determines that the local educational agency has made adequate provision for the participation of Indian children in such project and the involvement of Indian parents in the formulation of such project.

"SEC. 6106. STUDENT ELIGIBILITY FORMS.

"(a) The Secretary shall require that each application for a grant under this subpart for each fiscal year be supported by a form, maintained in the files of the applicant, for each eligible Indian child for whom the local educational agency is providing free public education that sets forth information establishing the status of the child as an eligible Indian child.

"(b) The Secretary shall request on the form required under subsection (a) at least the following information:

"(1) either—

"(A) the name of the tribe, band, or other organized group of Indians with which the child claims membership, along with the enrollment number establishing membership (if readily available), and the name and address of the organization which has updated and accurate membership data for such tribe, band, or other organized group of Indians, or

"(B) if the child is not a member of a tribe, band, or other organized group of Indians, the name, the enrollment number (if readily available), and the organization (and address thereof) responsible for maintaining updated and accurate membership rolls of any of the child's parents or grandparents, from whom the child claims eligibility;

"(2) whether the tribe, band, or other organized group of Indians with which the child, his parents, or grandparents claim membership is federally recognized;

"(3) the name and address of the parent or legal guardian;

"(4) the signature of the parent or legal guardian verifying the accuracy of the information supplied; and

"(5) any other information which the Secretary deems necessary to provide an accurate program profile.

"(c) Nothing in the requirements of subsection (b) may be construed as affecting the definition set forth in section 6601. In order for a child to be counted in computing the local educational agency's grant award, the eligibility form for the child must contain at a minimum—

"(1) the child's name;

"(2) the name of the tribe, band, or other organized group of Indians; and

"(3) the parent's dated signature.

The failure of an applicant to furnish any other information listed in subsection (b) with respect to any child shall have no bearing on the determination of whether the child is an eligible Indian child.

"(d) The forms and the standards of proof (including the standard of good faith compliance) that were in use during the 1985–1986 academic year to establish a child's eligibility for entitlement under the Indian Elementary and Secondary School Assistance Act shall be the only forms and standards of proof used to establish such eligibility and to meet the requirements of subsection (a).

"(e) For purposes of determining whether a child is an eligible Indian child, the membership of the child, or any parent or grandparent of the child, in a tribe, band, or other organized group of Indians may be established by proof other than an enrollment number, even if enrollment numbers for members of such tribe, band, or groups are available. Nothing in subsection (b) may be construed as requiring the furnishing of enrollment numbers.

"(f)(1)(A) The Secretary shall establish a method of auditing, on an annual basis, a sample of not less than one-fourth of the total number of local educational agencies receiving funds under this part and shall submit to the Congress an annual report on the findings of the audits.

"(B) For purposes of an audit conducted by the Federal Government with respect to funds provided under this part, all procedures, practices, and policies that are established by—

"(i) the Office of Indian Education of the Department of Education, or

"(ii) a grantee under this subpart who, in establishing such procedures, practices, and policies, was acting under the direction of any employee of such Office that is authorized by the Director of such Office to provide such direction,

shall, with respect to the period beginning on the date of the establishment of such procedures, practices, and policies, and ending on the date (if any) on which the Director of such Office revokes authorization for such procedures, practices, and policies, be considered appropriate and acceptable procedures, practices, and policies which are in conformity with Federal law.

"(C) A local educational agency may not be held liable to the United States, or be otherwise penalized, by reason of the findings of an audit that relate to the date of completion, or the date of submission, of any forms used to establish, before April 28, 1988, a child's eligibility for entitlement under the Indian Elementary and Secondary School Assistance Act.

"(2) Any local educational agency that provides false information in the application for a grant under this subpart shall be ineligible to apply for any other grants under this part and shall be liable to the United States for any funds provided under this part that have not been expended.

"(3) Any student who provides false information on the form required under subsection (d)(1) may not be taken into account in determining the amount of any grant under this part.

"(g) For purposes of distribution of funds under this Act to schools funded by the Bureau of Indian Affairs, the Secretary shall use the count of the number of students in each such school funded under the Indian Student Equalization Formula developed pursuant to section 1128 of Public Law 95–561, in lieu of the requirements of this section.

"SEC. 6107. PAYMENTS.

"(a) GENERAL.—The Secretary shall pay each local educational agency with an application approved under this part the amount determined under section 6103, subject to subsections (b) and (c) of this section and shall notify such local educational agency of the amount no later than June 1 of the year in which the grant will be paid.

"(b) PAYMENTS TAKEN INTO ACCOUNT BY THE STATE.—The Secretary shall not make a grant under this part for any fiscal year to any local educational agency in a State that has taken into consideration payments under this part (or under subpart 1 of the Indian Education Act of 1988) in determining the eligibility of the local educational agency for State aid, or the amount of that aid, with respect to the free public education of children during that year or the preceding fiscal year.

"(c) REDUCTION OF PAYMENT FOR FAILURE TO MAINTAIN FISCAL EFFORT.—(1) The Secretary shall not pay any local educational agency the full amount determined under section 6103 for any fiscal year unless the State educational agency notifies the Secretary, and the Secretary determines, that the combined fiscal effort of that local agency and the State with respect to the provision of free public education by such local agency for the preceding fiscal year, computed on either a per-student or aggregate expenditure basis, was not less than 90 percent of such combined fiscal effort, computed on the same basis, for the second preceding fiscal year.

"(2) If the Secretary determines for any fiscal year that a local educational agency failed to maintain its fiscal effort at the 90 percent level required by paragraph (1), the Secretary shall—

"(A) reduce the amount of the grant that would otherwise be made to the agency under this part in the exact proportion of such agency's failure to maintain its fiscal effort at such level; and

"(B) not use the reduced amount of the agency's expenditures for the preceding year to determine compliance with paragraph (1) for any succeeding fiscal year, but shall use the amount of expenditures that would have been required to comply with paragraph (1).

"(3)(A) The Secretary may waive the requirement of paragraph (1), for not more than one year at a time, if the Secretary determines that the failure to comply with such requirement is due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the agency's financial resources.

"(B) The Secretary shall not use the reduced amount of such agency's expenditures for the fiscal year preceding the fiscal year for which a waiver is granted to determine compliance with paragraph (1) for any succeeding fiscal year, but shall use the amount of expenditures that would have been required to comply with paragraph (1) in the absence of the waiver.

"(d) REALLOCATIONS.—The Secretary may reallocate, in the manner the Secretary determines will best carry out the purpose of this part, any amounts that—

"(1) based on estimates by local educational agencies or other information, will not be needed by such agencies to carry out their approved projects under this part; or

"(2) otherwise become available for reallocation under this part.

"PART B—SPECIAL PROGRAMS AND PROJECTS TO IMPROVE EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN

"SEC. 6201. IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN.

"(a) IN GENERAL.—The Secretary shall carry out a program of making grants for the improvement of educational opportunities for Indian children—

"(1) to support planning, pilot, and demonstration projects, in accordance with subsection (b), which are designed to test and demonstrate the effectiveness of programs for improving educational opportunities for Indian children;

"(2) to assist in the establishment and operation of programs, in accordance with subsection (c), which are designed to stimulate—

"(A) the provision of educational services not available to Indian children in sufficient quantity or quality, and

"(B) the development and establishment of exemplary educational programs to serve as models for regular school programs in which Indian children are educated;

"(3) to assist in the establishment and operation of preservice and inservice training programs, in accordance with subsection (d), for persons serving Indian children as educational personnel; and

"(4) to encourage the dissemination of information and materials relating to, and the evaluation of the effectiveness of, education programs which may offer educational opportunities to Indian children.

"(b) DEMONSTRATION PROJECTS.—The Secretary is authorized to make grants to State and local educational agencies, federally supported elementary and secondary schools for Indian children and to Indian tribes, Indian organizations, and Indian institutions to support planning, pilot, and demonstration projects which are designed to plan for, and test and demonstrate the effectiveness of, programs for improving educational opportunities for Indian children, including—

"(1) innovative programs related to the educational needs of educationally deprived children;

"(2) bilingual and bicultural education programs and projects;

"(3) special health and nutrition services and other related activities which meet the special health, social, and psychological problems of Indian children; and

"(4) coordination of the operation of other federally assisted programs which may be used to assist in meeting the needs of such children.

"(c) SERVICES AND PROGRAMS TO IMPROVE EDUCATIONAL OPPORTUNITIES.—

"(1) The Secretary is authorized to make grants to State and local educational agencies and to tribal and other Indian community organizations to assist them in developing and establishing educational services and programs specifically designed to improve educational opportunities for Indian children. Such grants may be used—

"(A) to provide educational services not available to such children in sufficient quantity or quality, including—

"(i) remedial and compensatory instruction, school health, physical education, psychological, and other services designed to assist and encourage Indian children to enter, remain in, or reenter elementary or secondary school;

"(ii) comprehensive academic and vocational instruction;

"(iii) instructional materials (such as library books, textbooks, and other printed, published, or audiovisual materials) and equipment;

"(iv) comprehensive guidance, counseling, mentoring, and testing services;

"(v) special education programs for disabled and gifted and talented Indian children;

"(vi) early childhood programs, including kindergarten;

"(vii) bilingual and bicultural education programs; and

"(viii) other services which meet the purposes of this subsection; and

"(B) to establish and operate exemplary and innovative educational programs and centers, involving new educational approaches, methods, and techniques designed to enrich programs of elementary and secondary education for Indian children.

"(2) In addition to the grants provided under paragraph (1), the Secretary is authorized to provide grants to consortia of Indian tribes or tribal organizations, local educational agencies, and institutions of higher education for the purpose of developing, improving, and implementing a program of—

"(A) encouraging Indian students to acquire a higher education, and

"(B) reducing the incidence of dropouts among elementary and secondary school students.

"(d) TRAINING.—

"(1) The Secretary is authorized to make grants to institutions of higher education and to State and local educational agencies, in combination with institutions of higher education, for carrying out programs and projects—

"(A) to prepare persons to serve Indian students as teachers, administrators, teacher aides, social workers, and ancillary educational personnel; and

"(B) to improve the qualifications of such persons who are serving Indian students in such capacities.

"(2) Grants made under this subsection may be used for the establishment of fellowship programs leading to an advanced degree, for institutes and, as part of a continuing program, for seminars, symposia, workshops, and conferences.

"(3) In programs funded by grants authorized under this subsection, preference shall be given to the training of Indians.

"(4) In making grants under this subsection, the Secretary shall consider prior performance and may not limit eligibility on the basis of the number of previous grants or the length of time for which the applicant has received grants.

"(d) APPLICATIONS FOR GRANTS.—

"(1) Applications for a grant under this section shall be submitted at such time, in such manner, and shall contain such information, and shall be consistent with such criteria, as may be required under regulations prescribed by the Secretary. Such applications shall—

"(A) set forth a statement describing the activities for which assistance is sought;

"(B) in the case of an application for a grant under subsection (c)—

"(i) subject to such criteria as the Secretary shall prescribe, provide for—

"(I) the use of funds available under this section, and

"(II) the coordination of other resources available to the applicant,

in order to ensure that, within the scope of the purpose of the project, there will be a comprehensive program to achieve the purposes of this section, and

"(ii) provide for the training of personnel participating in the project; and

"(C) provide for an evaluation of the effectiveness of the project in achieving its purpose and the purposes of this section.

"(2)(A) The Secretary may approve an application for a grant under subsection (b) or (c) only if the Secretary is satisfied that such application, and any document submitted with respect thereto—

"(i) demonstrate that—

"(I) there has been adequate participation by the parents of the children to be served and tribal communities in the planning and development of the project, and

"(II) there will be such participation in the operation and evaluation of the project, and

"(ii) provide for the participation, on an equitable basis, of eligible Indian children—

"(I) who reside in the area to be served,

"(II) who are enrolled in private nonprofit elementary and secondary schools, and

"(III) whose needs are of the type which the program is intended to meet,

to the extent consistent with the number of such children.

"(B) In approving applications under this section, the Secretary shall give priority to applications from Indian educational agencies, organizations, and institutions.

"SEC. 6202. SPECIAL EDUCATIONAL TRAINING PROGRAMS FOR THE TEACHERS OF INDIAN CHILDREN.

"(a) IN GENERAL.—

"(1) The Secretary is authorized to make grants to, and enter into contracts with, institutions of higher education, Indian organizations, and Indian tribes for the purpose of—

"(A) preparing individuals for teaching or administering special programs and projects designed to meet the special educational needs of Indian people, and

"(B) providing in-service training for persons teaching in such programs.

"(2) Priority shall be given in the awarding of grants, and in the entering into of contracts, under subsection (a) to Indian institutions and organizations.

"(b) FELLOWSHIPS AND TRAINEESHIPS.—

"(1) In carrying out the provisions of this section, the Secretary is authorized to award fellowships and traineeships to individuals and to make grants to, and to enter into contracts with, institutions of higher education, Indian organizations, and Indian tribes for the costs of education allowances.

"(2) In awarding fellowships and traineeships under this subsection, the Secretary shall give preference to Indians.

"(3) In the case of traineeships and fellowships, the Secretary is authorized to grant stipends to, and allowances for dependents of, persons receiving traineeships and fellowships.

"SEC. 6203. FELLOWSHIPS FOR INDIAN STUDENTS.

"(a) IN GENERAL.—During each fiscal year ending prior to October 1, 1999, the Secretary is authorized to award fellowships to be used for study in graduate and professional programs at institutions of higher education. Such fellowships shall be awarded to Indian students in order to enable them to pursue a course of study of not more than 4 academic years leading toward a postbaccalaureate degree in medicine, clinical psychology, psychology, law, education, and related fields or leading to an undergraduate or graduate degree in engineering, business administration, natural resources, and related fields.

"(b) STIPENDS.—The Secretary shall pay to persons awarded fellowships under subsection (a) such stipends (including such allowances for subsistence of such persons and their dependents) the Secretary may determine to be consistent with prevailing practices under comparable federally supported programs.

"(c) PAYMENTS TO INSTITUTIONS IN LIEU OF TUITION.—The Secretary shall pay to the institution of higher education at which the holder of a fellowship awarded under subsection (a) is pursuing a course of study, in lieu of tuition charged such holder, such amounts as the Secretary may determine to be necessary to cover the cost of education provided the holder of such a fellowship.

"(d) SPECIAL RULES.—

"(1) The Secretary may, if a fellowship awarded under subsection (a) is vacated prior to the end of the period for which it was awarded, award an additional fellowship for the remainder of such period.

"(2) By no later than the date that is 45 days before the commencement of an academic term, the Secretary shall provide to each individual who is awarded a fellowship under subsection (a) for such academic term written notice of the amount of such fellowship and of any stipends or other payments that will be made under this section to, or for the benefit of, such individual for such academic term.

"(3) Not more than 10 percent of the fellowships awarded under subsection (a) shall be awarded, on a priority basis, to persons receiving training in guidance counseling with a specialty in the area of alcohol and substance abuse counseling and education.

"(e) SERVICE OBLIGATION.—The Secretary shall, by regulation, require that individuals who receive training under this section perform related work and shall notify such local educational agency of the amount no later than June 1 of the year in which the grant will be paid following that training or repay all or part of the cost of the training.

"SEC. 6204. GIFTED AND TALENTED.

"(a) ESTABLISHMENT OF CENTERS.—The Secretary shall establish 2 centers for gifted and talented Indian students at tribally controlled community colleges.

"(b) DEMONSTRATION PROJECTS.—

"(1) The Secretary shall award separate grants to, or enter into contracts with—

"(A) 2 tribally controlled community colleges that—

"(i) are eligible for funding under the Tribally Controlled Community College Assistance Act of 1978, and

"(ii) are fully accredited, or

"(B) if acceptable applications are not submitted to the Secretary by 2 of such colleges, the American Indian Higher Education Consortium,

for the establishment of centers under subsection (a) and for demonstration projects designed to address the special needs of Indian students in elementary and secondary schools who are gifted and talented and to provide such support services to their families that are needed to enable the students to benefit from the project.

"(2) Any person to whom a grant is made, or with whom a contract is entered into, under paragraph (1) may enter into a contract with any other persons, including the Children's Television Workshop, for the purpose of carrying out the demonstration projects for which such grant was awarded or for which the contract was entered into by the Secretary.

"(3) Demonstration projects funded under this section may include—

"(A) the identification of the special needs of gifted and talented students, particularly at the elementary school level, with attention to the emotional and psychosocial needs of these students and to the provision of those support services to their families that are needed to enable these students to benefit from the project;

"(B) the conduct of educational, psychosocial, and developmental activities which hold reasonable promise of resulting in substantial progress toward meeting the educational needs of such gifted and talented children, including, but not limited to, demonstrating and exploring the use of Indian languages and exposure to Indian cultural traditions, and mentoring and apprenticeship programs;

"(C) the provision of technical assistance and the coordination of activities at schools which receive grants under subsection (c) with respect to the activities funded by such grants, the evaluation of programs at such schools funded by such grants, or the dissemination of such evaluations;

"(D) the use of public television in meeting the special educational needs of such gifted and talented children;

"(E) leadership programs designed to replicate programs for such children throughout the United States, including the dissemination of information derived from the demonstration projects conducted under this section; and

"(F) appropriate research, evaluation, and related activities pertaining to the needs of such children and to the provision of such support services to their families that are needed to enable such children to benefit from the project.

"(c) ADDITIONAL GRANTS.—

"(1) The Secretary, in consultation with the Secretary of the Interior, shall provide 5 grants to schools that are Bureau funded schools for program research and development regarding, and the development and dissemination of curriculum and teacher training material regarding—

"(A) gifted and talented students,

"(B) college preparatory studies (including programs for Indian students interested in teaching careers),

"(C) students with special culturally related academic needs, including social, lingual, and cultural needs, and

"(D) math and science education.

"(2) Applications for the grants provided under paragraph (1) shall be submitted to the Secretary in such form and at such time as the Secretary may prescribe. Applications for such grants by Bureau schools, and the administration of any of such grants made to a Bureau school, shall be undertaken jointly by the supervisor of the Bureau school and the local school board.

"(3) Grants may be provided under paragraph (1) for one or more activities described in paragraph (1).

"(4) In providing grants under paragraph (1), the Secretary shall—

"(A) achieve a mixture of programs described in paragraph (1) which ensures that students at all grade levels and in all geographic areas of the United States are able to participate in some programs funded by grants provided under this subsection, and

"(B) ensure that a definition of the term 'gifted and talented student' for purposes of this section and section 1128(c)(3)(A)(i) of the Education Amendments of 1978 is developed as soon as possible.

"(5) Subject to the availability of appropriated funds, grants provided under paragraph (1) shall be made for a 3-year period and may be renewed by the Secretary for additional 3-year periods if performance by the grantee is satisfactory to the Secretary.

"(6)(A) The dissemination of any materials developed from activities funded by grants provided under paragraph (1) shall be carried out in cooperation with institutions receiving funds under subsection (b).

"(B) The Secretary shall report to the Secretary of the Interior and to the Congress any results from activities described in paragraph (4)(B).

"(7)(A) The costs of evaluating any activities funded by grants made under paragraph (1) shall be divided between the school conducting such activities and the demonstration project recipients under subsection (b).

"(B) If no funds are provided under subsection (b) for—

"(i) the evaluation of activities funded by grants made under paragraph (1),

"(ii) technical assistance and coordination with respect to such activities, or

"(iii) dissemination of such evaluations,

the Secretary shall, by grant or through contract, provide for such evaluations, technical assistance, coordination, and dissemination.

"(d) INFORMATION NETWORK.—The Secretary shall encourage persons to whom a grant is made, or with whom a contract is entered into, under this section to work cooperatively as a national network so that the information developed by such persons is readily available to the entire educational community.

"SEC. 6205. TRIBALLY CONTROLLED SCHOOLS ACT.

"(a) TIMELY PAYMENTS.—Subsection (a) is amended to read as follows:

"'(a)(1) Except as otherwise provided in this subsection, the Secretary shall make payments to grantees under this part in 2 payments:

"'(A) one payment to be made no later than July 1 of each year in an amount equal to one-half of the amount which the grantee was entitled to receive during the preceding academic year, and

"'(B) the second payment, consisting of the remainder to which the grantee is entitled for the academic year, shall be made no later than December 1 of each year.

"'(2) For any school for which no payment was made from Bureau funds in the preceding academic year, full payment of the amount computed for the first academic year of eligibility under this part shall be made no later than December 1 of the academic year.

"'(3) With regard to funds for grantees that become available for obligation on October 1 of the fiscal year for which they are appropriated, the Secretary shall make payments to grantees no later than December 1 of the fiscal year.

"'(4) The provisions of the Prompt Payment Act (31 U.S.C. 3901 et seq.) shall apply to the payments required to be made by paragraphs (1), (2), and (3) of this subsection.'.

"(b) Paragraph (3) is amended by striking 'Paragraphs (1) and (2)' and inserting in lieu thereof 'Paragraphs (1), (2), and (3)', and is renumbered as paragraph '(5)'.

"PART C—SPECIAL PROGRAMS RELATING TO ADULT EDUCATION FOR INDIANS

"SEC. 6301. IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR ADULT INDIANS.

"(a) IN GENERAL.—The Secretary shall carry out a program of awarding grants to State and local educational agencies and to Indian tribes, institutions, and organizations—

"(1) to support planning, pilot, and demonstration projects which are designed to test and demonstrate the effectiveness of programs for improving employment and educational opportunities for adult Indians;

"(2) to assist in the establishment and operation of programs which are designed to stimulate—

"(A) the provision of basic literacy opportunities to all nonliterate Indian adults, and

"(B) the provision of opportunities to all Indian adults to qualify for a high school equivalency certificate in the shortest period of time feasible;

"(3) to support a major research and development program to develop more innovative and effective techniques for achieving the literacy and high school equivalency goals;

"(4) to provide for basic surveys and evaluations to define accurately the extent of the problems of illiteracy and lack of high school completion among Indians; and

"(5) to encourage the dissemination of information and materials relating to, and the evaluation of the effectiveness of, education programs which may offer educational opportunities to Indian adults.

"(b) EDUCATIONAL SERVICES.—The Secretary is authorized to make grants to Indian tribes, Indian institutions, and Indian organizations to develop and establish educational services and programs specifically designed to improve educational opportunities for Indian adults.

"(c) INFORMATION AND EVALUATION.—The Secretary is also authorized to make grants to, and to enter into contracts with, public agencies and institutions and Indian tribes, institutions, and organizations for—

"(1) the dissemination of information concerning educational programs, services, and resources available to Indian adults, including evaluations thereof; and

"(2) the evaluation of federally assisted programs in which Indian adults may participate to determine the effectiveness of such programs in achieving the purposes of such programs with respect to such adults.

"(d) APPLICATIONS.—

"(1) Applications for a grant under this section shall be submitted at such time, in such manner, contain such information, and be consistent with such criteria, as may be required under regulations prescribed by the Secretary. Such applications shall—

"(A) set forth a statement describing the activities for which assistance is sought; and

"(B) provide for an evaluation of the effectiveness of the project in achieving its purposes and the purposes of this section.

"(2) The Secretary shall not approve an application for a grant under subsection (a) unless the Secretary is satisfied that such application, and any documents submitted with respect thereto, indicate that—

"(A) there has been adequate participation by the individuals to be served and tribal communities in the planning and development of the project, and

"(B) there will be such a participation in the operation and evaluation of the project.

"(3) In approving applications under subsection (a), the Secretary shall give priority to applications from Indian educational agencies, organizations, and institutions.

"PART D—NATIONAL ACTIVITIES AND GRANTS TO STATES

"SEC. 6401. NATIONAL ACTIVITIES.

"(a) AUTHORIZED ACTIVITIES.—From funds appropriated for any fiscal year to carry out this section, the Secretary may—

"(1) conduct research related to effective approaches to the education of Indian children and adults;

"(2) evaluate federally assisted education programs from which Indian children and adults may benefit;

"(3) collect and analyze data on the educational status and needs of Indians; and

"(4) carry out other activities consistent with the purpose of this Act.

"(b) ELIGIBILITY.—The Secretary may carry out any of the activities described in subsection (a) directly or through grants to, or contracts or cooperative agreements with, Indian tribes, Indian organizations, State educational agencies, local educational agencies, institutions of higher education, including Indian institutions of higher education, and other public and private agencies and institutions.

"(c) COORDINATION.—Research activities supported under this section—

"(1) shall be carried out in consultation with the Office of Educational Research and Improvement to assure that such activities are coordinated with and enhance the research and development activities supported by the Office; and

"(2) may include collaborative research activities which are jointly funded and carried out by the Office of Indian Education and the Office of Educational Research and Improvement.

"SEC. 6402. STATE EDUCATIONAL AGENCY REVIEW.

"(a) Before submitting its application to the Secretary, the local educational agency shall submit its application to the State educational agency.

"(b) The State education agency may send to the Secretary comments on each local educational agency application its reviews. The Secretary shall take such comments into consideration in reviewing such application.

"PART E—FEDERAL ADMINISTRATION

"SEC. 6501. OFFICE OF INDIAN EDUCATION.

"(a) OFFICE OF INDIAN EDUCATION.—There shall be an Office of Indian Education (referred to in this section as 'the Office') in the Department of Education.

"(b) DIRECTOR.—(1) The Office shall be under the direction of the Director, who shall be appointed by the Secretary and who shall report directly to the Assistant Secretary for Elementary and Secondary Education.

"(2) The Director shall—

"(A) be responsible for administering this title;

"(B) be involved in, and be primarily responsible for, the development of all policies affecting Indian children and adults under programs administered by the Office of Elementary and Secondary Education;

"(C) coordinate the development of policy and practice for all programs in the Department relating to Indian persons; and

"(D) assist the Assistant Secretary of the Office of Educational Research and Improvement in identifying research priorities related to the education of Indian persons.

"(3) The Director of the Office shall be a member of the career Senior Executive Service.

"(c) INDIAN PREFERENCE IN EMPLOYMENT.—(1) The Secretary shall give a preference to Indian persons in all personnel actions in the Office.

"(2) Such preference shall be implemented in the same fashion as the preference given to any veteran under section 2609 of the Revised Statutes, section 45 of title 25, United States Code.

"SEC. 6502. NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION.

"(a) MEMBERSHIP.—There shall be a National Advisory Council on Indian Education (referred to in this section as 'the Council'), which shall—

"(1) consist of 15 Indian members, who shall be appointed by the President from lists of nominees furnished, from time to time, by Indian tribes and organizations; and

"(2) represent different geographic areas of the country.

"(b) DUTIES.—The Council shall—

"(1) advise the Secretary on the funding and administration, including the development of regulations and of administrative policies and practices, of any program, including programs under this title, for which the Secretary is responsible and in which Indian children or adults participate or from which they can benefit;

"(2) make recommendations to the Secretary for filling the Director's position whenever a vacancy occurs in such position; and

"(3) submit to the Congress, by June 30 of each year, a report on its activities, which shall include—

"(A) any recommendations it finds appropriate for the improvement of Federal education programs in which Indian children or adults participate, or from which they can benefit; and

"(B) its recommendations with respect to the funding of any such programs.

"SEC. 6503. PEER REVIEW.

"In reviewing applications under parts B, C, and D of this title, the Secretary may use a peer review process.

"SEC. 6504. PREFERENCE FOR INDIAN APPLICANTS.

"In making grants under parts B and C of this title, the Secretary shall give a preference to Indian tribes, Indian organizations, and Indian institutions of higher education under any program for which they are eligible to apply.

"SEC. 6505. MINIMUM GRANT CRITERIA.

"In making grants under parts B and C of this title, the Secretary shall approve only projects that are—

"(1) of sufficient size, scope, and quality to achieve the purpose of the section under which assistance is sought; and

"(2) based on relevant research findings.

"PART F—DEFINITIONS; AUTHORIZATIONS OF APPROPRIATIONS

"SEC. 6601. DEFINITIONS.

"The following definitions apply to terms as used in this title:

"(1) The term 'adult' means an individual who is either—

"(A) not less than 16 years old; or

"(B) beyond the age of compulsory school attendance under State law.

"(2) The term 'adult education' has the meaning given such term in section 312(2) of the Adult Education Act.

"(3) The term 'free public education' means education that is—

"(A) provided at public expense, under public supervision and direction, and without tuition charge; and

"(B) provided as elementary or secondary education in the applicable State or to preschool children.

"(4) The term 'Indian' means an individual who is--

"(A) a member of an Indian tribe or band, as membership is defined by the tribe or band, including—

"(i) tribes and bands terminated since 1940; and

"(ii) tribes and bands recognized by the State in which they reside;

"(B) a descendant, in the first or second degree, of an individual described in subparagraph (A);

"(C) considered by the Secretary of the Interior to be an Indian for any purpose; or

"(D) an Eskimo, Aleut, or other Alaska Native.

"SEC. 6602. AUTHORIZATIONS OF APPROPRIATIONS.

"(a) PART A.—For the purpose of carrying out part A of this title, there are authorized to be appropriated $61,300,000 for fiscal year 1995 and such sums as may be necessary for each of the fiscal years 1996, 1997, 1998, and 1999.

"(b) PARTS B THROUGH D.—For the purpose of carrying out parts B, C, and D of this title, there are authorized to be appropriated $20,925,000 for fiscal year 1995 and such sums as may be necessary for each of the fiscal years 1996, 1997, 1998, and 1999.

"(c) PART E.—For the purpose of carrying out part E of this title, including section 6502, there are authorized to be appropriated $3,775,000 for fiscal year 1995 and such sums as may be necessary for each of the fiscal years 1996, 1997, 1998, and 1999.

"PART G—BUREAU OF INDIAN AFFAIRS PROGRAMS

"SEC. 6701. STANDARDS FOR THE BASIC EDUCATION OF INDIAN CHILDREN IN BUREAU OF INDIAN AFFAIRS SCHOOLS.

"(a) The purpose of the standards developed under this section shall be to afford Indian students being served by a Bureau funded school with the same opportunities as all other students to achieve the high goals embodied in the Goals 2000: Educate America Act. Consistent with the provisions of this section and section 6711 of this part, the Secretary shall take such actions as are necessary to coordinate standards developed and implemented under this section with those in the State plans developed and implemented pursuant to the GOALS 2000 Educate America Act for the States in which each Bureau funded school operates. In developing and reviewing these standards and such coordination, the Secretary shall utilize the findings and recommendations of the panel established by the Goals 2000: Educate America Act

"(b) The Secretary, in consultation with the Secretary of Education, and in consultation with Indian organizations and tribes, shall carry out or cause to be carried out by contract with an Indian organization such studies and surveys, making the fullest use possible of other existing studies, surveys, and plans, as are necessary to establish and revise standards for the basic education of Indian children attending Bureau funded schools. Such studies and surveys shall take into account factors such as academic needs, local cultural differences, type and level of language skills, geographic isolation, and appropriate teacher-student ratios for such children, and shall be directed toward the attainment of equal eductional opportunity for such children.

"(c)(1) Within 18 months of the date of enactment of this Act, the Secretary shall revise the minimum academic standards published in the Federal Register of November 1983 for the basic education of Indian chlidren which are consistent with subsections (a) and (b) of this section and section 6711, and shall distribute such revised standards in the Federal Register for the purpose of receiving comments from the tribes and other interested parties. Within 21 months of the date of enactment of the Elementary and Secondary Education Act Amendments of 1993, the Secretary shall establish final standards, distribute such standards to all the tribes and publish such standards in the Federal Register. The Secretary shall revise such standards periodically as necessary. Prior to any revision of such standards, the Secretary shall distribute such proposed revision to all the tribes, and publish such proposed revision in the Federal Register, for the purpose of receiving comments from the tribes and other interested parties.

"(2) Such standards shall apply to Bureau schools, and subject to subsection (f), to contract and grant schools, and may also serve as a model for educational programs for Indian children in public schools. In establishing and revising such standards, the Secretary shall take into account the special needs of Indian students and the support and reinforcement of the specific cultural heritage of each tribe. Such standards shall include a requirement, developed in coordination with Indian tribes, the affected local school boards, the Indian Health Service of the Department of Health and Human Services, the State health departments, and the Centers for Disease Control and Prevention, on immunization for childhood diseases, including provisions for in-school immunization, where necessary.

"(d) The Secretary shall provide alternative or modified standards in lieu of the standards established under subsection (c), where necessary, so that the programs of each school shall be in compliance with the minimum standards required for accreditation of schools in the State where the school is located.

"(e) A tribal governing body, or the local school board so designated by the tribal governing body, shall have the local authority to waive, in part or in whole, the standards established under subsections (c) and (d), where such standards are deemed by such body to be inappropriate or ill-conceived. The tribal governing body or designated school board shall, within 60 days thereafter, submit to the Secretary a proposal for alternative standards that takes into account the specific needs of the tribe's children. Such revised standards shall be established by the Secretary unless specifically rejected by the Secretary for good cause and in writing to the affected tribes or local school board, which rejection shall be final and unreviewable.

"(f)(1) The Secretary, through contracting and grant-making procedures, shall assist school boards of contract and grant schools in the implementation of the standards established under subsection (c) and (d), if the school boards request that such standards, in part or in whole, be implemented. At the request of a contract or grant school board, the Secretary shall provide alternative or modified standards for the standards established under subsections (c) and (d) to take into account the needs of the Indian children and the contract or grant school.

"(2) Within 1 year of the date of the enactment of the Indian Education Technical Amendments Act of 1985, the Bureau shall, either directly or through contract with an Indian organization, establish a consistent system of reporting standards for fiscal control and fund accounting for all contract schools. Such standards shall yield data results comparable to those used by Bureau schools.

"(g) Subject to subsections (e) and (f), the Secretary shall begin to implement the standards established under this section immediately upon the date of their establishment. No later than January 1, 1995, and at each time thereafter that the annual budget request for Bureau educational services is presented, the Secretary shall submit to the appropriate committees of Congress a detailed plan to bring all Bureau and contract and grant schools up to the level required by the applicable standards established under this section. Such plan shall include, but not be limited to, detailed information on the status of each school's educational program in relation to the applicable standards established under this section, specific cost estimates for meeting such standards at each school, and specific time lines for bringing each school up to the level required by such standards.

"(h)(1) Except as specifically required by statute, no school or peripheral dormitory operated by the Bureau of Indian Affairs on or after January 1, 1992, may be closed or consolidated or have its program substantially curtailed unless done according to the requirements of this subsection, except that, in those cases where the tribal governing body, or the local school board concerned (if so designated by the tribal governing body), requests closure or consolidation, the requirements of this subsection shall not apply. The requirements of this subsection shall not apply when a temporary closure, consolidation, or substantial curtailment is required by plant conditions which constitute an immediate hazard to health and safety.

"(2) The Secretary shall, by regulation, promulgate standards and procedures for the closing, consolidation, or substantial curtailment of Bureau schools in accordance with the requirements of this subsection.

"(3) Whenever closure, transfer to any other authority, consolidation, or substantial curtailment of a school is under active consideration or review by any division of the Bureau or the Department of the Interior, the affected tribe, tribal governing body, and designated local school board, will be notified as soon as such consideration or review begins, kept fully and currently informed, and afforded an opportunity to comment with respect to such consideration or review. When a formal decision is made to close, transfer to any other authority, consolidate, or substantially curtail a school, the affected tribe, tribal governing body, and designated local school board shall be notified at least 6 months prior to the end of the school year preceding the proposed effective date. Copies of any such notices and information shall be transmitted promptly to the Congress and published in the Federal Register.

"(4) The Secretary shall make a report to Congress, the affected tribe, and the designated local school board describing the process of the active consideration or review referred to in paragraph (3). At a minimum, the report shall include a study of the impact of such action on the student population, with every effort to identify those students with particular educational and social needs, and to ensure that alternative services are available to such students.

Such report shall include the description of the consultation conducted between the potential service provider, current service provider, parents, tribal representative and the tribe or tribes involved, and the Director of the Office of Indian Education Programs within the Bureau regarding such students. No irreversible action may be taken in furtherance of any such proposed school closure, transfer to any other authority, consolidation, or substantial curtailment (including any action which would prejudice the personnel or programs of such school) until the end of the first full academic year after such report is made.

"(5) The Secretary may terminate, contract, transfer to any other authority, or consolidate or substantially curtail the operation or facilities of—

"(A) any Bureau funded school that is operated on or after April 1, 1987,

"(B) any program of such a school that is operated on or after April 1, 1987, or

"(C) any school board of a school operated under a grant under the Tribally Controlled Schools Act of 1988 (Public Law 100–297),

only if the tribal governing body approves such action.

"(i) There are hereby authorized to be appropriated such sums as may be necessary, for academic program costs, in order to bring all Bureau and contract schools up to the level required by the applicable standards established under this section.

"(j)(1) All schools funded by the Bureau of Indian Affairs shall include within their curriculum a program of instruction relating to alcohol and substance abuse prevention and treatment. The Assistant Secretary shall provide the technical assistance necessary to develop and implement such a program for students in kindergarten and grades 1 through 12, at the request of—

"(A) any Bureau of Indian Affairs school (subject to the approval of the school board of such school);

"(B) any school board of a school operating under a contract entered into under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.); or

"(C) any school board of a school operating under a grant under the Tribally Controlled Schools Act of 1988 (Public Law 100–297).

"(2) In schools operated directly by the Bureau of Indian Affairs, the Secretary shall provide for—

"(A) accurate reporting of all incidents relating to alcohol and substance abuse; and

"(B) individual student crisis intervention.

"(3) The programs requested under paragraph (1) shall be developed in consultation with the Indian tribe that is to be served by such program and health personnel in the local community of such tribe.

"(4) Schools requesting program assistance under this subsection are encouraged to involve family units and, where appropriate, tribal elders and Native healers in such instructions.

"(k) For purposes of this section, the term 'tribal governing body' means, with respect to any school, the tribal governing body, or tribal governing bodies, that represent at least 90 percent of the students served by such school.

"(l)(1)(A) The Secretary shall only consider the factors described in subparagraphs (B) and (C) in reviewing—

"(i) applications from any tribe for the awarding of a contract or grant for a school that is not a Bureau funded school, and

"(ii) applications from any tribe or school board of any Bureau funded school for—

"(I) a school which is not a Bureau funded school; or

"(II) the expansion of a Bureau funded school which would increase the amount of funds received by the Indian tribe or school board under section 6707.

The Secretary shall give consideration to all of such factors, but none of such applications may be denied based primarily upon the geographic proximity of public education.

"(B) The Secretary shall consider the following factors relating to the program that is the subject of an application described in subparagraph (A):

"(i) the adequacy of facilities or the potential to obtain or provide adequate facilities;

"(ii) geographic and demographic factors in the affected areas;

"(iii) adequacy of the applicant's program plans or, in the case of a Bureau funded school, of projected needs analysis done either by a tribe or by Bureau personnel;

"(iv) geographic proximity of comparable public education; and

"(v) the stated needs of all affected parties, including (but not limited to) students, families, tribal governments at both the central and local levels, and school organizations.

"(C) The Secretary shall consider with respect to applications described in subparagraph (A) the following factors relating to all the educational services available at the time the application is considered:

"(i) geographic and demographic factors in the affected areas;

"(ii) adequacy and comparability of programs already available;

"(iii) consistency of available programs with tribal educational codes or tribal legislation on education; and

"(iv) the history and success of these services for the proposed population to be served, as determined from all factors and not just standardized examination performance.

"(2)(A) The Secretary shall make a determination of whether to approve any application described in paragraph (1)(A) by no later than the date that is 180 days after the day on which such application is submitted to the Secretary.

"(B) If the Secretary fails to make the determination described in subparagraph (A) with respect to an application by the date described in subparagraph (A), the application shall be treated as having been approved by the Secretary.

"(3)(A) Any application described in paragraph (1)(A) may be submitted to the Secretary only if—

"(i) the application has been approved by the tribal governing body of the students served by (or to be served by) the school or program that is the subject of the application, and

"(ii) written evidence of such approval is submitted with the application.

"(B) Each application described in paragraph (1)(A)—

"(i) shall provide information concerning each of the factors described in paragraph (1)(B), and

"(ii) may provide information concerning the factors described in paragraph (1)(C).

"(4) Whenever the Secretary makes a determination to deny approval of any application described in paragraph (1)(A), the Secretary shall—

"(A) state the objections in writing to the applicant by no later than the date that is 180 days after the day on which the application is submitted to the Secretary,

"(B) provide assistance to the applicant to overcome stated objections, and

"(C) provide the applicant a hearing, under the same rules and regulations pertaining to the Indian Self-Determination and Education Assistance Act, and an opportunity to appeal the objections raised by the Secretary.

"(5)(A) Except as otherwise provided in this paragraph, the action which is the subject of any application described in paragraph (1)(A) that is approved by the Secretary shall become effective with the commencement of the academic year succeeding the fiscal year in which the application is approved, or at an earlier date determined by the Secretary.

"(B) If an application is treated as having been approved by the Secretary by reason of paragraph (2)(B), the action that is the subject of the application shall become effective on the date that is 18 months after the date on which the application is submitted to the Secretary, or at an earlier date determined by the Secretary.

"SEC. 6702. NATIONAL CRITERIA FOR DORMITORY SITUATIONS.

"(a) The Secretary, in consultation with the Secretary of the Department of Education, and in consultation with Indian organizations and tribes, shall conduct or cause to be conducted by contract with an Indian organization, a study of the costs applicable to boarding arrangements for Indian students provided in Bureau and contract and grant schools, for the purpose of establishing national criteria for such dormitory situations. Such criteria shall include adult-child ratios, needs for counselors (including special needs related to off-reservation boarding arrangements), space, and privacy.

"(b) No later than January 1, 1996, the Secretary shall propose such criteria, and shall distribute such proposed criteria to the tribes and publish such proposed criteria in the Federal Register for the purpose of receiving comments from the tribes and other interested parties. Within eighteen months of the date of the enactment of this Act, the Secretary shall establish final criteria, distribute such criteria to all the tribes, and publish such criteria in the Federal Register. The Secretary shall revise such criteria periodically as necessary. Any revisions to the standards established under this section shall be developed subject to requirements established under section 6711.

"(c) The Secretary shall begin to implement the criteria established under this section immediately upon the date of their establishment. No later than January 1, 1981, and at each time thereafter that the annual budget request for Bureau educational services is presented, the Secretary shall submit to the appropriate committees of Congress a detailed plan to bring all Bureau and contract boarding schools up to the criteria established under this section. Such plan shall include, but not be limited to, predictions for the relative need for each boarding school in the future, detailed information on the status of each school in relation to the criteria established under this section, specific cost estimates for meeting such criteria at each school, and specific time lines for bringing each school up to the level required by such criteria.

"(d)(1) The criteria established under this section may be waived in the same manner as the standards provided under section 6701(c) may be waived under section 6701(e).

"(2) No school in operation on or before January 1, 1987 (regardless of compliance or noncompliance with the criteria established under this section) may be closed, transferred to another authority, consolidated or have its program substantially curtailed for failure to meet the criteria.

"(3) By no later than May 1, 1996, the Secretary shall submit to the Congress a report detailing the costs associated with, and the actions necessary for, complete compliance with the criteria established under this section.

"(e) There are hereby authorized to be appropriated such sums as may be necessary in order to bring each school up to the level required by the criteria established under this section.

"SEC. 6703. REGULATIONS.

"(a) The provisions of part 32 of title 25 of the Code of Federal Regulations, as in effect on January 1, 1987, are hereby incorporated into

this Act and shall be treated as though such provisions are set forth in this subsection. Accordingly, such provisions may be altered only by means of an amendment to this subsection that is contained in an Act or joint resolution which is enacted into law. To the extent that such provisions of part 32 do not conform with this Act or any statutory provision of law enacted before the date of enactment of this Act, the provisions of this Act and the provisions of such other statutory law shall govern.

"(b) The provisions of parts 31, 33, 36, 39, 42, and 43 of title 25 of the Code of Federal Regulations, as in effect on January 1, 1987, shall be applied by the Federal Government and shall not, before July 1, 1989, be amended, revoked, or altered in any manner. No officer or employee of the Executive Branch shall have the authority to issue any other regulations, prior to July 1, 1989, that supersede, supplement, or otherwise affect the provisions of such parts. To the extent that the provisions of such parts do not conform with this Act or any statutory provision of law enacted before the date of enactment of this Act, the provisions of this Act and the provisions of such other statutory law shall govern.

"(c) After June 30, 1989, no regulation prescribed for the application of any program provided under this title shall become effective unless—

"(1) the regulation has been published as a proposed regulation in the Federal Register,

"(2) an opportunity of no less than 90 days has been afforded the public to comment on the published proposed regulation, and

"(3) the regulation has, after such period for public comment, been published in the Federal Register as a final regulation.

"(d) For purposes of this section, the term 'regulation' means any rules, regulations, guidelines, interpretations, orders, or requirements of general applicability prescribed by any officer or employee of the Executive Branch.

"SEC. 6704. SCHOOL BOUNDARIES.

"(a) The Secretary shall, in accordance with this section, establish separate geographical attendance areas for each Bureau school.

"(b)(1) Except as provided in paragraph (2), on or after July 1, 1985, no attendance area shall be changed or established with respect to any such school unless the tribal governing body or the local school board concerned (if so designated by the tribal governing body) has been (i) afforded at least six months notice of the intention of the Bureau to change or establish such attendance area, and (ii) given the opportunity to propose alternative boundaries. Any tribe may petition the Secretary for revision of existing attendance area boundaries. The Secretary shall accept such proposed alternative or revised boundaries unless the Secretary finds, after consultation with the affected tribe or tribes, that such revised boundaries do not reflect the needs of the Indian students to be served or do not provide adequate stability to all of the affected programs.

"(2) In any case where there is more than 1 Bureau funded school located on an Indian reservation, at the direction of the tribal governing body, the relevant school boards of the Bureau funded schools on the reservation may, by mutual consent, establish the relevant attendance areas for such schools, subject to the approval of the tribal governing body. Any such boundaries so established shall be accepted by the Secretary.

"(c) In any case where there is only 1 Bureau operated program located on an Indian reservation, the attendance area for the program shall be the boundaries of the reservation served, and those students residing near the reservation shall also receive services from such program.

"(d) The Bureau of Indian Affairs shall include in the final rules the requirement that each appropriate education line officer coordinate and consult with the affected tribes and relevant school boards in the establishment of such geographic boundaries.

"SEC. 6705. FACILITIES CONSTRUCTION.

"(a) The Secretary shall immediately begin to bring all schools, dormitories, and other facilities operated by the Bureau or under contract or grant with the Bureau in connection with the education of Indian children into compliance with all applicable Federal, tribal, or State health and safety standards, whichever provide greater protection (except that the tribal standards to be applied shall be no greater than any otherwise applicable Federal or State standards), and with section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and with the Americans with Disabilities Act of 1990, except that nothing in this section shall require termination of the operations of any facility which does not comply with such provisions and which is in use on the date of enactment of this Act.

"(b) By January 1, 1996, and at each time thereafter that the annual budget request for Bureau educational services is presented, the Secretary shall submit to the appropriate committees of Congress a detailed plan to bring such facilities into compliance with such standards. Such plan shall include, but not be limited to, detailed information on the status of each facility's compliance with such standards, specific cost estimates for meeting such standards at each school, and specific time lines for bringing each school into compliance with such standards.

"(c) Within six months of the date of enactment of this Act, the Secretary shall submit to the appropriate committees of Congress, and publish in the Federal Register, the system used to establish priorities for school construction projects. At the time any budget request for school construction is presented, the Secretary shall publish in the Federal Register and submit with the budget request the current list of all school construction priorities.

"(d)(1) A Bureau school may be closed or consolidated, and the programs of a Bureau school may be substantially curtailed, by reason of plant conditions that constitute an immediate hazard to health and safety only if a health and safety officer of the Bureau determines that such conditions exist at the Bureau school.

"(2)(A) In making determinations described in paragraph (1) before July 1, 1989, health and safety officers of the Bureau shall use the health and safety guidelines of the Bureau that were in effect on January 1, 1988.

"(B)(i) If—

"(I) the Secretary fails to publish in the Federal Register in final form before July 1, 1989, and

"(II) action described in paragraph (1) is taken after June 30, 1989, and before the date on which such regulations are published in final form in the Federal Register by reason of the condition of any plant,

an inspection of the condition of such plant shall be conducted by an appropriate tribal, county, municipal, or State health and safety officer to determine whether conditions at such plant constitute an immediate hazard to health and safety. Such inspection shall be completed by no later than the date that is 30 days after the date on which the action described in paragraph (1) is taken.

"(ii) The inspection required under clause (i) shall be conducted by a health and safety officer designated jointly by the Secretary and the tribes affected by the action described in paragraph (1). If the Secretary and such tribes are unable to agree on the designation of the health and safety officer, the Secretary shall designate the health and safety officer and shall provide notice of such designation to each of such tribes before the inspection is conducted by such officer.

"(iii) If the health and safety officer conducting an inspection of a plant required under clause (i) determines that conditions at the plant do not constitute an immediate hazard to health and safety, any consolidation or curtailment that was made by reason of conditions at the plant shall immediately cease and any school closed by reason of conditions at the plant shall be reopened immediately.

"(3) If—

"(A) a Bureau school is temporarily closed or consolidated, or the programs of a Bureau school are substantially curtailed, by reason of plant conditions that constitute an immediate hazard to health and safety, and

"(B) the Secretary estimates that the closure, consolidation, or curtailment will be more than 1 year in duration,

the Secretary shall submit to the Congress, by no later than the date that is 6 months after the date on which the closure, consolidation, or curtailment is initiated, a report which sets forth the reasons for such temporary actions and the actions the Secretary is taking to eliminate the conditions that constitute the hazard.

"(e) There are hereby authorized to be appropriated such sums as may be necessary to carry out subsection (a).

"SEC. 6706. BUREAU OF INDIAN AFFAIRS EDUCATION FUNCTIONS.

"(a) The Secretary shall vest in the Assistant Secretary for Indian Affairs all functions with respect to formulation and establishment of policy and procedure, and supervision of programs and expenditures of Federal funds for the purpose of Indian education administered by the Bureau. The Assistant Secretary shall carry out such functions through the Director of the Office of Indian Education.

"(b) The Director of the Office shall direct and supervise the operations of all personnel directly and substantially involved with provision of education services by the Bureau, including (but not limited to) school or institution custodial or maintenance personnel. The Assistant Secretary for Indian Affairs shall provide for the adequate coordination between the affected Bureau Offices and the Office to facilitate the consideration of all contract functions relating to education. Except as required by section 6709(d), nothing in this Act shall be construed to require the provision of separate support services for Indian education.

"(c) Education personnel who are under the direction and supervision of the Director of the Office in accordance with the first sentence of subsection (b) shall—

"(1) monitor and evaluate Bureau education programs,

"(2) provide all services and support functions for education programs with respect to personnel matters involving staffing actions and functions, and

"(3) provide technical and coordinating assistance in areas such as procurement, contracting, budgeting, personnel, and curriculum.

"(d)(1) The Assistant Secretary shall submit in the annual Budget a plan—

"(A) for school facilities to be constructed under the system required by section 6705(c);

"(B) for establishing priorities among projects and for the improvement and repair of education facilities, which together shall form the basis for the distribution of appropriated funds; and

"(C) including a 5-year plan for capital improvements.

"(2) The Assistant Secretary shall establish a program, including the distribution of appropriated funds, for the operation and maintenance of education facilities. Such program shall include, but not be limited to—

"(A) a method of computing the amount necessary for each education facility;

"(B) similar treatment of all Bureau funded schools;

"(C) a notice of an allocation of appropriated funds from the Director of the Office directly to the appropriate education line officers; and

"(D) a system for the conduct of routine preventive maintenance.

The appropriate education line officers shall make arrangements for the maintenance of education facilities with the local supervisors of the Bureau maintenance personnel who are under the authority of the agency superintendent or area directors, respectively. The local supervisors of Bureau maintenance personnel shall take appropriate action to implement the decisions made in this regard by the appropriate education line officers, except that no funds from this program may be authorized for expenditure unless such appropriate education line officer is assured that the necessary maintenance has been, or will be, provided in a reasonable manner. Subject to the requirements of subsection (b) of this section, nothing in this Act shall be construed to require the provision of separate operations and maintenance personnel for the Office.

"(3) The requirements of this subsection shall be implemented no later than July 1, 1995.

"(e) Any other provision of law notwithstanding, the Director shall promulgate guidelines for the establishment of mechanisms for the acceptance of gifts and bequests for the use of, and benefit of, particular schools or designated Bureau operated education programs, including, where appropriate, the establishment and administration of trust funds. When a Bureau operated program is the beneficiary of such a gift or bequest, the Director shall make provisions for monitoring its use, and shall report to the appropriate committees of Congress the amount and terms of such gift and bequest, the use to which it is put, and any positive results achieved by such action.

"(f) For the purpose of this section the term 'functions' includes powers and duties.

"SEC. 6707. ALLOTMENT FORMULA.

"(a) The Secretary shall establish, by regulation adopted in accordance with section 6719, a formula for determining the minimum annual amount of funds necessary to sustain each Bureau funded school. In establishing such formula, the Secretary shall consider—

"(1) the number of eligible Indian students served and size of the school;

"(2) special cost factors, such as—

"(A) isolation of the school;

"(B) need for special staffing, transportation, or educational programs;

"(C) food and housing costs;

"(D) maintenance and repair costs associated with the physical condition of the educational facilities;

"(E) special transportation and other costs of isolated and small schools;

"(F) the costs of boarding arrangements, where determined necessary by a tribal governing body or designated local school board;

"(G) costs associated with greater lengths of service by educational personnel; and

"(H) special programs for gifted and talented students;

"(3) the cost of providing academic services which are at least equivalent to those provided by public schools in the State in which the school is located; and

"(4) such other relevant factors as the Secretary determines are appropriate.

Upon the establishment of the standards required by sections 6701 and 6702 of this Act, the Secretary shall revise the formula established under this subsection to reflect the cost and funding standards so established. Prior to January 1, 1995, the Secretary shall review the formula established under this section and shall take such steps as may be necessary to increase the availability of counseling services for students in off-reservation boarding schools and other Bureau operated residential facilities. Concurrent with such action, the Secretary shall review the standards established under section 6701 of this title to be certain that adequate provision is made for parental notification regarding, and consent for, such counseling services.

"(b) Notwithstanding any other provisions of law, Federal funds appropriated for the general local operation of Bureau funded schools, shall be allotted pro rata in accordance with the formula established under subsection (a).

"(c)(1) For fiscal year 1990, and for each subsequent fiscal year, the Secretary shall adjust the formula established under subsection (a) to—

"(A) use a weighted unit of 1.2 for each eligible Indian student enrolled in the seventh and eighth grades of the school in considering the number of eligible Indian students served by the school;

"(B) consider a school with an enrollment of less than 50 eligible Indian students as having an average daily attendance of 50 eligible Indian students for purposes of implementing the adjustment factor for small schools; and

"(C) take into account the provision of residential services on a less than 9-month basis at a school when the school board and supervisor of the school determine that a less than 9-month basis will be implemented for the school year involved.

"(2)(A) The Secretary shall reserve for national school board training 0.2 percent of the funds appropriated for each fiscal year for distribution under this section. Such training shall be conducted through the same organizations through which, and in the same manner in which, the training was conducted in fiscal year 1992. If the contract for such training is not awarded before May 1 of each fiscal year, the contract under which such training was provided for the fiscal year preceding such fiscal year shall be renewed by the Secretary for such fiscal year. The agenda for the training sessions shall be established by the school boards through their regional or national organizations.

"(B) For each year in which the Secretary uses a weighted unit formula established under subsection (a) to fund Bureau schools, a Bureau school which generates less than 168 weighted units shall receive an additional 2 weighted units to defray school board activities.

"(C) From the funds allotted in accordance with the formula established under subsection (a) for each Bureau school, the local school board of such school may reserve an amount which does not exceed the greater of—

"(i) $5,000, or

"(ii) the lesser of—

"(I) $15,000, or

"(II) 1 percent of such allotted funds,

for school board activities for such school, including but not limited to, and notwithstanding any other provision of law, meeting expenses and the cost of membership in, and support of, organizations engaged in activities on behalf of Indian education.

"(3)(A) The Secretary shall adjust the formula established under subsection (a) to use a weighted unit of 2.0 for each eligible Indian student that—

"(i) is gifted and talented (as determined pursuant to section 6204 of the Indian Education Act of 1988), and

"(ii) is enrolled in the school on a full-time basis,

in considering the number of eligible Indian students served by the school.

"(B) The adjustment required under subparagraph (A) shall be used for the later of the following fiscal years and for each fiscal year succeeding such later fiscal year:

"(i) the second fiscal year succeeding the fiscal year in which the Secretary of Education makes the report required under section 6204(c)(6)(B) of the Indian Education Act of 1988, or

"(ii) the first fiscal year for which an increase in the amount of funds appropriated for allotment under this section is designated by the law that appropriates such funds as the amount necessary to implement such adjustment without reducing allotments made under this section to any school.

"(d) The Secretary shall reserve from the funds available for distribution for each fiscal year under this section an amount which, in the aggregate, shall equal 1 percent of the funds available for such purpose for that fiscal year. Such funds shall be used, at the discretion of the Director of the Office, to meet emergencies and unforeseen contingencies affecting the education programs funded under this section. Funds reserved under this subsection may only be expended for education services or programs at a schoolsite (as defined in section 5204(c)(2) of the Tribally Controlled Schools Act of 1988). Funds reserved under this subsection shall remain available without fiscal year limitation until expended. However, the aggregate amount available from all fiscal years may not exceed 1 percent of the current year funds. Whenever the Secretary makes funds available under this subsection, the Secretary shall report such action to the appropriate committees of Congress within the annual budget submission.

"(e) Supplemental appropriations enacted to meet increased pay costs attributable to school level personnel shall be distributed under this section.

"(f) In this section 'eligible Indian student' means a student who—

"(1) is a member of or is at least a ¼ degree Indian blood descendant of a member of an Indian tribe which is eligible for the special programs and services provided by the United States through the Bureau of Indian Affairs to Indians because of their status as Indians, and

"(2) resides on or near an Indian reservation or meets the criteria for attendance at a Bureau off-reservation boarding school.

"(g)(1) An eligible Indian student may not be charged tuition for attendance at a Bureau or contract school. A student attending a Bureau school under clause (2)(C) of this subsection may not be charged tuition.

"(2) The Secretary may permit the attendance at a Bureau school of a student who is not an eligible Indian student if—

"(A) the Secretary determines that the student's attendance will not adversely affect the school's program for eligible Indian students because of cost, overcrowding, or violation of standards,

"(B) the school board consents, and

"(C) the student is a dependent of a Bureau, Indian Health Service, or tribal government employee who lives on or near the school site, or

"(D) a tuition is paid for the student that is not more than that charged by the nearest public school district for out-of-district students. The tuition collected is in addition to the school's allocation under this section.

"(3) The school board of a contract school or grant school may permit students who are not eligible Indian students under this subsection to attend its contract school or grant school and any tuition collected for those students is in addition to funding under this section.

"(h)(1) The Secretary shall conduct, through contact or cooperative agreement with an entity having proven expertise in the field of school fi-

nance, and after consultation with tribes and national Indian organizations, a study to determine the feasibility and desirability of changing the method of financing for Bureau funded schools from the weighted student unit formula method in effect on the date of enactment of this Act to a school based budget system of financing. The Assistant Secretary shall take such steps as are necessary to immediately implement this provision.

"(2) For the purposes of this study, the term 'school-based budget system' means a system based upon an initial determination, at each school site, of the number of students who shall be served at the site, the needs of those students, the standards which will best meet those needs (including any standards or conditions reflecting local community input and the program developed under this part), the personnel profile necessary to establish such program and the cost (determined on an actual basis) of funding such a program. Such a system would include procedures to aggregate the determinations for each school site to determine the amount needed to fund all Bureau-funded schools, to prepare a budget submission based upon such aggregate and would provide for a mechanism for distributing such sums as may be appropriated based upon the determination at each school site.

"(3) No later than January 20, 1996, the Secretary shall transmit to the Committees on Education and Labor and Appropriations of the House of Representatives and the Committees on Indian Affairs and Appropriations of the Senate of the United States the study required under this subsection, along with any views or comments of the Secretary on such study.

"(i) Any other provision of law notwithstanding, at the election of the school board made at any time during the fiscal year, a portion equal to no more than 15 percent of the funds allocated with respect to a school under this section for any fiscal year shall remain available to the school for expenditure without fiscal year limitation. The Assistant Secretary shall take steps as may be necessary to implement this provision immediately.

"(j) Tuition for the out-of-State students boarding at the Richfield Dormitory in Richfield, Utah, who attend Sevier County high schools in Richfield, Utah, may be paid from the Indian School Equalization Program funds at a rate not to exceed the amount per Weighted Student Unit for that year for instruction. No additional administrative cost funds will be added to the grant.

"SEC. 6708. ADMINISTRATIVE COST GRANTS.

"(a)(1) The Secretary shall, subject to the availability of appropriated funds, provide grants to each tribe or tribal organization operating a contract or grant school in the amount determined under this section with respect to the tribe or tribal organization for the purpose of paying the administrative and indirect costs incurred in operating contract schools in order to—

"(A) enable tribes and tribal organizations operating such schools, without reducing direct program services to the beneficiaries of the program, to provide all related administrative overhead services and operations necessary to meet the requirements of law and prudent management practice, and

"(B) carry out other necessary support functions which would otherwise be provided by the Secretary or other Federal officers or employees, from resources other than direct program funds, in support of comparable Bureau operated programs.

"(2) Amounts appropriated to fund the grants provided under this section shall be in addition to, and shall not reduce, the amounts appropriated for the program being administered by the contract schools.

"(b)(1) The amount of the grant provided to each tribe or tribal organization under this section for each fiscal year shall be determined by applying the administrative cost percentage rate of the tribe or tribal organization to the aggregate of the Bureau elementary and secondary functions operated by the tribe or tribal organization for which funds are received from or through the Bureau. The administrative cost percentage rate determined under subsection (c) does not apply to other programs operated by the tribe or tribal organization.

"(2) The Secretary shall—

"(A) reduce the amount of the grant determined under paragraph (1) to the extent that payments for administrative costs are actually received by an Indian tribe or tribal organization under any Federal education program included in the direct cost base of the tribe or tribal organization, and

"(B) take such actions as may be necessary to be reimbursed by any other department or agency of the Federal Government for the portion of grants made under this section for the costs of administering any program for Indians that is funded by appropriations made to such other department or agency.

"(c) For purposes of this section, the administrative cost percentage rate for a contract or grant school for a fiscal year is equal to the percentage determined by dividing—

"(1) the sum of—

"(A) the amount equal to—

"(i) the direct cost base of the tribe or tribal organization for the fiscal year, multiplied by

"(ii) the minimum base rate, plus

"(B) the amount equal to—

"(i) the standard direct cost base, multiplied by

"(ii) the maximum base rate, by

"(2) the sum of—

"(A) the direct cost base of the tribe or tribal organization for the fiscal year, plus

"(B) the standard direct cost base.

The administrative cost percentage rate shall be determined to the 1/100 of a decimal point.

"(d)(1)(A) Funds received by a tribe or contract or grant school as grants under this section for tribal elementary or secondary educational programs may be combined by the tribe or contract school into a single administrative cost account without the necessity of maintaining separate funding source accounting.

"(B) Indirect cost funds for programs at the school which share common administrative services with tribal elementary or secondary educational programs may be included in the administrative cost account described in subparagraph (A).

"(2) Funds received as grants under this section with respect to tribal elementary or secondary education programs shall remain available to the contract or grant school without fiscal year limitation and without diminishing the amount of any grants otherwise payable to the school under this section for any fiscal year beginning after the fiscal year for which the grant is provided.

"(3) Funds received as grants under this section for Bureau funded programs operated by a tribe or tribal organization under a contract or agreement shall not be taken into consideration for purposes of indirect cost underrecovery and overrecovery determinations by any Federal agency for any other funds, from whatever source derived.

"(4) In applying this section and section 106 of the Indian Self-Determination and Education Assistance Act with respect to an Indian tribe or tribal organization that—

"(A) receives funds under this section for administrative costs incurred in operating a contract school or a school operated under the Tribally Controlled Schools Act of 1988, and

"(B) operates 1 or more other programs under a contract or grant provided under the Indian Self-Determination and Education Assistance Act,

the Secretary shall ensure that the Indian tribe or tribal organization is provided with the full amount of the administrative costs, and of the indirect costs, that are associated with operating the contract school, a school operated under the Tribally Controlled Schools Act of 1988, and all of such other programs, except that funds appropriated for implementation of this section shall be used only to supply the amount of the grant required to be provided by this section.

"(e) For purposes of this section—

"(1)(A) The term 'administrative cost' means the costs of necessary administrative functions which—

"(i) the tribe or tribal organization incurs as a result of operating a tribal elementary or secondary educational program,

"(ii) are not customarily paid by comparable Bureau operated programs out of direct program funds, and

"(iii) are either—

"(I) normally provided for comparable Bureau programs by Federal officials using resources other than Bureau direct program funds, or

"(II) are otherwise required of tribal self-determination program operators by law or prudent management practice.

"(B) The term 'administrative cost' may include, but is not necessarily limited to—

"(i) contract (or other agreement) administration;

"(ii) executive, policy, and corporate leadership and decisionmaking;

"(iii) program planning, development, and management;

"(iv) fiscal, personnel, property, and procurement management;

"(v) related office services and record keeping; and

"(vi) costs of necessary insurance, auditing, legal, safety and security services.

"(2) The term 'Bureau elementary and secondary functions' means—

"(A) all functions funded at Bureau schools by the Office of Indian Education Programs of the Bureau;

"(B) all programs—

"(i) funds for which are appropriated to other agencies of the Federal Government, and

"(ii) which are administered for the benefit of Indians through Bureau schools; and

"(C) all operation, maintenance, and repair funds for facilities and government quarters used in the operation or support of elementary and secondary education functions for the benefit of Indians, from whatever source derived.

"(3) The term 'tribal elementary or secondary educational programs' means all Bureau elementary and secondary functions, together with any other Bureau programs or portions of programs (excluding funds for social services that are appropriated to agencies other than the Bureau and are expended through the Bureau, funds for major subcontracts, construction, and other major capital expenditures, and unexpended funds carried over from prior years) which share common administrative cost functions, that are operated directly by a tribe or tribal organization under a contract or agreement with the Bureau.

"(4)(A) Except as otherwise provided in this paragraph, the direct cost base of a tribe or tribal organization for the fiscal year is the aggregate direct cost program funding for all tribal elementary or secondary educational programs operated by the tribe or tribal organization during—

"(i) the second fiscal year preceding such fiscal year, or

"(ii) if such programs have not been operated by the tribe or tribal organization during the 2

preceding fiscal years, the first fiscal year preceding such fiscal year.

"(B) In the case of Bureau elementary or secondary education functions which have not previously been operated by a tribe or tribal organization under contract or agreement with the Bureau, the direct cost base for the initial year shall be the projected aggregate direct cost program funding for all Bureau elementary and secondary functions to be operated by the tribe or tribal organization during that fiscal year.

"(5) The term 'maximum base rate' means 50 percent.

"(6) The term 'minimum base rate' means 11 percent.

"(7) The term 'standard direct cost base' means $600,000.

"(f)(1) Upon the enactment of the Indian Education Amendments of 1988, the Secretary shall—

"(A) conduct such studies as may be needed to establish an empirical basis for determining relevant factors substantially affecting the required administrative costs of tribal elementary and secondary educational programs, using the formula set forth in subsection (c), and

"(B) a study to determine—

"(i) a maximum base rate which ensures that the amount of the grants provided under this section will provide adequate (but not excessive) funding of the administrative costs of the smallest tribal elementary or secondary educational programs,

"(ii) a minimum base rate which ensures that the amount of the grants provided under this section will provide adequate (but not excessive) funding of the administrative costs of the largest tribal elementary or secondary educational programs, and

"(iii) a standard direct cost base which is the aggregate direct cost funding level for which the percentage determined under subsection (c) will—

"(I) be equal to the median between the maximum base rate and the minimum base rate, and

"(II) ensure that the amount of the grants provided under this section will provide adequate (but not excessive) funding of the administrative costs of tribal elementary or secondary educational programs closest to the size of the program.

"(2) The studies required under paragraph (1) shall—

"(A) be conducted in full consultation (in accordance with section 1130) with—

"(i) the tribes and tribal organizations that are affected by the application of the formula set forth in subsection (c), and

"(ii) all national and regional Indian organizations of which such tribes and tribal organizations are typically members;

"(B) be conducted on-site at a representative statistical sample of the tribal elementary or secondary educational programs under a contract entered into with a nationally reputable public accounting and business consulting firm;

"(C) take into account the availability of skilled labor, commodities, business and automatic data processing services, related Indian preference and Indian control of education requirements, and any other market factors found substantially to affect the administrative costs and efficiency of each such tribal elementary or secondary educational program studied in order to assure that all required administrative activities can reasonably be delivered in a cost effective manner for each such program, given an administrative cost allowance generated by the values, percentages, or other factors found in the studies to be relevant in such formula;

"(D) identify, and quantify in terms of percentages of direct program costs, any general factors arising from geographic isolation, or numbers of programs administered, independent of program size factors used to compute a base administrative cost percentage in such formula; and

"(E) identify any other incremental cost factors substantially affecting the costs of required administrative cost functions at any of the tribal elementary or secondary educational programs studied and determine whether the factors are of general applicability to other such programs, and (if so) how they may effectively be incorporated into such formula.

"(3) In carrying out the studies required under this subsection, the Secretary shall obtain the input of, and afford an opportunity to participate to, the Inspector General of the Department of the Interior.

"(4) Determinations described in paragraph (2)(C) shall be based on what is pragmatically possible to do at each location studied, given prudent management practice, irrespective of whether required administrative services were actually or fully delivered at these sites, or other services were delivered instead, during the period of the study.

"(5) Upon completion of the studies conducted under paragraph (1), but in no case later than October 1, 1989, the Secretary shall submit to the Congress a report on the findings of the studies, together with determinations based upon such findings that would affect the definitions of terms used in the formula that is set forth in subsection (c).

"(6) The Secretary shall include in the Bureau's justification for each appropriations request for each fiscal year beginning after fiscal year 1989, a projection of the overall costs associated with the formula set forth in subsection (c) for all tribal elementary or secondary educational programs which the Secretary expects to be funded in the fiscal year for which the appropriations are sought.

"(7) For purposes of this subsection, the size of tribal elementary or secondary educational programs is determined by the aggregate direct cost program funding level for all Bureau funded programs which share common administrative cost functions.

"(g)(1) There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the provisions of this section.

"(2) If the total amount of funds necessary to provide grants to tribes and tribal organizations in the amounts determined under subsection (b) for a fiscal year exceeds the amount of funds appropriated to carry out this section for such fiscal year, the Secretary shall reduce the amount of each grant determined under subsection (b) for such fiscal year by an amount that bears the same relationship to such excess as the amount of such grant determined under subsection (b) bears to the total of all grants determined under subsection (b) for all tribes and tribal organizations for such fiscal year.

"(h)(1) Notwithstanding any other provision of this section, the amount of the grants provided under this section for fiscal year 1989 shall—

"(A) in lieu of being determined under subsection (b), be determined for each tribal elementary or secondary educational program on the same basis that indirect costs were determined for such programs for fiscal year 1988, and

"(B) be subject to the provisions of subsection (d).

"(2) Notwithstanding any other provision of this section, the amount of the grant provided under this section for fiscal year 1990 with respect to each tribal elementary and secondary educational program that was operated by a tribe or tribal organization in fiscal year 1989 shall be equal to—

"(A) if the amount of the grant determined under subsection (b) for fiscal year 1990 with respect to such program exceeds the amount received by the tribe or tribal organization with respect to such program for administrative costs for fiscal year 1988 (or fiscal year 1989 if such program was not operated by the tribe or tribal organization during fiscal year 1988), the sum of—

"(i) such amount received, plus

"(ii) ⅓ of the excess of—

"(I) such amount determined under subsection (b), over

"(II) such amount received, or

"(B) if such amount received exceeds such amount determined under subsection (b), the excess of—

"(i) such amount received, over

"(ii) an amount equal to ⅓ of the excess of—

"(I) such amount received, over

"(II) such amount determined under subsection (b).

"(3) Notwithstanding any other provision of this section, the amount of the grants provided under this section for fiscal year 1991 with respect to each tribal elementary and secondary educational program that was operated by a tribe or tribal organization in fiscal year 1989 shall be equal to—

"(A) if the amount of the grant determined under subsection (b) for fiscal year 1991 with respect to such program exceeds the amount received by the tribe or tribal organization with respect to such program for administrative costs for fiscal year 1990, the sum of—

"(i) such amount received, plus

"(ii) ½ of the excess of—

"(I) such amount determined under subsection (b), over

"(II) such amount received, or

"(B) if such amount received exceeds such amount determined under subsection (b), the excess of—

"(i) such amount received, over

"(ii) an amount equal to ½ of the excess of—

"(I) such amount received over,

"(II) such amount determined under subsection (b).

"(i) The provisions of this section shall also apply to those schools operating under the Tribally Controlled Schools Act of 1988.

"SEC. 6709. BUDGET PREPARATION AND SUBMISSION.

"(a) For each fiscal year beginning after October 1, 1994, and ending before October 1, 1998, the Secretary shall enter into an interagency agreement with the Secretary of Education for the purpose of carrying out this section. The Secretary shall take such actions as are necessary to transfer information requested by the Secretary of Education or the entity designated under subsection (b) of this section needed to carry out this section in a timely and accurate fashion.

"(b) The Secretary of Education, through the National Center for Education Statistics, shall prepare and submit to Congress the study set forth in subsection (c) of this section no later than January 20, 1995, and January 20 of each of the next 3 succeeding years. The Secretary of Education shall transmit the report directly and without substantive amendment to the Secretary of the Interior, the Assistant Secretary for Indian Affairs of the Department of the Interior, and the Committees on Education and Labor and Appropriations of the House of Representatives and the Committees on Indian Affairs and Appropriations of the Senate of the United States.

"(c)(1) The National Center for Educational Statistics (hereinafter referred to as the 'Center') shall prepare for each of the fiscal years covered under subsection (a) of this section a report on the amount needed to achieve academic and residential programs set forth in this part for Bureau-funded schools funded under section

6707. Such study shall be based on (A) the standards developed and implemented for Bureau-funded schools under section 6701 and 6702 of this part or such other standards as may apply to Bureau-funded contract schools or schools funded under the Tribally Controlled Schools Act of 1988, (B) the student count and characteristics of such schools, as determined pursuant to the formula developed and implemented pursuant to section 6707 of this part for the preceding academic year, adjusted for any changes in student demographics which the Center may project, (C) the employee statistics with respect to such schools for the preceding fiscal year, and (D) such other factors as the Center may set forth, including but not limited to age or physical condition of the schools and changes in isolation.

"(2) Each study shall include a total projected cost for attaining the standards set forth under paragraph (1), and shall presume compliance with those standards. Such study shall also include a projection of the cost for meeting such standards for each Bureau-funded school. Such study shall also include a report on any shortfall in the amount needed to fund Bureau-funded schools, as determined by the study conducted pursuant to this section and the appropriations amount requested and enacted for the period covered by the study.

"(d)(1) Within 24 months of the date of enactment of this Act, the Secretary shall establish within the Office of Indian Education Programs a Division of Budget Analysis (hereinafter referred to as the 'Division'). Such Division shall be under the direct supervision and control of the Director of the Office.

"(2) The Division shall have the capacity to conduct such studies, surveys, or other activities as are necessary to gather demographic information on Bureau-funded schools (current and future) and project the amount necessary to provide Indian students in such schools the educational program set forth in this part.

"(3) The Division shall prepare projections on such amounts, along with such other information as the Director of the Office shall require, for each fiscal year beginning after October 1, 1996. The Director of the Office and the Assistant Secretary for Indian Affairs shall use such reports when preparing their annual budget submissions.

"SEC. 6710. UNIFORM DIRECT FUNDING AND SUPPORT.

"(a)(1) Within six months after the date of enactment of this Act, the Secretary shall establish, by regulation adopted in accordance with section 6719, a system for the direct funding and support of all Bureau-funded schools. Such system shall allot funds, in accordance with section 6707. Amounts appropriated for distribution under this section may be made available under paragraph (2) or under paragraph (3), as provided in the appropriation Act.

"(2)(A) For the purpose of affording adequate notice of funding available pursuant to the allotments made by section 6707, amounts appropriated in an appropriation Act for any fiscal year shall become available for obligation by the affected schools on July 1 of the fiscal year in which they are appropriated without further action by the Secretary, and shall remain available for obligation through the succeeding fiscal year.

"(B) The Secretary shall, on the basis of the amount appropriated in accordance with this paragraph—

"(i) publish, on July 1 preceding the fiscal year for which the funds are appropriated, allotments to each affected school made under section 6707 of 85 percent of such appropriation; and

"(ii) publish, no later than September 30 of such preceding fiscal year, the allotments to be made under section 6707 of the remaining 15 percent of such appropriation, adjusted to reflect actual student attendance.

"(3) Notwithstanding any law or regulation, the supervisor of a Bureau school may expend an aggregate of no more than $35,000 of the amount allotted the school under section 6707 to acquire supplies and equipment for the school without competitive bidding if—

"(A) the cost for any single item purchased does not exceed $10,000;

"(B) the school board approves the procurement;

"(C) the supervisor certifies that the cost is fair and reasonable;

"(D) the documents relating to the procurement executed by the supervisor or other school staff cite this paragraph as authority for the procurement; and

"(E) the transaction is documented in a journal maintained at the school clearly identifying when the transaction occurred, what was acquired and from whom, the prices paid, the quantities acquired, and any other information the supervisor or school board considers relevant.

The Director shall be responsible for determining the application of this paragraph, including the authorization of specific individuals to carry out this authority, and shall be responsible for the provision of guidelines on the use of this authority and adequate training on such guidelines.

"(4) If a sequestration order issued under the Balanced Budget and Emergency Deficit Control Act of 1985 reduces the amount of funds available for allotment under section 6707 for any fiscal year by more than 7 percent of the amount of funds available for allotment under such section during the preceding fiscal year—

"(A) the Secretary may, notwithstanding any other provision of law, use—

"(i) funds appropriated for the operation of any Bureau school that is closed or consolidated, and

"(ii) funds appropriated for any program that has been curtailed at any Bureau school,

to fund allotments made under section 6707, and

"(B) the Secretary may waive the application of the provisions of section 6701(h) with respect to the closure or consolidation of a school, or the curtailment of a program at a school, during such fiscal year if the funds described in clauses (i) and (ii) of subparagraph (A) with respect to such school are used to fund allotments made under section 6707 for such fiscal year.

"(b) In the case of all Bureau schools, allotted funds shall be expended on the basis of local financial plans which shall be prepared by the local school supervisor in active consultation with the local school board for each school, and the local school board for each school shall have the authority to ratify, reject, or amend such financial plan, and expenditures thereunder, and, on its own determination or in response to the supervisor of the school, to revise such financial plan to meet needs not foreseen at the time of preparation of the financial plan. The supervisor shall provide the appropriate union representative of the education employees with copies of proposed draft financial plans and all amendments or modifications thereto, at the same time they are submitted to the local school board. The supervisor of the school may appeal any such action of the local school board to the appropriate education officer of the Bureau agency by filing a written statement describing the action and the reasons the supervisor believes such action should be overturned. A copy of such statement shall be submitted to the local school board and such board shall be afforded an opportunity to respond, in writing, to such appeal. After reviewing such written appeal and response, the appropriate education officer may, for good cause, overturn the action of the local school board. The appropriate education officer shall transmit the determination of such appeal in the form of a written opinion to such board and to such supervisor identifying the reasons for overturning such action.

"(c) Funds for self-determination grants under section 103(a)(2) of the Indian Self-Determination and Education Assistance Act shall not be used for providing technical assistance and training in the field of education by the Bureau unless such services are provided in accordance with a plan, agreed to by the tribe or tribes affected and the Bureau, under which control of education programs is intended to be transferred to such tribe or tribes within a specific period of time negotiated under such agreement. The Secretary may approve applications for funding tribal divisions of education and the development of tribal codes of education from funds appropriated pursuant to section 104(a) of such Act.

"(d) In the exercise of its authority under this section, a local school board may request technical assistance and training from the Secretary, and he shall, to the greatest extent possible, provide such services, and make appropriate provisions in the budget of the Office for such services.

"(e)(1) A financial plan under subsection (b) for a school may include, at the discretion of the local administrator and the school board of such school, a provision for a summer program of academic and support services for students of the school. Any such program may include activities related to the prevention of alcohol and substance abuse. The Assistant Secretary of Indian Affairs shall provide for the utilization of any such school facility during any summer in which such utilization is requested.

"(2) Notwithstanding any other provision of law, funds authorized under the Act of April 16, 1934 (25 U.S.C. 452 et seq.) and the Indian Education Act may be used to augment the services provided in each summer program at the option, and under the control, of the tribe or Indian controlled school receiving such funds.

"(3) The Assistant Secretary of Indian Affairs, acting through the Director of the Office of Indian Education Programs, shall provide technical assistance and coordination for any program described in paragraph (1) and shall, to the extent possible, encourage the coordination of such programs with any other summer programs that might benefit Indian youth, regardless of the funding source or administrative entity of any such program.

"(f)(1) From funds allotted to a Bureau school under section 6707, the Secretary shall, if specifically requested by the tribal governing body (within the meaning of section 6701(k)), implement any cooperative agreement entered into between the tribe, the Bureau school board, and the local public school district which meets the requirements of paragraph (2) and involves the school. The tribe, the Bureau school board, and the local public school district shall determine the terms of the agreement. Such agreement may encompass coordination of all or any part of the following:

"(A) Academic program and curriculum, unless the Bureau school is currently accredited by a State or regional accrediting entity and would not continue to be so accredited.

"(B) Support services, including procurement and facilities maintenance.

"(C) Transportation.

"(2) Each agreement entered into pursuant to the authority provided in paragraph (1) shall confer a benefit upon the Bureau school commensurate with the burden assumed, though this requirement shall not be construed so as to require equal expenditures or an exchange of similar services.

"(g) Any other provision of law notwithstanding, where there is agreement on such action between the superintendent and school board of a B.I.A. funded school, the product or result of a project conducted in whole or in major part by a student may be given to that student upon the completion of said project.

"(h) Notwithstanding any other provision of law, funds received by Bureau funded schools under this title shall not be considered Federal funds for purposes of meeting a match requirement in any Federal program.

"SEC. 6711. POLICY FOR INDIAN CONTROL OF INDIAN EDUCATION.

"(a) It shall be the policy of the the Secretary and the Bureau, in carrying out the functions of the Bureau, to facilitate Indian control of Indian affairs in all matters relating to education.

"(b)(1) All actions under this Act shall be done with active consultation with tribes.

"(2) The consultation required under paragraph (1) means a process involving the open discussion and joint deliberation of all options with respect to potential issues or changes between the Bureau and all interested parties. During such discussions and joint deliberations, interested parties (including, but not limited to, tribes and school officials) shall be given an opportunity to present issues including proposals regarding changes in current practices or programs which will be considered for future action by the Bureau. All interested parties shall be given an opportunity to participate and discuss the options presented or to present other alternatives, with the views and concerns of the interested parties given effect unless the Secretary determines, from information educed or presented by the interested parties during 1 or more of the discussions and deliberations, that there is a substantial reason for another course of action. The Secretary shall submit to any Member of Congress, within 18 days of the receipt of a written request by such Member, a written explanation of any decision made by the Secretary which is not consistent with the views of the interested parties.

"SEC. 6712. EDUCATION PERSONNEL.

"(a)(1) Chapter 51, subchapter III of chapter 53, and chapter 63 of title 5, United States Code, relating to leave, pay, and classification, and the sections relating to the appointment, promotion and removal of civil service employees, shall not apply to educators or to education positions (as defined in subsection (n)).

"(2) Paragraph (1) shall take effect 1 year after the date of enactment of this Act.

"(b) Not later than the effective date of subsection (a)(2), the Secretary shall prescribe regulations to carry out this section. Such regulations shall govern—

"(1) the establishment of education positions,

"(2) the establishment of qualifications for educators,

"(3) the fixing of basic compensation for educators and education positions,

"(4) the appointment of educators,

"(5) the discharge of educators,

"(6) the entitlement of educators to compensation,

"(7) the payment of compensation to educators,

"(8) the conditions of employment of educators,

"(9) the length of the school year applicable to education positions described in subsection (n)(1)(A),

"(10) the leave system for educators, and

"(11) such other matters as may be appropriate.

"(c)(1) In prescribing regulations to govern the qualifications of educators, the Secretary shall require—

"(A)(i) that lists of qualified and interviewed applicants for education positions be maintained in each agency and area office of the Bureau from among individuals who have applied at the agency or area level for an education position or who have applied at the national level and have indicated in such application an interest in working in certain areas or agencies; and

"(ii) that a list of qualified and interviewed applicants for education positions be maintained in the Office from among individuals who have applied at the national level for an education position and who have expressed interest in working in an education position anywhere in the United States;

"(B) that a local school board shall have the authority to waive on a case-by-case basis, any formal education or degree qualifications established by regulation pursuant to subsection (b)(2), in order for a tribal member to be hired in an education position to teach courses on tribal culture and language and that subject to subsection (d)(2)(A), a determination by a school board that such a person be hired shall be followed by the supervisor; and

"(C) that it shall not be a prerequisite to the employment of an individual in an education position at the local level that such individual's name appear on the national list maintained pursuant to subsection (c)(1)(A)(ii) or that such individual has applied at the national level for an education position.

"(2) The Secretary may authorize the temporary employment in an education position of an individual who has not met the certification standards established pursuant to regulations, if the Secretary determines that failure to do so would result in that position remaining vacant.

"(d)(1) In prescribing regulations to govern the appointment of educators, the Secretary shall require—

"(A)(i) that educators employed in a school (other than the supervisor of the school) shall be hired by the supervisor of the school unless there are no qualified applicants available, in which case the vacant position shall be filed at the national level from the list maintained pursuant to subsection (c)(1)(A)(ii);

"(ii) each school supervisor shall be hired by the superintendent for education of the agency office of the Bureau in which the school is located, and

"(iii) educators employed in an agency office of the Bureau shall be hired by the superintendent for education of the agency office;

"(B) that before an individual is employed in an education position in a school by the supervisor of a school (or, with respect to the position of supervisor, by the appropriate agency superintendent for education), the local school board for the school shall be consulted, and that subject to subsection (d)(2), a determination by the school board that such individual should or should not be so employed shall be followed by the supervisor (or with respect to the position of supervisor, by the agency superintendent for education); and

"(C) that before an individual may be employed in an education position at the agency level, the appropriate agency school board shall be consulted, and that, subject to subsection (d)(3), a determination by such school board that such individual should or should not be employed shall be followed by the agency superintendent for education.

"(2)(A) The supervisor of a school may appeal to the appropriate agency superintendent for education any determination by the local school board for the school that an individual be employed, or not be employed, in an education position in the school (other than that of supervisor) by filing a written statement describing the determination and the reasons the supervisor believes such determination should be overturned. A copy of such statement shall be submitted to the local school board and such board shall be afforded an opportunity to respond, in writing, to such appeal. After reviewing such written appeal and response, the superintendent may, for good cause, overturn the determination of the local school board. The superintendent shall transmit the determination of such appeal in the form of a written opinion to such board and to such supervisor identifying the reasons for overturning such determination.

"(B) The superintendent for education of an agency office of the Bureau may appeal to the Director of the Office any determination by the local school board for the school that an individual be employed, or not be employed, as the supervisor of a school by filing a written statement describing the determination and the reasons the supervisor believes such determination should be overturned. A copy of such statement shall be submitted to the local school board and such board shall be afforded an opportunity to respond, in writing, to such appeal. After reviewing such written appeal and response, the Director may, for good cause, overturn the determination of the local school board. The Director shall transmit the determination of such appeal in the form of a written opinion to such board and to such superintendent identifying the reasons for overturning such determination.

"(3) The superintendent for education of an agency office of the Bureau may appeal to the Director of the Office any determination by the agency school board that an individual be employed, or not be employed, in an education position in such agency office by filing a written statement describing the determination and the reasons the supervisor believes such determination should be overturned. A copy of such statement shall be submitted to the agency school board and such board shall be afforded an opportunity to respond, in writing, to such appeal. After reviewing such written appeal and response, the Director may, for good cause, overturn the determination of the agency school board. The Director shall transmit the determination of such appeal in the form of a written opinion to such board and to such superintendent identifying the reasons for overturning such determination.

"(4) Any individual who applies at the local level for an education position shall state on such individual's application whether or not such individual has applied at the national level for an education position in the Bureau. If such individual is employed at the local level, such individual's name shall immediately be forwarded to the Secretary, who shall, as soon as possible but in no event in more than thirty days, ascertain the accuracy of the statement made by such individual pursuant to the first sentence of this subparagraph. If the individual's statement is found to have been false, such individual, at the Secretary's discretion, may be disciplined or discharged. If the individual had applied at the national level for an education position in the Bureau, if the appointment of such individual at the local level shall be conditional for a period of ninety days, during which period the Secretary may appoint a more qualified individual (as determined by the Secretary) from the list maintained at the national level pursuant to subsection (c)(1)(A)(ii) to the position to which such individual was appointed.

"(5) Except as expressly provided, nothing in this section shall be construed as conferring upon local school boards, authority over, or control of, educators.

"(e)(1) In prescribing regulations to govern the discharge and conditions of employment of educators, the Secretary shall require—

"(A) that procedures be established for the rapid and equitable resolution of grievances of educators;

"(B) that no educator may be discharged without notice of the reasons therefore and op-

portunity for a hearing under procedures that comport with the requirements of due process; and

"(C) educators employed in Bureau schools shall be notified sixty days prior to the end of the school year whether their employment contract will be renewed for the coming year.

"(2) The supervisor of a Bureau school may discharge (subject to procedures established under paragraph (1)(B) for cause (as determined under regulations prescribed by the Secretary) any educator employed in such school. Upon giving notice of proposed discharge to an educator, the supervisor involved shall immediately notify the local school board for the school of such action. A determination by the local school board that such educator shall not be discharged shall be followed by the supervisor. The supervisor shall have the right to appeal such action to the superintendent for education of the appropriate agency office of the Bureau. Upon such an appeal, the agency superintendent for education may, for good cause and in writing to the local school board, overturn the determination of the local school board with respect to the employment of such individual.

"(3) Each local school board for a Bureau school shall have the right (A) to recommend to the supervisor of such school that an educator employed in the school be discharged, and (B) to recommend to the superintendent of education of the appropriate agency office of the Bureau and to the Director of the Office, that the supervisor of the school be discharged.

"(f)(1) Notwithstanding any provision of the Indian preference laws, such laws shall not apply in the case of any personnel action within the purview of this section respecting an applicant or employee not entitled to Indian preference if each tribal organization concerned grants, in writing, a waiver of the application of such laws with respect to such personnel action, where such a waiver is in writing deemed to be a necessity by the tribal organization, except that this shall in no way relieve the Bureau of its responsibility to issue timely and adequate announcements and advertisements concerning any such personnel action if it is intended to fill a vacancy (no matter how such vacancy is created).

"(2) For purposes of this subsection, the term 'tribal organization' means—

"(A) the recognized governing body of any Indian tribe, band, nation, pueblo, or other organized community, including a Native village (as defined in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c); 85 Stat. 688)); or

"(B) in connection with any personnel action referred to in this subsection, any local school board as defined in section 1139, and which has been delegated by such governing body the authority to grant a waiver under such subsection with respect to such personnel action.

"(3) The term 'Indian preference laws' means section 12 of the Act of June 18, 1934 (25 U.S.C. 472; 48 Stat. 986) or any other provision of law granting a preference to Indians in promotions and other personnel actions, except that such term shall not be considered to include section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b); 88 Stat. 2295).

"(g) Subject to the authority of the Civil Service Commission to determine finally the applicability of chapter 51 of title 5, United States Code, to specific positions and employees in the executive branch, the Secretary shall determine in accordance with subsection (a)(1) the applicability or inapplicability of such chapter to positions and employees in the Bureau.

"(h)(1)(A) Except as otherwise provided in this section, the Secretary shall fix the basic compensation or annual salary rate for educators and education positions at rates comparable to the rates in effect under the General Schedule for individuals with comparable qualifications, and holding comparable positions, to whom chapter 51 is applicable or on the basis of the Federal Wage System schedule in effect for the locality.

"(B) By no later than October 28, 1988, the Secretary shall establish, for contracts for the 1991–1992 academic year, and thereafter, the rates of basic compensation, or annual salary rates, for the positions of teachers and counselors (including dormitory counselors and home-living counselors) at the rates of basic compensation applicable (on the date of enactment of such Amendments and thereafter) to comparable positions in overseas schools under the Defense Department Overseas Teachers Pay and Personnel Practices Act, unless the Secretary establishes such rates within such 6-month period through collective bargaining with the appropriate union representative of the education employees that is recognized by the Bureau.

"(C) By no later than October 28, 1988, the Secretary shall establish the rates of basic compensation or annual salary rates for the positions of teachers and counselors (including dormitory and home-living counselors)—

"(i) for contracts for the 1989–1990 academic year, at rates which reflect ⅓ of the changes in the rates applicable to such positions on April 28, 1988, that must be made to conform the rates to the rates established under subparagraph (B) for such positions for contracts for the 1991–1992 academic year, and

"(ii) for contracts for the 1990–1991 academic year, at rates which reflect ⅔ of such changes.

"(D) The establishment of rates of basic compensation and annual salary rates by the Secretary under subparagraphs (B) and (C) shall not preclude the use of regulations and procedures used by the Bureau before the enactment of the Indian Education Amendments of 1988 in making determinations regarding promotions and advancements through levels of pay that are based on the merit, education, experience, or tenure of the educator.

"(E)(i) Except as provided in clause (ii), the establishment of rates of basic compensation and annual salary rates by the Secretary under subparagraphs (B) and (C) shall not affect the continued employment or compensation of an educator who was employed in an education position on October 31, 1979, and who did not make the election under paragraph (2) of subsection (o).

"(ii) Any individual described in clause (i) may, during the 5-year period beginning on the date on which the Secretary establishes rates of basic compensation and annual salary rates under subparagraph (B), make an irrevocable election to have the basic compensation rate or annual salary rate of such individual determined in accordance with this paragraph.

"(iii) If an individual makes the election described in clause (ii), such election shall not affect the application to the individual of the same retirement system and leave system that applies to the individual during the fiscal year preceding the fiscal year in which such election is made, except that the individual must use leave accrued during a contract period by the end of that contract period.

"(F) The President shall include with the budget submitted under section 1105 of title 31, United States Code, for each of the fiscal years 1990, 1991, and 1992 a written statement by the Secretary which specifies—

"(i) the amount of funds the Secretary needs to pay basic compensation and the annual salaries of educators for such fiscal year, and

"(ii) the amount of funds the Secretary estimates would be needed to pay basic compensation and the annual salaries of educators for such fiscal year if the amendments made to this paragraph by the Indian Education Amendments of 1988 had not been enacted.

"(2) Each educator employed in an education position in Alaska shall be paid a cost-of-living allowance equal to 25 per centum of the rate of basic compensation to which such educator is entitled.

"(3)(A) The Secretary may pay a postdifferential not to exceed 25 per centum of the rate of basic compensation, on the basis of conditions of environment or work which warrant additional pay as a recruitment and retention incentive.

"(B)(i) Upon the request of the supervisor and the local school board of a Bureau school, the Secretary shall grant the supervisor of the school authorization to provide 1 or more post differentials under subparagraph (A) unless the Secretary determines for clear and convincing reasons (and advises the board in writing of those reasons) that certain of the requested post differentials should be disapproved or decreased because there is no disparity of compensation for the involved employees or positions in the Bureau school, as compared with the nearest public school, that is either—

"(I) at least 5 percent, or

"(II) less than 5 percent and affects the recruitment or retention of employees at the school.

The request under this subparagraph shall be deemed granted as requested at the end of the 60th day after the request is received in the Central Office of the Bureau unless before that time it is approved, approved with modification, or disapproved by the Secretary.

"(ii) The Secretary or the supervisor of a Bureau school may discontinue or decrease a post differential authorized by reason of this subparagraph at the beginning of a school year after either—

"(I) the local school board requests that it be discontinued or decreased, or

"(II) the Secretary or the supervisor determines for clear and convincing reasons (and advises the board in writing of those reasons) that there is no disparity of compensation that would affect the recruitment or retention of employees at the school after the differential is discontinued or decreased.

"(iii) On or before February 1 of each year, the Secretary shall submit to Congress a report describing the requests and grants of authority under this subparagraph during the previous fiscal year and listing the positions contracted under those grants of authority.

"(i) Any individual—

"(1) who on the date of enactment of this Act is holding a position which is determined under subsection (f) to be an education position and who elects under subsection (o)(2) to be covered under the provisions of this section, or

"(2) who is an employee of the Federal Government or the municipal government of the District of Columbia and is transferred, promoted, or reappointed, without break in service, from a position under a different leave system to an education position,

shall be credited for the purpose of the leave system provided under regulations prescribed pursuant to subsection (b)(10), with the annual and sick leave to his credit immediately before the effective date of such election, transfer, promotion, or reappointment.

"(j) Upon termination of employment with the Bureau, any annual leave remaining to the credit of an individual within the purview of this section shall be liquidated in accordance with sections 5551(a) and 6306 of title 5, United States Code, except that leave earned or accrued under regulations prescribed pursuant to subsection (b)(10) shall not be so liquidated.

"(k) In the case of any educator who is transferred, promoted, or reappointed, without break in service, to a position in the Federal Government under a different leave system, any remaining leave to the credit of such person earned or credited under the regulations prescribed pursuant to subsection (b)(10) shall be transferred to his credit in the employing agency on an adjusted basis in accordance with regulations which shall be prescribed by the Civil Service Commission.

"(l) An educator who voluntarily terminates employment with the Bureau before the expiration of the existing employment contract between such educator and the Bureau shall not be eligible to be employed in another education position in the Bureau during the remainder of the term of such contract.

"(m) In the case of any educator employed in an education position described in subsection (n)(1)(A) who—

"(1) is employed at the close of a school year,

"(2) agrees in writing to serve in such a position for the next school year, and

"(3) is employed in another position during the recess period immediately preceding such next school year, or during such recess period receives additional compensation referred to in subsection (g)(2) or (g)(3), section 5533 of title 5, United States Code, relating to dual compensation, shall not apply to such educator by reason of any such employment during a recess period for any such receipt of additional compensation.

"(n) For the purpose of this section—

"(1) The term "education position" means a position in the Bureau the duties and responsibilities of which—

"(A) are performed on a school-year basis principally in a Bureau school and involve—

"(i) classroom or other instruction or the supervision or direction of classroom or other instruction;

"(ii) any activity (other than teaching) which requires academic credits in educational theory and practice equal to the academic credits in educational theory and practice required for a bachelor's degree in education from an accredited institution of higher education;

"(iii) any activity in or related to the field of education notwithstanding that academic credits in educational theory and practice are not a formal requirement for the conduct of such activity; or

"(iv) support services at, or associated with, the site of the school; or

"(B) are performed at the agency level of the Bureau and involve the implementation of education-related programs other than the position for agency superintendent for education.

"(2) The term "educator" means an individual whose services are required, or who is employed, in an education position.

"(o)(1) Subsections (a) through (n) of this section apply to an educator hired after November 1, 1979 (and to an educator who elected application under paragraph (2)) and to the position in which such individual is employed. Subject to paragraph (2), the enactment of this Act shall not affect the continued employment of an individual employed on October 31, 1979 in an education position, or such individual's right to receive the compensation attached to such position.

"(2) Any individual employed in an education position on October 31, 1979, may, not later than November 1, 1983, make an irrevocable election to be covered under the provisions of subsection (a) through (n) of this section.

"(p)(1) An educator who was employed in an education position on October 31, 1979, who was eligible to make an election under paragraph (2) of subsection (o) at that time, and who did not make the election under paragraph (2) of subsection (o), may not be placed on furlough (within the meaning of section 7511(a)(5) of title 5, United States Code) without the consent of such educator for an aggregate of more than 4 weeks within the same calendar year, unless—

"(A) the supervisor, with the approval of the local school board (or of the agency superintendent for education upon appeal under paragraph (2)), of the Bureau school at which such educator provides services determines that a longer period of furlough is necessary due to an insufficient amount of funds available for personnel compensation at such school, as determined under the financial plan process as determined under section 1129(b) of this Act, and

"(B) all educators (other than principals and clerical employees) providing services at such Bureau school are placed on furloughs of equal length, except that the supervisor, with the approval of the local school board (or of the agency superintendent for education upon appeal under paragraph (2)), may continue 1 or more educators in pay status if (i) they are needed to operate summer programs, attend summer training sessions, or participate in special activities including (but not limited to) curriculum development committees, and (ii) they are selected based upon their qualifications, after public notice of the minimum qualifications reasonably necessary and without discrimination as to supervisory, nonsupervisory, or other status of the educators who apply.

"(2) The supervisor of a Bureau school may appeal to the appropriate agency superintendent for education any refusal by the local school board to approve any determination of the supervisor that is described in paragraph (1)(A) by filing a written statement describing the determination and the reasons the supervisor believes such determination should be approved. A copy of such statement shall be submitted to the local school board and such board shall be afforded an opportunity to respond, in writing, to such appeal. After reviewing such written appeal and response, the superintendent may, for good cause, approve the determination of the supervisor. The superintendent shall transmit the determination of such appeal in the form of a written opinion to such local school board and to the supervisor identifying the reasons for approving such determination.

"SEC. 6713. MANAGEMENT INFORMATION SYSTEM.

"The Secretary shall establish within the Office, within 1 year after the date of the enactment of the Indian Education Amendments of 1984, a computerized management information system, which shall provide information to the Office. Such information shall include but shall not be limited to—

"(1) student enrollment;

"(2) curriculum;

"(3) staff;

"(4) facilities;

"(5) community demographics;

"(6) student assessment information; and

"(7) information on the administrative and program costs attributable to each Bureau program, divided into discreet elements.

"SEC. 6714. BUREAU EDUCATION POLICIES.

"Within 180 days of the date of enactment of this Act, the Secretary shall develop, publish in the Federal Register, and submit to all agency and area offices of the Bureau, all tribal governments, and the appropriate committees of the Congress, a draft set of education policies, procedures, and practices for education-related action of the Bureau. The Secretary shall, within 1 year of the date of enactment of this Act, provide that such uniform policies, procedures, and practices shall be finalized and promulgated. Thereafter, such policies, procedures, and practices and their periodic revisions, shall serve as the foundation for future Bureau actions in education.

"SEC. 6715. UNIFORM EDUCATION PROCEDURES AND PRACTICES.

"The Secretary shall cause the various divisions of the Bureau to formulate uniform procedures and practices with respect to such concerns of those divisions as relate to education, and shall report such practices and procedures to the Congress.

"SEC. 6716. RECRUITMENT OF INDIAN EDUCATORS.

"The Secretary shall institute a policy for the recruitment of qualified Indian educators and a detailed plan to promote employees from within the Bureau. Such plan shall include opportunities for acquiring work experience prior to actual work assignment.

"SEC. 6717. ANNUAL REPORT.

"(a) The Secretary shall submit to each appropriate committee of the Congress a detailed annual report on the state of education within the Bureau and any problems encountered in the field of education during the year. Such report shall contain suggestions for improving the Bureau educational system and increasing local Indian control of such system. Such report shall also include the current status of tribally controlled community colleges. The annual budget submission for the Bureau's education programs shall, among other things, include (1) information on the funds provided previously private schools under section 208 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458d; 88 Stat. 2216) and recommendations with respect to the future use of such funds; (2) the needs and costs of operation and maintenance of tribally controlled community colleges eligible for assistance under the Tribally Controlled Community College Assistance Act of 1978 (92 Stat. 1325; 25 U.S.C. 1801 et seq.) and recommendations with respect to meeting such needs and costs; and (3) the plans required by section 1121(f), and 1122(c); and 1125(b) of this Act (25 U.S.C. 2001(f), 2002(c), and 2005(b)).

"(b) The Inspector General of the Department of the Interior shall establish a system to ensure that financial and compliance audits are conducted of each Bureau school at least once in every three years. Audits of Bureau schools shall be based upon the extent to which such school has complied with its local financial plan under section 1129.

"SEC. 6718. RIGHTS OF INDIAN STUDENTS.

"Within six months of the date of enactment of this Act, the Secretary shall prescribe such rules and regulations as are necessary to insure the constitutional and civil rights of Indian students attending Bureau schools, including, but not limited to, their right to privacy under the laws of the United States, their right to freedom of religion and expression and their right to due process in connection with disciplinary actions, suspensions, and expulsions.

"SEC. 6719. REGULATIONS.

"Regulations required to be adopted under sections 6706 through 6718 and any revisions of the standards developed under section 6701 or 6702 of this Act shall be deemed rules of general applicability prescribed for the administration of an applicable program for the purposes of section 431 of the General Education Provisions Act and shall be promulgated, submitted for congressional review, and take effect in accordance with the provisions of such section. Such regulations shall contain, immediately following each substantive provision of such regulations, citations to the particular section or sections of statutory law or other legal authority upon which such provision is based.

"SEC. 6720. DEFINITIONS.

"For the purpose of this part—

"(1) the term 'agency school board' means a body, the members of which are appointed by the school boards of the schools located within

such agency, and the number of such members shall be determined by the Secretary in consultation with the affected tribes, except that, in agencies serving a single school, the school board of such school shall fulfill these duties;

"(2) the term 'Bureau' means the Bureau of Indian Affairs of the Department of the Interior;

"(3) the term 'Bureau funded school' means—

"(A) a Bureau school;

"(B) a contract school; or

"(C) a school for which assistance is provided under the Tribally Controlled Schools Act of 1988;

"(4) the term 'Bureau school' means a Bureau operated elementary or secondary day or boarding school or a Bureau operated dormitory for students attending a school other than a Bureau school;

"(5) the term 'contract school' means an elementary or secondary school or a dormitory which receives financial assistance for its operation under a contract or agreement with the Bureau under section 102, 103(a), or 208 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f, 450h(a), and 458d);

"(6) the term 'education line officer' means education personnel under the supervision of the Director, whether located in central, area, or agency offices;

"(7) the term 'financial plan' means a plan of services to be provided by each Bureau school;

"(8) the term 'grant school' means a school which is provided assistance under the Tribally Controlled Schools Act of 1988;

"(9) the term 'Indian organization' means any group, association, partnership, corporation, or other legal entity owned or controlled by a federally recognized Indian tribe or tribes, or a majority of whose members are members of federally recognized Indian tribes;

"(10) the term 'local educational agency' means a board of education or other legally constituted local school authority having administrative control and direction of free public education in a county, township, independent, or other school district located within a State, and includes any State agency which directly operates and maintains facilities for providing free public education;

"(11) the term 'local school board', when used with respect to a Bureau school, means a body chosen in accordance with the laws of the tribe to be served or, in the absence of such laws, elected by the parents of the Indian children attending the school, except that in schools serving a substantial number of students from different tribes, the members shall be appointed by the governing bodies of the tribes affected; and the number of such members shall be determined by the Secretary in consultation with the affected tribes;

"(12) the term 'Office' means the Office of Indian Education Programs within the Bureau;

"(13) the term 'Secretary' means the Secretary of the Interior;

"(14) the term 'supervisor' means the individual in the position of ultimate authority at a Bureau school; and

"(15) the term 'tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"SEC. 6721. VOLUNTARY SERVICES.

"Notwithstanding section 1342 of title 31, United States Code, the Secretary may, subject to the approval of the local school board concerned, accept voluntary services on behalf of Bureau schools. Nothing in this title shall be construed to require Federal employees to work without compensation or to allow the use of volunteer services to displace or replace Federal employees. An individual providing volunteer services under this section is a Federal employee only for purposes of chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code.

"SEC. 6722. PRORATION OF PAY.

"(a) Notwithstanding any other provision of law, including laws relating to dual compensation, the Secretary, at the election of the employee, shall prorate the salary of an employee employed in an education position for the academic school-year over the entire twelve month period. Each educator employed for the academic school-year shall annually elect to be paid on a twelve month basis or for those months while school is in session. No educator shall suffer a loss of pay or benefits, including benefits under unemployment or other Federal or federally-assisted programs, because of such election.

"(b) During the course of such year the employee may change election once.

"(c) That portion of the employee's pay which would be paid between academic school years may be paid in lump sum at the election of the employee.

"(d) For the purposes of this section the terms "educator" and "education position" have the meaning contained in section 6712(n)(1) and (n)(2) of this title. This section applies to those individuals employed under the provisions of section 6712 of this title or title 5, United States Code.

"SEC. 6723. EXTRACURRICULAR ACTIVITIES.

"(a) Notwithstanding any other provision of law, the Secretary may provide, for each Bureau area, a stipend in lieu of overtime premium pay or compensatory time off. Any employee of the Bureau who performs additional activities to provide services to students or otherwise support the school's academic and social programs may elect to be compensated for all such work on the basis of the stipend. Such stipend shall be paid as a supplement to the employee's base pay.

"(b) If an employee elects not to be compensated through the stipend established by this section, the appropriate provisions of title 5, United States Code, shall apply.

"(c) This section applies to all Bureau employees, whether employed under section 6712 of this title or title 5, United States Code.

"SEC. 6724. EARLY CHILDHOOD DEVELOPMENT PROGRAM.

"(a) The Secretary shall provide grants to tribes, tribal organizations, and consortia of tribes and tribal organizations to fund early childhood development programs that are operated by such tribes, organizations, or consortia.

"(b)(1) The total amount of the grants provided under subsection (a) with respect to each tribe, tribal organization, or consortium of tribes or tribal organizations for each fiscal year shall be equal to the amount which bears the same relationship to the total amount appropriated under the authority of subsection (f) for such fiscal year (less amounts provided under subsection (e)) as—

"(A) the total number of children under 6 years of age who are members of—

"(i) such tribe,

"(ii) the tribe that authorized such tribal organization, or

"(iii) any tribe that—

"(I) is a member of such consortium, or

"(II) authorizes any tribal organization that is a member of such consortium, bears to

"(B) the total number of all children under 6 years of age who are members of any tribe that—

"(i) is eligible to receive funds under subsection (a),

"(ii) is a member of a consortium that is eligible to receive such funds, or

"(iii) authorizes a tribal organization that is eligible to receive such funds.

"(2) No grant may be provided under subsection (a)—

"(A) to any tribe that has less than 500 members,

"(B) to any tribal organization which is authorized—

"(i) by only 1 tribe that has less than 500 members, or

"(ii) by 1 or more tribes that have a combined total membership of less than 500 members, or

"(C) to any consortium composed of tribes, or tribal organizations authorized by tribes, that have a combined total tribal membership of less than 500 members.

"(c)(1) A grant may be provided under subsection (a) to a tribe, tribal organization, or consortia of tribes and tribal organizations only if the tribe, organization or consortia submits to the Secretary an application for the grant at such time and in such form as the Secretary shall prescribe.

"(2) Applications submitted under paragraph (1) shall set forth the early childhood development program that the applicant desires to operate.

"(d) The early childhood development programs that are funded by grants provided under subsection (a)—

"(1) shall coordinate existing programs and may provide services that meet identified needs of parents and children under 6 years of age which are not being met by existing programs, including—

"(A) prenatal care,

"(B) nutrition education,

"(C) health education and screening,

"(D) educational testing, and

"(E) other educational services,

"(2) may include instruction in the language, art, and culture of the tribe, and

"(3) shall provide for periodic assessment of the program.

"(e) The Secretary shall, out of funds appropriated under the authority of subsection (f), include in the grants provided under subsection (a) amounts for administrative costs incurred by the tribe or tribal organization in establishing and maintaining the early childhood development program.

"(f) For the purpose of carrying out the provisions of this section, there are authorized to be appropriated $5,000,000 for fiscal year 1995 and such sums as may be necessary for each of the fiscal years 1996, 1997, 1998, and 1999.

"SEC. 6725. TRIBAL DEPARTMENTS OF EDUCATION.

"(a) Subject to the availability of appropriations, the Secretary shall provide grants and technical assistance to tribes for the development and operation of tribal departments of education for the purpose of planning and coordinating all educational programs of the tribe.

"(b) Grants provided under this section shall—

"(1) be based on applications from the governing body of the tribe,

"(2) reflect factors such as geographic and population diversity,

"(3) facilitate tribal control in all matters relating to the education of Indian children on Indian reservations and on former Indian reservations in Oklahoma,

"(4) provide for the development of coordinated educational programs on Indian reservations (including all preschool, elementary, secondary, and higher or vocational educational programs funded by tribal, Federal, or other sources) by encouraging tribal administrative support of all Bureau funded educational programs as well as encouraging tribal cooperation

and coordination with all educational programs receiving financial support from State agencies, other Federal agencies, or private entities,

"(5) provide for the development and enforcement of tribal educational codes, including tribal educational policies and tribal standards applicable to curriculum, personnel, students, facilities, and support programs, and

"(6) otherwise comply with regulations for grants under section 103(a) of the Indian Self-Determination and Educational Assistance Act (25 U.S.C. 450h) that are in effect on the date application for such grants are made.

"(c)(1) In approving and funding applications for grants under this section, the Secretary shall give priority to any application that—

"(A) includes assurances from the majority of Bureau funded schools located within the boundaries of the reservation of the applicant that the tribal department of education to be funded under this section will provide coordinating services and technical assistance to all of such schools, including (but not limited to) the submission to each applicable agency of a unified application for funding for all of such schools which provides that—

"(i) no administrative costs other than those attributable to the individual programs of such schools will be associated with the unified application, and

"(ii) the distribution of all funds received under the unified application will be equal to the amount of funds provided by the applicable agency to which each of such schools is entitled under law,

"(B) includes assurances from the tribal governing body that the tribal department of education funded under this section will administer all contracts or grants (except those covered by the other provisions of this title and the Tribally Controlled Community College Assistance Act of 1978) for education programs administered by the tribe and will coordinate all of the programs to the greatest extent possible,

"(C) includes assurances for the monitoring and auditing by or through the tribal department of education of all education programs for which funds are provided by contract or grant to ensure that the programs meet the requirements of law, and

"(D) provides a plan and schedule for—

"(i) the assumption over the term of the grant by the tribal department of education of all assets and functions of the Bureau agency office associated with the tribe, insofar as those responsibilities relate to education, and

"(ii) the termination by the Bureau of such operations and office at the time of such assumption,

but when mutually agreeable between the tribal governing body and the Assistant Secretary, the period in which such assumption is to occur may be modified, reduced, or extended after the initial year of the grant.

"(2) Subject to the availability of appropriated funds, grants provided under this section shall be provided for a period of 3 years and the grant may, if performance by the grantee is satisfactory to the Secretary, be renewed for additional 3-year terms.

"(d) The Secretary shall not impose any terms, conditions, or requirements on the provision of grants under this section that are not specified in this section.

"(e) For the purpose of carrying out the provisions of this section, there are authorized to be appropriated $2,000,000 for fiscal year 1995 and such sums as may be necessary for each of the fiscal years 1996, 1997, 1998, and 1999.

"SEC. 6726. PAYMENTS.

"(a)(1) Except as otherwise provided in this subsection, the Secretary shall make payments to grantees under this part in 2 payments:

"(A) one payment to be made no later than July 1 of each year in an amount equal to one-half of the amount which the grantee was entitled to receive during the preceding academic year, and

"(B) the second payment, consisting of the remainder to which the grantee is entitled for the academic year, shall be made no later than December 1 of each year.

"(2) For any school for which no payment was made from Bureau funds in the preceding academic year, full payment of the amount computed for the first academic year of eligibility under this part shall be made no later than December 1 of the academic year.

"(3) With regard to funds for grantees that become available for obligation on October 1 of the fiscal year for which they are appropriated, the Secretary shall make payments to grantees no later than December 1 of the fiscal year.

"(4) The provisions of the Prompt Payment Act (31 U.S.C. 3901 et seq.) shall apply to the payments required to be made by paragraphs (1), (2), and (3) of this subsection.

(b) Paragraph (3) is amended by striking "Paragraphs (1) and (2)" and inserting in lieu thereof "Paragraphs (1), (2), and (3)", and is renumbered as paragraph "(5)".

The CHAIRMAN. Are there amendments to this title? If not, the Clerk will designate title VII. The text of title VII is as follows:

"TITLE VII—BILINGUAL EDUCATION PROGRAMS

"SEC. 7001. SHORT TITLE.

"This title may be cited as the 'Bilingual Education Act'.

"SEC. 7002. FINDINGS, POLICY, AND PURPOSE.

"(a) FINDINGS.—The Congress finds that—

"(1) language-minority Americans constitute a large and growing proportion of the Nation's population;

"(2) language-minority Americans speak virtually all world languages plus many that are indigenous to the United States;

"(3) the presence of language-minority Americans is related in part to Federal immigration policies;

"(4) many language-minority Americans are limited in their English proficiency, and many have limited education and income;

"(5) limited-English-proficient children and youth, like all other children and youth, have diverse educational needs and strengths and therefore require access to all educational programs and services;

"(6) the Federal Government has a responsibility for the education of American Indians and a special obligation to Native Alaskans, Native Hawaiians and native residents of the territories and freely associated nations to redress the effect of past Federal policies;

"(7) institutions of higher education can assist in preparing teachers, administrators and other school personnel to understand and build upon the educational strengths and needs of language-minority and culturally diverse student enrollments;

"(8) it is the purpose of this title to help ensure that limited-English-proficient students master English and develop high levels of academic attainment in content areas;

"(9) quality bilingual education programs enable children and youth to learn English and meet high academic standards including proficiency in more than one language;

"(10) as the world becomes increasingly interdependent and as international communication becomes a daily occurrence in government, business, commerce, and family life, multilingual skills constitute an important national resource which deserves protection and development;

"(11) educational technology has the potential for improving the education of language-minority and limited-English-proficient students and their families, and the Federal Government should foster this development;

"(12) research, development, implementation and dissemination of effective bilingual education methods, practices, and programs for limited-English-proficient children are essential to systemwide school reform that improves education for all children; and

"(13) a recognized means by which a child learns is through the use of the child's native language, cultural heritage, and instructional programs which use and build upon a child's non-English native language and cultural heritage to promote parent and community involvement in education, student self-esteem, proficiency in English, and subject matter achievement.

"(b) POLICY.—The Congress declares it to be the policy of the United States, in order to ensure equal educational opportunity for all children and youth and to promote educational excellence, to assist State and local educational agencies, institutions of higher education, and community-based organizations to build their capacity to establish, implement, and sustain programs of instruction for language minority and limited-English-proficient children and youth.

"(c) PURPOSE.—The purpose of this title is to educate language minority and limited-English-proficient children and youth to meet the same rigorous standards for academic performance expected of all children and youth, including meeting challenging State performance standards in academic areas by developing—

"(1) systemic improvement and reform of educational programs serving language-minority and limited-English-proficient students through the development and implementation of exemplary bilingual education programs and special alternative instruction programs;

"(2) data collection and dissemination, research, materials development, and technical assistance which is focused on school improvement for language-minority and limited-English-proficient students; and

"(3) programs which strengthen and improve the professional training of educational personnel who work with limited-English-proficient and language-minority students.

"SEC. 7003. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—For the purpose of carrying out the provisions of this title (except part F), there are authorized to be appropriated $215,000,000 for the fiscal year 1995 and such sums as may be necessary for each of the fiscal years 1996, 1997, 1998, and 1999.

"(b) DISTRIBUTION.—From the sums appropriated under subsection (a) for any fiscal year, the Secretary shall reserve at least 25 percent for part C of this title.

"SEC. 7004. DEFINITIONS; REGULATIONS

"(a) GENERAL RULE.—For purposes of this title—

"(1) The term 'native language', when used with reference to an individual, means the language normally used by such individuals, or, in the case of a child, the language normally used by the parents of the child.

"(2) The term 'language-minority' means—

"(A) individuals whose native language is other than English;

"(B) individuals who usually speak a language other than English or come from home environments where a language other than English is usually spoken; or

"(C) American Indians, Alaskan Natives, and Native Hawaiians and native residents of the territories and freely associated nations.

"(3) The term 'limited-English-proficient' means a language-minority person who has difficulty understanding, speaking, reading, or writing the English language at a level appro-

priate to his or her age and grade and is, thereby, academically disadvantaged in programs conducted exclusively in English.

"(4) The term 'bilingual education' refers to educational programs for limited-English-proficient students which make instructional use of both English and a student's native language. Programs of bilingual education must enable limited-English-proficient students to achieve English proficiency and academic mastery of subject matter content and higher order skills, including critical thinking, so as to meet age-appropriate grade-promotion and graduation standards in concert with national education goals. Bilingual education programs may also develop the native language skills of limited-English-proficient students, or ancestral languages of American Indians, Alaskan Natives, Native Hawaiians and native residents of the territories and freely associated nations. English proficient students may participate in bilingual education programs if the programs are designed to enable all enrolled students to become proficient in English and a second language.

"(5) The term 'special alternative instructional program' refers to educational programs for limited-English-proficient students which utilize specially designed English language curricula and services but do not use the student's native language for instructional purposes. Special alternative instructional programs must enable limited-English-proficient students to achieve English proficiency and academic mastery of subject matter content and higher order skills, including critical thinking so as to meet age-appropriate grade-promotion and graduation standards in concert with national education goals. Special alternative instructional programs are suitable for schools where the diversity of the limited-English-proficient students' native languages and the small number of students speaking each respective language makes bilingual education impractical and where there is a critical shortage of bilingual education teachers.

"(6) The term 'family education programs' refers to bilingual education or special alternative instructional programs designed to help limited-English-proficient adults and out-of-school youths achieve proficiency in the English language and to provide instruction on how parents and family members can facilitate the educational achievement of their children. When feasible, instructional programs such as the model developed under the Even Start Literacy Programs that promote adult literacy and train parents to support the educational growth of their children shall be developed. Programs shall give preference to participation by parents and immediate family members of children attending school. Family education programs may also provide instruction to facilitate higher education and employment outcomes.

"(7) The term 'institution of higher education' has the meaning given such term in section 1201(a) of the Higher Education Act of 1965.

"(8) The term 'Office' means the Office of Bilingual Education and Minority Languages Affairs.

"(9) The term 'community college' has the meaning given such term in section 1201(a) of the Higher Education Act of 1965 for an institution which provides not less than a 2-year program which is acceptable for full credit toward a bachelor's degree, including institutions receiving assistance under the Tribally Controlled Community College Assistance Act of 1978.

"(10) The term 'paraprofessional' means an individual who is employed in preschool or elementary or secondary school under the supervision of a certified or licensed teacher, including individuals employed in bilingual education, special education and migrant education.

"(11) The term 'other programs for persons of limited-English-proficiency' means any programs administered by the Secretary that serve persons of limited-English-proficiency.

"(12) The term 'community-based organization' means a private nonprofit organization or Indian tribe or tribally sanctioned educational authority which is representative of a community or significant segments of a community and which provides educational or related services to individuals in the community. The term 'community-based organization' includes Native Hawaiian organizations (including Native Hawaiian education organizations) as defined in section 4009 of Public Law 100–297).

"(13) The term 'children and youth' means individuals aged 3 through 21.

"(14) The term 'immigrant children and youth' means individuals who—

"(A) are aged 3 through 21;

"(B) were not born in any State; and

"(C) have not been attending 1 or more schools in any 1 or more States for more than 2 full academic years.

"(b) REGULATION RULE.—In developing regulations under this title, the Secretary shall consult with State and local educational agencies, organizations representing limited-English-proficient individuals, and organizations representing teachers and other personnel involved in bilingual education.

"(c) PARENTAL NOTIFICATION.—Parents of children and youth participating in programs assisted under this title shall be informed of—

"(1) a student's level of English proficiency, how it was assessed, the status of a student's academic achievement and the implications of a student's educational strengths and needs for age and grade appropriate academic attainment, promotion, and graduation;

"(2) what programs are available to meet the student's educational strengths and needs and how the programs differ in content and instructional goals, and in the case of a disabled student, how the program meets the objectives of a student's individualized education program;

"(3) the instructional goals of the bilingual education or special alternative instructional program, and how the program will specifically help the limited-English-proficient student acquire English and meet age-appropriate standards for grade-promotion and graduation, including—

"(A) the benefits and nature of the bilingual educational program and of the instructional alternatives; and

"(B) the reasons for the selection of their child as being in need of bilingual education.

"(4)(A) Parents shall also be informed that they have the option of declining enrollment of their children and youth in such programs and shall be given an opportunity to do so if they so choose.

"(B) Local educational agencies are not relieved of any of their obligations under title VI of the Civil Rights Act of 1964 because parents choose not to enroll their children in bilingual education programs.

"(5) Parents must receive, in a manner and form understandable to them, including, if necessary and to the extent feasible, in their native language, the information required by this subsection. At a minimum, parents must receive—

"(A) timely information about projects funded under this part; and

"(B) if the parents of participating children so desire, notice of opportunities for regular meetings for the purpose of formulating and responding to recommendations from such parents.

"(6) no action may involve the admission or exclusion of students to or from any federally assisted education program merely on the basis of the surnames or language-minority status of such students.

"SEC. 7005. INDIAN AND ALASKAN NATIVE CHILDREN IN SCHOOLS.

"(a) ELIGIBLE ENTITIES.—For the purpose of carrying out programs under this title for individuals served by elementary, secondary, or postsecondary schools operated predominately for Indian or Alaska Native children and youth, an Indian tribe, a tribally sanctioned educational authority, or an elementary or secondary school that is operated or funded by the Bureau of Indian Affairs shall be considered to be a local educational agency as such term is used in this title, subject to the following qualifications:

"(1) The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), that is recognized for the special programs and services provided by the United States to Indians because of their status as Indians.

"(2) The term 'tribally sanctioned educational authority' means—

"(A) any department or division of education operating within the administrative structure of the duly constituted governing body of an Indian tribe; or

"(B) any nonprofit institution or organization that is—

"(i) chartered by the governing body of an Indian tribe to operate any such school or otherwise to oversee the delivery of educational services to members of that tribe; and

"(ii) approved by the Secretary for the purpose of this section.

"(b) BUREAU OF INDIAN AFFAIRS SCHOOLS.—From the sums appropriated pursuant to section 7003, the Secretary is authorized to make payments to applicants to carry out programs of bilingual education or special alternative instruction for Indian children served by elementary and secondary schools operated or funded by the Bureau of Indian Affairs.

"(c) ANNUAL REPORT.—(1) The Assistant Secretary of the Interior for the Bureau of Indian Affairs in collaboration with the Secretary shall submit to the Congress, the President, and the Secretary, by September 30 of each year, a report which provides—

"(A) an assessment of the educational outcomes and needs of Indian children with respect to the purposes of this title in schools operated or funded by the Department of the Interior, including tribes and local educational agencies receiving assistance under the Johnson-O'Malley Act and the Native American Languages Act; and

"(B) an assessment of the extent to which such needs are being met by funds provided to such schools for educational purposes through the Secretary of the Interior.

"(2) The results presented in this report shall be included in the report under section 7041 of this Act.

"(3) The assessments required under this subsection shall be waived if such assessments duplicate similar assessment requirements under other Federal or tribal laws.

"SEC. 7006. RESIDENTS OF THE TERRITORIES AND FREELY ASSOCIATED NATIONS.

"For the purpose of carrying out programs under this title in Guam and the freely associated nations, the term 'local educational agency' shall include public institutions or agencies whose mission is the preservation and maintenance of native languages.

"PART A—BILINGUAL EDUCATION CAPACITY AND DEMONSTRATION GRANTS

"SEC. 7101. PURPOSE OF GRANTS.

"Grants under this part shall be used to develop the capacity of local educational agencies, institutions of higher education, and commu-

nity-based organizations which provide educational programs to initiate, develop, enhance or improve bilingual education or special alternative instruction programs for children and youth of limited-English-proficiency.

"SEC. 7102. PROGRAM DEVELOPMENT AND IMPLEMENTATION GRANTS.

"(a) PURPOSE.—The purpose of this section is to develop and implement new comprehensive, coherent, and successful bilingual education or special alternative instructional programs for limited-English-proficient students including programs of early childhood education, K–12 education, gifted and talented education, and vocational and applied technology education.

"(b) PROGRAM AUTHORIZED.—

"(1) The Secretary is authorized to make program development and implementation grants of up to $100,000 annually for 3 years with 1 additional year upon the Secretary's approval.

"(2) Grants approved under this section shall be used to improve the education of limited-English-proficient students and their families by—

"(A) developing and implementing comprehensive preschool, elementary, or secondary bilingual education or special alternative instructional programs that are coordinated with other relevant programs and services to meet the full range of educational needs of limited-English-proficient students; and

"(B) providing in service training to classroom teachers, administrators, and other school or community-based organizational personnel to improve the instruction and assessment of language-minority and limited-English-proficient students.

"(3) Grants approved under this section may be used to improve the education of limited-English-proficient students and their families by—

"(A) implementing family education programs and activities; and

"(B) improving the instructional program for limited-English-proficient students by upgrading curriculum, instructional materials, and assessment procedures and, if appropriate, applying educational technology.

"(c) ELIGIBLE ENTITIES.—A grant may be made under this section only upon application by one or more local educational agencies, applying alone or in collaboration with an institution of higher education, community-based organization or local or State educational agency. A grant may also be made under this section upon application by a community-based organization which is agreed to by the local educational agency to develop and implement early childhood education or family education programs or to conduct an instructional program which supplements the educational services provided by a local educational agency.

"(d) DISTRIBUTION.—The Secretary shall, to the extent practicable, award grants equally among early childhood education, elementary education, and secondary education programs.

"SEC. 7103. PROGRAM ENHANCEMENT PROJECTS.

"(a) PURPOSE.—The purpose of this section is to carry out highly focused, innovative, locally designed projects to expand or enhance existing bilingual education or special alternative instructional programs for limited-English-proficient students.

"(b) PROGRAM AUTHORIZED.—

"(1) The Secretary is authorized to make program enhancement project grants of up to $100,000 for 2 years to eligible applicants.

"(2) Grants approved under this section shall be used for providing in-service training to classroom teachers, administrators, and other school or community-based organization personnel to improve the instruction and assessment of language-minority and limited-English-proficient students.

"(3) Grants approved under this section may be used for—

"(A) improving the instructional program for limited-English-proficient students by upgrading curriculum, instructional materials, and assessment procedures and, if appropriate, applying educational technology;

"(B) implementing family education programs and activities; and

"(C) providing intensified instruction.

"(c) ELIGIBLE ENTITIES.—A grant may be made under this section only upon application by one or more local educational agencies, applying alone or in collaboration with an institution of higher education, community-based organization or local or State educational agency. A grant also may be made under this section upon application by a community-based organization which is agreed to by the local educational agency to enhance early childhood education or family education programs or to conduct an instructional project which supplements the educational services provided by a local educational agency.

"SEC. 7104. WHOLE-SCHOOL PROGRAMS.

"(a) PURPOSE.—The purpose of this section is to provide financial assistance to eligible applicants to reform, restructure, and upgrade all relevant programs and operations within an individual school to fulfill the comprehensive educational needs of all of a school's limited-English-proficient students and their families.

"(b) PROGRAM AUTHORIZED.—

"(1) The Secretary is authorized to make 5-year grants of up to $100,000 for the first year and up to $250,000 for each of the subsequent 4 years to eligible applicants.

"(2) Grants approved under this section shall be used to improve education of limited-English-proficient students and their families by reviewing, restructuring, and upgrading in-service training for all school staff and, if appropriate, for community-based organization personnel.

"(3) Grants approved under this section may be used to improve the education of limited-English-proficient students and their families by reviewing, restructuring, and upgrading—

"(A) the school's instructional program for limited-English-proficient students including curriculum, instructional materials, and assessment systems, and, if appropriate, the application of educational technology;

"(B) family education programs and activities; and

"(C) intensified instruction.

"(4) During the first year of the grant, a priority is established in use of funds for preparatory activities including planning, training, curriculum development, and materials acquisition or development.

"(c) ELIGIBLE ENTITIES.—A grant may be made under this section only upon application by one or more local educational agencies, applying alone or in collaboration with an institution of higher education, community-based organizations or local or State educational agency.

"SEC. 7105. SYSTEM-WIDE IMPROVEMENT GRANTS.

"(a) PURPOSE.—The purpose of this section is to provide financial assistance to improve, reform, and upgrade relevant programs and operations with an entire local educational agency to fulfill the comprehensive educational needs of all the agency's limited-English-proficient students and, to the extent feasible, their families.

"(b) PROGRAM AUTHORIZED.—

"(1) The Secretary is authorized to make 5-year grants of up to $1,000,000 for the first year and up to $5,000,000 for each of the subsequent 4 years to eligible applicants.

"(2) Grants approved under this section may be used during the first 12 months exclusively for activities preparatory to the delivery of services.

"(3) Grants approved under this section may be used to improve education of limited-English-proficient students and their families by reviewing, restructuring, and upgrading—

"(A) educational goals, curriculum guidelines and content, standards and assessments;

"(B) personnel policies and practices including recruitment, certification, staff development, and assignment;

"(C) student grade-promotion and graduation requirements;

"(D) student assignment policies and practices;

"(E) program delivery standards, management information and accountability systems;

"(F) instructional and extracurricular programs and services; and

"(G) application of educational technology.

"(c) ELIGIBLE ENTITIES.—A grant may be made under this section only upon application by one or more local educational agencies, applying alone or in collaboration with an institution of higher education, community-based organization or local or State educational agency.

"(d) PRIORITY.—The Secretary shall give priority to applications from—

"(1) applicants which enroll a large percentage or large number of limited-English-proficient students; and

"(2) consortia of eligible applicants to serve limited-English-proficient students in rural and linguistically isolated settings.

"SEC. 7106. APPLICATIONS.

"(a) SUBMISSION.—To receive a grant under this part, applicants shall submit an application to the Secretary in such form and containing such information as the Secretary may require:

"(1) An application for a grant under this part shall be developed in consultation with, and shall provide for the continuing involvement of, an advisory council which shall be composed of representatives responsible for implementing grant activities and of parents and other relatives of the children to be served in such programs; parents shall comprise a majority of all council members.

"(2) All applicants for grants under this part, except for those applicants identified in section 7005, shall submit a copy of the application to the relevant State educational agency. The State educational agency may submit to the Secretary written comments on the application with respect to how the applications further State education improvement plans including any developed under Goals 2000: Educate America Act (if such plans exist) or title I of this Act. If the State educational agency of a State submits written comments on any application, it must submit written comment on all applications within that same grant category from within that State. The Secretary shall take comments into consideration when funding applications under this part.

"(b) REQUIRED DOCUMENTATION.—Such application shall include documentation that the applicant has the qualified personnel required to develop, administer, and implement the proposed program.

"(c) CONTENTS.—(1) An application for a grant under this part shall contain the following:

"(A) A description of the need for the proposed program, including data on the number of children and youth of limited-English-proficiency in the school or district to be served and their characteristics, such as language spoken, dropout rates, proficiency in English and the native language, academic standing in relation to their English proficient peers, and, where applicable, the recency of immigration.

"(B) A description of the program to be implemented and how its design—

"(i) relates to the linguistic and academic needs of the children and youth of limited-English-proficiency to be served;

"(ii) is consistent with, and promotes the goals in, the local educational agency plan

under title III of the Goals 2000: Educate America Act, if such plan exists, and the local educational agency's plan under title I of this Act, particularly as those plans relate to the education of children and youth of limited-English-proficiency;

"(iii) involves the parents of the children and youth of limited-English-proficiency to be served;

"(iv) ensures accountability in the expected student outcomes; and

"(v) promotes coordination of services for the children and youth of limited-English-proficiency to be served and their families.

"(C) A description, if appropriate, of the applicant's collaborative activities with institutions of higher education, community-based organizations, local or State educational agencies, private schools, nonprofit organizations, or businesses in carrying out the proposed program.

"(D) An assurance that the applicant will not reduce the level of State and local funds that it expends for bilingual education or special alternative instruction programs if it receives an award under this part.

"(E) A budget for grant funds.

"(2) An application for a grant under section 7102 or 7104 shall also contain a description of the instructional program, student services, in-service training, and family education programs to be provided under the grant.

"(3) An application for a grant under section 7103 shall also contain the following:

"(A) A description of the existing bilingual education or special alternative instruction program which the project is designed to enhance.

"(B) A description of the proposed project activities.

"(4) An application for a grant under section 7105 shall also contain a description of the activities which would be carried out under the grant.

"(d) APPROVAL OF APPLICATIONS.—An application for a grant under this part may be approved only if the Secretary determines that—

"(1) the program will use qualified personnel, including those personnel who are proficient in the language or languages used for instruction;

"(2) in designing the program for which application is made, the needs of children in nonprofit private elementary and secondary schools have been taken into account through consultation with appropriate private school officials and, consistent with the number of such children enrolled in such schools in the area to be served whose educational needs are of the type and whose language and grade levels are of a similar type that the program is intended to address, after consultation with appropriate private school officials, provision has been made for the participation of such children on a basis comparable to that provided for public school children;

"(3) student evaluation and assessment procedures in the program are valid, reliable, and fair for limited-English-proficient students, and that limited-English-proficient students who are disabled are identified and served in accordance with the requirements of the Individuals with Disabilities Education Act;

"(4) Federal funds made available for the project or activity will be used so as to supplement the level of State and local funds that, in the absence of such Federal funds, would have been expended for special programs for children of limited-English-proficient individuals and in no case to supplant such State and local funds, except that nothing in this paragraph shall preclude a local educational agency from using funds under this title for activities carried out under an order of a court of the United States or of any State respecting services to be provided such children, or to carry out a plan approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 with respect to services to be provided such children;

"(5) the assistance provided under the application will contribute toward building the capacity of the applicant to provide a program on a regular basis, similar to that proposed for assistance, which will be of sufficient size, scope, and quality to promise significant improvement in the education of students of limited-English-proficiency, and that the applicant will have the resources and commitment to continue the program when assistance under this title is reduced or no longer available;

"(6) the applicant provides for utilization of the State and national dissemination sources for program design and in dissemination of results and products.

"(e) SPECIAL CONSIDERATION AND PRIORITIES.—

"(1) Students may participate in any program receiving funds under this part for the duration of the program.

"(2) The Secretary shall give priority to applications which provide for the development of bilingual proficiency for all participating students.

"(3) Grants for special alternative instructional programs shall not exceed 25 percent of the funds provided for any type of grant under any section or of total funds provided under this part.

"(4) Notwithstanding paragraph (3), the Secretary may award grants for special alternative instructional programs if an applicant has demonstrated that they cannot develop and implement a bilingual education program for the following reasons:

"(A) Where the diversity of the limited-English-proficient students' native languages and the small number of students speaking each respective language makes bilingual education impractical.

"(B) Where, despite documented convincing efforts, the applicant has not been able to hire instructional personnel who are able to communicate in the students' native language.

"(5) In approving applications under this part, the Secretary shall give consideration to the degree to which the program for which assistance is sought involves the collaborative efforts of institutions of higher education, community-based organizations, the appropriate local and State educational agency, or business.

"(6) The Secretary shall ensure that projects funded under this part address the full needs of school systems of all sizes and geographical areas, including rural schools.

"(7) The Secretary shall give priority to applications providing training for personnel participating in or preparing to participate in the program which will assist them in meeting State and local certification requirements and that, to the extent possible, college or university credit will be awarded for such training.

"SEC. 7107. INTENSIFIED INSTRUCTION.

"In carrying out this part, each grant recipient may intensify instruction for limited-English-proficient students by—

"(1) expanding the educational calendar of the school in which such student is enrolled to include programs before and after school and during the summer months;

"(2) expanding the use of professional and volunteer aids;

"(3) applying technology to the course of instruction; and

"(4) providing intensified instruction through supplementary instruction or activities, including educationally enriching extracurricular activities, during times when school is not routinely in session.

"SEC. 7108. CAPACITY BUILDING.

"Each recipient of a grant under this part shall use its grant in ways that will build its capacity to continue to offer high-quality bilingual and special alternative education programs and services to children and youth of limited-English-proficiency once Federal assistance is reduced or eliminated.

"SEC. 7109. SUBGRANTS.

"A local educational agency that receives a grant under this part may, with the approval of the Secretary, make a subgrant to, or enter into a contract with, an institution of higher education, a non-profit organization, or a consortium of such entities to carry out an approved program, including a program to serve out-of-school youth.

"SEC. 7110. GEOGRAPHIC DISTRIBUTION OF FUNDS.

"To the extent possible, the Secretary shall award funds under this part throughout the Nation in a manner that reflects the geographic distribution of children and youth of limited-English-proficiency.

"SEC. 7111. PROGRAMS IN PUERTO RICO.

"Programs authorized under this title in the Commonwealth of Puerto Rico may, notwithstanding any other provision of this title, include programs of instruction, teacher training, curriculum development, evaluation, and testing designed for children and youth of limited-Spanish proficiency.

"SEC. 7112. EVALUATIONS.

"(a) EVALUATION.—Each recipient of funds under this part shall provide the Secretary with an evaluation, in the form prescribed by the Secretary, of its program every two years.

"(b) USE OF EVALUATION.—Such evaluation shall be used by a grantee—

"(1) for program improvement;

"(2) to further define the local program's goals and objectives; and

"(3) to determine program effectiveness.

"(c) EVALUATION COMPONENTS.—Evaluations shall include—

"(1) student outcome indicators that measure progress toward the performance standards set out in the State's plan, either approved or being developed, under title III of the Goals 2000: Educate America Act, or, if the State does not have an approved plan under title III of the Goals 2000: Educate America Act and is not developing such a plan, with the State plan approved or being developed under section 1111 of this Act, including data comparing children and youth of limited-English-proficiency with non-limited-English-proficient children and youth with regard to school retention, academic achievement, and gains in English (and, where applicable, native language) proficiency;

"(2) program implementation indicators that provide information for informing and improving program management and effectiveness, including data on appropriateness of curriculum in relationship to grade and course requirements, appropriateness of program management, appropriateness of the program's staff professional development, and appropriateness of the language of instruction;

"(3) program context indicators that describe the relationship of the activities funded under the grant to the overall school program and other Federal, State, or local programs serving children and youth of limited-English-proficiency; and

"(4) such other information as the Secretary may require.

"PART B—RESEARCH AND DISSEMINATION

"SEC. 7201. USE OF FUNDS.

"The Secretary is authorized to conduct data collection, dissemination, research, and evaluation activities through the Office of Bilingual Education and Minority Languages Affairs for the purpose of improving bilingual education and special alternative instruction programs for

children and youth of limited-English-proficiency.

"SEC. 7202. RESEARCH.

"(a) RESEARCH ACTIVITIES.—The Secretary shall support through competitive grants contracts and cooperative agreements to institutions of higher education, nonprofit and for-profit organizations, and local and State educational agencies, funds for research with a practical application to teachers, counselors, paraprofessionals, school administrators, parents, and others involved in improving the education of limited-English-proficient students and their families.

"(b) AUTHORIZED ACTIVITIES.—

"(1) The Secretary may conduct research activities that include—

"(A) identifying criteria for the establishment, use and monitoring of local, State, or national education goals, content, performance and delivery standards, and assessments for all students that provide for appropriate, valid, reliable, and fair participation by limited-English-proficient and language-minority students;

"(B) identifying determinants of appropriate high quality secondary school programs for limited-English-proficient students, and high quality curriculum-related instructional materials;

"(C) identifying determinants of appropriate high quality early childhood development programs for limited-English-proficient children, including families, and appropriate high quality materials;

"(D) studies to identify models of effective program coordination that support students while in transition to English language classrooms that develop and maintain high levels of proficiency in the native languages and English;

"(E) studies of effective curricula and instructional strategies for the development and maintenance of high levels of student proficiency in both their native language and English, including the role of family, community, and career contexts;

"(F) identification of strategies for effective participation by limited-English-proficient parents in their children's education for attainment of educational excellence;

"(G) identifying methods of improving classification, placement, and services to limited-English-proficient students including, but not limited to their participation in early childhood development programs, title I, special education, foreign language education, and gifted and talented education;

"(H) identification of methods for effective delivery of bilingual education to rural schools and in the less-commonly-taught languages using educational technology and electronic communications networks;

"(I) identification of trends in demand for language skills and of career opportunities for individuals with high levels of proficiency in English and a second language; and

"(J) establishing through the National Center for Education Statistics and in consultation with the Office of Bilingual Education and Minority Languages Affairs, and experts in bilingual education, second language acquisition and English-as-a-second language, a common definition of 'limited-English-proficient student' for purposes of national data collection.

"(c) FIELD-INITIATED RESEARCH.—The Secretary shall reserve at least 5 percent of the funds available under this section for field-initiated research by current or recent recipients of grants under parts A or C of this title. Research must be conducted by current grant recipients or by former recipients who have received such grants within the previous 5 years. Field-initiated research may provide for longitudinal studies of students or teachers in bilingual education, monitoring the education of such students from entry in bilingual education through high school completion. Applicants may submit an application for field-initiated research at the same time as applications are submitted under part A or part C. The Secretary shall complete a review of such applications on a timely basis to allow research and program grants to proceed in coordination where appropriate.

"(d) CONSULTATION.—The Secretary shall consult with agencies and organizations that are engaged in bilingual education research and practice, or related research, and bilingual education researchers and practitioners to identify areas of study and activities to be funded under this section.

"(e) COORDINATION.—Research activities supported under this section—

"(1) shall be carried out in consultation with the Office of Educational Research and Improvement to ensure that such activities are coordinated with and enhance the research and development activities supported by the Office; and

"(2) may include collaborative research activities which are jointly funded and carried out by the Office of Bilingual Education and Minority Language Affairs and the Office of Educational Research and Improvement.

"(f) DATA COLLECTION.—The Secretary shall provide for the continuation of data collection on limited-English-proficient students as part of the data systems operated by the Department.

"SEC. 7203. ACADEMIC EXCELLENCE AWARDS.

"(a) AWARDS.—The Secretary may make grants to, and enter into contracts and cooperative agreements with, State and local educational agencies, nonprofit organizations, and institutions of higher education to promote the adoption and implementation of bilingual education, special alternative instruction programs, and professional development programs that demonstrate great promise of assisting children and youth of limited-English-proficiency to meet challenging State standards.

"(b) APPLICATIONS.—(1) An entity desiring to receive an award under this section shall submit an application to the Secretary in such form, at such time, and containing such information and assurances as the Secretary may require.

"(2) The Secretary shall use a peer review process, using effectiveness criteria that the Secretary shall establish, to review applications under this section.

"(c) USE OF FUNDS.—Funds under this section shall be used to enhance the capacity of States and local education agencies to provide high quality academic programs for children and youth of limited-English-proficiency, which may include—

"(1) completing the development of such programs;

"(2) professional development of staff participating in bilingual education programs;

"(3) sharing strategies and materials; and

"(4) supporting professional networks.

"(d) COORDINATION.—Recipients of funds under this section shall coordinate their activities with those carried out by comprehensive technical assistance centers under title II of this Act.

"SEC. 7204. STATE GRANT PROGRAM.

"(a) STATE GRANT PROGRAM.—The Secretary is authorized to make an award to a State educational agency that demonstrates, to the satisfaction of the Secretary, that its approved plan under title III of the Goals 2000: Educate America Act, if such plan exists, or, if such plan does not exist, its plan under title I of this Act, effectively provides for the education of children and youth of limited-English-proficiency within the State.

"(b) PAYMENTS.—The amount paid to a State educational agency under subsection (a) shall not be less than $100,000 nor greater than 5 percent of the total amount awarded to local educational agencies within the State under part A of this title for the previous fiscal year.

"(c) USE OF FUNDS.—(1) A State educational agency shall use funds for programs authorized by this section to—

"(A) assist local educational agencies in the State with program design, capacity building, assessment of student performance, and program evaluation; and

"(B) collect data on the State's language-minority and limited English-proficient populations and the educational programs and services available to these populations.

"(2) The State educational agency may also use funds for the training of State educational agency personnel in educational issues affecting limited-English-proficient children and youth.

"(3) Recipients of awards under this section shall not restrict the provision of services under this section to federally-funded programs.

"(d) STATE CONSULTATION.—A State educational agency receiving funds under this section shall consult with recipients of grants under this title and other individuals or organizations involved in the development or operation of programs serving limited-English-proficient children or youth to ensure that funds are used in a manner consistent with the requirements of this title.

"(e) APPLICATIONS.—A State educational agency desiring to receive an award under this section shall submit an application to the Secretary in such form, at such time, containing such information and assurances as the Secretary may require.

"(f) SUPPLEMENT NOT SUPPLANT.—Funds made available under this section for any fiscal year shall be used by the State educational agency to supplement and, to the extent practical, to increase to level of funds that would, in the absence of such funds, be made available by the State for the purposes described in this section, and in no case to supplant such funds.

"(g) REPORT TO THE SECRETARY.—State educational agencies receiving grants under this section shall provide for the annual submission of a summary report to the Secretary containing information on such matters as the Secretary shall, by regulation, determine necessary and proper to achieve the purposes of this title, including information on State capacity and progress in meeting the education needs of all limited-English-proficient children, plans for additional action, the effect of standards and assessments in improving their education. Such reports shall be in such form and shall be submitted on such date as the Secretary shall specify by regulation.

"SEC. 7205. NATIONAL CLEARINGHOUSE FOR BILINGUAL EDUCATION.

"(a) ESTABLISHMENT.—The Secretary shall establish and support the operation of a National Clearinghouse for Bilingual Education, which shall collect, analyze, synthesize, and disseminate information about bilingual education and related programs.

"(b) FUNCTIONS.—The National Clearinghouse for Bilingual Education shall—

"(1) be administered as an adjunct clearinghouse of the ERIC system of clearinghouses supported by the Office of Educational Research and Improvement;

"(2) coordinate its activities with Federal data and information clearinghouses and dissemination networks and systems; and

"(3) develop a data base management and monitoring system for improving the operation and effectiveness of funded programs.

"SEC. 7206. INSTRUCTIONAL MATERIALS DEVELOPMENT.

"The Secretary may provide grants for the development, publication and dissemination of high quality instructional materials in Native

American, Native Hawaiian and other languages for which instructional materials are not readily available. The Secretary shall give priority to the development of instructional materials in languages indigenous to the United States, its territories, and freely associated nations. The Secretary shall also accord priority to applications which provide for developing and evaluating materials in collaboration with activities under parts A and C of this title and which are consistent with national and State content standards.

"SEC. 7207. EVALUATION ASSISTANCE CENTERS AND MULTIFUNCTIONAL RESOURCE CENTERS.

"(a) TRANSITION.—The Secretary shall extend grants or contracts for Evaluation Assistance Centers and Multifunctional Resource Centers that are in effect on the date of enactment of the Improving America's School Act through fiscal year 1996.

"(b) CONTINUITY OF SERVICES.—(1) The Secretary shall ensure that the comprehensive regional technical assistance centers authorized under title II of this Act provide services which are at least equal in volume, scope, and quality to those provided by Evaluation Assistance Centers and Multifunctional Resource Centers.

"(2) The Secretary shall ensure that the comprehensive regional technical assistance centers authorized under title II of this Act, as amended by the Improving America's School Act, provide services which enable children and youth of limited-English-proficiency to meet challenging State and National standards.

"(3) The Secretary shall ensure that the comprehensive technical assistance centers authorized under title II of this Act are established with consideration given to the geographic and linguistic distribution of children and youth of limited-English-proficiency.

"(c) GIFTS, BEQUESTS, AND DEVISES.—The entities may accept (but not solicit), use, and dispose of gifts, bequests, or devises of services or property, both real and personal for the purpose of aiding or facilitating the work of entities under this section. Gifts, bequests, or devises of money and proceeds from sales of other property received as gifts, bequests or devises shall be deposited in the Treasury and shall be available for disbursement upon order of the national clearinghouse on bilingual education, the Evaluation and Assistance Center or Multifunctional Resource Center, respectively.

"PART C—BILINGUAL EDUCATION TEACHER TRAINING

"SEC. 7301. PURPOSE.

"The purpose of this part is to assist in preparing educators to improve the delivery of educational services to language-minority and limited-English-proficient children and youth. This part supports the training of all educational personnel to serve more effectively limited-English-proficient students. The goal of this part is to provide for the training of not less than 50,000 teachers who meet professional preparation and certification standards for bilingual education teachers by the year 2000.

"SEC. 7302. TRAINING FOR ALL TEACHERS PROGRAM.

"(a) PURPOSE.—The purpose of this section is to provide for the incorporation of courses and curricula on appropriate and effective instructional and assessment methodologies, strategies and resources specific to limited-English-proficient and language-minority students into education personnel preparation programs for teachers, counselors, administrators and other education personnel.

"(b) AUTHORIZATION.—The Secretary shall award grants for up to 5 years to institutions of higher education, local educational agencies, and State educational agencies or to nonprofit organizations which have entered into consortia arrangements with one of such institutions, agencies, or organizations.

"(c) PERMISSIBLE ACTIVITIES.—Activities conducted under this section may include the development of training programs in collaboration with training under titles I and II of this Act, the Head Start Act, and other relevant programs.

"(d) PRIORITY.—The Secretary shall give priority to applications from institutions of higher education which currently operate, with full-time tenured faculty, programs to prepare educators and administrators to work with language-minority and limited-English-proficient students in bilingual education settings and from institutions of higher education which are attempting to start bilingual teacher training programs if such institutions demonstrate a significant commitment in financial and human resources, including cash and in-kind. The Secretary shall give special consideration to applications for such programs which provide training of secondary school teachers or early childhood development teachers. Such special consideration would not disallow the funding of applications for exemplary programs for the training of elementary school teachers.

"SEC. 7303. BILINGUAL EDUCATION TEACHERS AND PERSONNEL GRANTS.

"(a) PURPOSE.—The purpose of this section is to provide for degree programs to prepare new bilingual education teachers, administrators, counselors, and other educational personnel to meet high professional standards for bilingual education teachers and to increase the availability of educators to provide high quality education limited-English-proficient students.

"(b) AUTHORIZATION.—The Secretary shall award grants for up to 5 years to institutions of higher education in consortia with local or State educational agencies.

"SEC. 7304. BILINGUAL EDUCATION CAREER LADDER PROGRAM.

"(a) PURPOSE.—The purpose of this section is to upgrade the qualifications and skills of non-certified educational personnel, especially educational paraprofessionals, to meet high professional standards, including certification and licensure as bilingual education teachers and other educational personnel who serve limited-English-proficient students, through collaborative training programs operated by institutions of higher education and local and State educational agencies. Grants for programs under this section may also provide for collaborative programs operated by institutions of higher education and secondary schools which are designed to recruit and train secondary school students as bilingual education teachers and other educational personnel to serve limited-English-proficient students.

"(b) AUTHORIZATION.—The Secretary shall award grants of up to 5 years for bilingual education career ladder programs to institutions of higher education applying in consortia with local or State educational agencies; consortia may include community-based organizations or professional education organizations.

"(c) ACTIVITIES.—Grants funded under this section may—

"(1) include the development of bilingual education career ladder program curricula appropriate to the needs of the consortium participants;

"(2) provide assistance for stipends and costs related to tuition, fees and books for enrolling in courses required to complete degree and certification requirements as bilingual education teachers; and

"(3) include programs to introduce secondary school students to careers in bilingual education teaching that are coordinated with other activities under this program.

"(d) SPECIAL CONSIDERATION.—The Secretary shall give special consideration to applications under this section which provide for—

"(1) participant completion of baccalaureate and masters degree teacher education programs, certification and may include effective employment placement activities;

"(2) development of teacher proficiency in English and a second language, including required demonstration of proficiency in the instructional use of English and a second language in classroom contexts;

"(3) coordination with Trio, the Teacher Corps, National Community and Service Trust Act, Mini Corps, and other programs for the recruitment and retention of bilingual students in secondary and post-secondary programs to train as bilingual educators; and

"(4) the applicant's contribution of additional student financial aid to participating students.

"SEC. 7305. GRADUATE FELLOWSHIPS IN BILINGUAL EDUCATION PROGRAM.

"(a) AUTHORIZATION.—The Secretary may award fellowships for masters, doctoral, and post-doctoral study related to instruction of children and youth of limited-English-proficiency in such areas as teacher training, program administration, research and evaluation, and curriculum development, and for the support of dissertation research related to such study. For fiscal year 1994 not less than 500 fellowships leading to a masters or doctorate degree shall be awarded under this section, rising each subsequent year of this authorization by not less than 50. The Secretary shall include information on the operation and the number of fellowships awarded under the fellowship program in the report required under section 7401 of this title.

"(b) FELLOWSHIP REQUIREMENTS.—(1) Any person receiving a fellowship under this section shall agree to—

"(A) work in an activity related to the program or in an activity such as those authorized under this title, including work as a bilingual education teacher, for a period of time equivalent to the period of time during which such person receives assistance under this title; or

"(B) repay such assistance.

"(2) The Secretary shall establish in regulations such terms and conditions for such agreement as the Secretary deems reasonable and necessary and may waive the requirement of paragraph (1) in extraordinary circumstances.

"(c) The Secretary may give priority to institutions of higher education that demonstrate experience in assisting fellowship recipients find employment in the field of bilingual education.

"SEC. 7306. APPLICATIONS.

"(a) IN GENERAL.—Each applicant or consortium that desires to receive a grant under this part shall submit an application to the Secretary and the State educational agency or State board for higher education as appropriate, at such time and in such manner as the Secretary shall prescribe. The application shall demonstrate integration, where appropriate, with the State and local plans, if such plans exist, for serving limited-English-proficient students. The State and local educational agency, and where applicable the State board for higher education, may comment in writing on the application indicating how the application furthers State education reform activities, including the provision of appropriate high quality education to all language minority students. If the State educational agency or State Board for Higher Education submits comments on any application, it shall submit comments on all. The Secretary shall take any written comments that have been made into consideration when considering applications under this part.

"(b) ELIGIBLE ENTITIES.—

"(1) A grant may be made under this part upon application of an institution of higher

education, applying individually or jointly with one or more local educational agencies, nonprofit organizations, or State educational agencies.

"(2) The Secretary shall provide for outreach and technical assistance to institutions of higher education eligible under title III of the Higher Education Act and institutions of higher education that are operated or funded by the Bureau of Indian Affairs to facilitate their participation in activities under this part.

"(3) In making grants under this part, the Secretary shall, consistent with subsection (d), ensure adequate representation of Hispanic serving institutions that demonstrate competence and experience in the programs and activities authorized under this title and are otherwise qualified.

"(c) APPLICATION REQUIREMENTS FOR BILINGUAL TEACHER TRAINING PROGRAMS.—The application shall demonstrate integration, where appropriate, with the State plan, if one exists, for serving limited-English-proficient students.

"(d) PREFERENCE IN ASSISTANCE AND PURPOSE OF TRAINING.—

"(1) In making a grant under this part the Secretary shall give preference to programs which—

"(A) include tenured faculty in bilingual education, and

"(B) and for institutions of higher education which are attempting to start bilingual teacher training programs if such institutions demonstrate a significant commitment in financial and human resources, including cash and in-kind.

"(C) provide additional resources for such training from other sources.

"(2) In making grants under sections 7302, 7303 and 7304, the Secretary shall give special consideration to programs that ensure that individuals completing such programs demonstrate proficiency in English and a second language.

"SEC. 7307. PROGRAM REQUIREMENTS.

"Activities conducted under this part shall assist educational personnel in meeting State and local certification requirements for bilingual education and, wherever possible, shall award college or university credit.

"SEC. 7308. STIPENDS.

"The Secretary shall provide for the payment of such stipends (including allowances for subsistence and other expenses for such persons and their dependents), as the Secretary determines to be appropriate, to persons participating in training programs under this part.

"SEC. 7309. PROGRAM EVALUATIONS UNDER PART C.

"Each recipient of funds under part C of this title shall provide the Secretary with an evaluation of its program every two years. Such evaluation shall include data on—

"(1) post-program placement of persons trained;

"(2) how the training relates to the employment of persons served by the program;

"(3) program completion; and

"(4) such other information as the Secretary may require.

"PART D—ADMINISTRATION

"SEC. 7401. OFFICE OF BILINGUAL EDUCATION AND MINORITY LANGUAGE AFFAIRS.

"(a) ESTABLISHMENT.—There shall be, in the Department of Education, an Office of Bilingual Education and Minority Languages Affairs through which the Secretary shall carry out functions relating to bilingual education.

"(b) DIRECTOR.—(1) The Office shall be headed by a Director of Bilingual Education and Minority Languages Affairs, appointed by the Secretary, to whom the Secretary shall delegate all delegable functions relating to bilingual education. The Director shall also be assigned responsibility for recommending improvements and providing technical assistance to other Federal programs serving language-minority and limited-English-proficient students and their families and for assisting the Assistant Secretary of the Office of Educational Research and Improvement in identifying research priorities which reflect the needs of language-minority and limited-English language proficient students.

"(2) The Office shall be organized as the Director determines to be appropriate in order to carry out such functions and responsibilities effectively.

"(3) The Secretary shall ensure that limited-English-proficient and language-minority students are included in ways that are valid, reliable and fair under all standards and assessment development conducted or funded by the Department.

"(c) REPORT.—The Director shall prepare and, not later than February 1 of every other year, shall submit to Congress, the President, the Governors, and the clearinghouse a report on—

"(1) the activities carried out under this title and their effectiveness in improving the education provided to limited-English-proficient children and youth;

"(2) a critical synthesis of data reported by the States pursuant to section 7204;

"(3) an estimate of the number of certified bilingual education personnel in the field and an estimate of the number of bilingual education teachers which will be needed for the succeeding 5 fiscal years;

"(4) the major findings of research carried out under this title; and

"(5) recommendations for further developing the capacity of our Nation's schools to educate effectively limited-English-proficient students.

"(d) ASSESSMENT OF GATEWAY EDUCATION.—The Secretary shall prepare a report on the education of all students who reside near the United States border with Canada and Mexico or areas or communities which serve as a gateway for immigrants to the United States. Gateway communities shall include Hawaii, the Commonwealth of Puerto Rico, as well as the territories and freely associated nations. The report shall identify trends in student and out-of-school youth immigration trends, appropriate procedures for the international transfer of records, the language proficiency of students living in border and gateway areas, and opportunities for teacher exchange. Such efforts shall be coordinated with other ongoing efforts in this area. A preliminary report on these issues shall be provided to the Congress not later than 2 years after the enactment of this Act. The final report including policy proposals for improvements in these areas shall be provided to Congress and the President not later than October 21, 1997.

"(e) COORDINATION WITH RELATED PROGRAMS.—In order to maximize Federal efforts aimed at serving the educational needs of children and youth of limited-English proficiency, the Secretary shall coordinate and ensure close cooperation with other programs serving language-minority and limited-English-proficient students that are administered by the Department of Education and other agencies. The Secretary shall consult with the Secretary of Labor, the Secretary of Health and Human Services, the Secretary of Agriculture, Attorney General and other relevant agencies to identify and eliminate barriers to appropriate coordination of programs that affect language-minority and limited-English-proficient students and their families. The Secretary shall provide for continuing consultation and collaboration between Office and relevant programs operated by the Department, including title I and other programs in this Act, in planning, contracts, providing joint technical assistance, providing joint field monitoring activities and in other relevant activities to ensure effective program coordination to provide high quality education opportunities to all language-minority and limited-English-proficient students. In no case shall such coordination at the local, State or Federal level permit funds under this title to be used in programs that do not provide bilingual education or special alternative instructional programs for the instruction of language-minority or limited-English-proficient students.

"(f) The Secretary shall, to the extent feasible, ensure that all data collected shall include for the collection and reporting of data on limited-English-proficient students in all Departmental data keeping and with respect to all Federal education programs.

"(g) STAFFING REQUIREMENTS.—The Secretary shall ensure that the Office of Bilingual Education and Minority Language Affairs is staffed with sufficient personnel trained or with experience in bilingual education to discharge effectively the provisions of this title.

"(1) Notwithstanding section 403 of the Department of Education Organization Act, the Assistant Secretary may appoint not more than 7 additional employees to serve as staff without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

"(2) The employees appointed under paragraph (1) may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, but shall not be paid a rate that exceeds the minimum rate of basic pay payable for GS-15 of the General Schedule.

"(h) READING APPLICATIONS.—For the purpose of reading applications for competitive grants authorized under this title, the Secretary shall use persons who are not employees of the Federal Government and who are experienced and involved in bilingual education including teachers, researchers, and administrators of educational programs similar to those assisted under this title. Readers of applications for grants involving conservation of Indian languages and other indigenous language which are subject to loss shall include individuals with expertise in such programs. The Secretary shall solicit nominations for application readers from State directors of bilingual education, graduate programs of bilingual education, tribal organizations and professional associations and shall have readers serve for a period of 3 years.

"(i) PUBLICATION OF PROPOSALS.—The Secretary shall publish and disseminate all requests for proposals for programs funded under this title.

"SEC. 7402. RELEASE TIME.

"Professional development programs funded under this Act shall permit use of funds for professional release time to enable participation in programs assisted under this part.

"SEC. 7403. EDUCATION TECHNOLOGY.

"Funds available under this Act may be used to provide for the acquisition or development of education technology or instructional materials, including authentic materials in languages other than English, access to and participation in electronic networks for materials, training and communications, and incorporation of such resources in curricula and programs such as those funded under this title.

"SEC. 7404. NOTIFICATION.

"The State educational agency, when applicable, the State Board for postsecondary education, when applicable, the clearinghouse, the applicable Evaluation and Assistance Center and Multifunctional Resource Center shall be notified within three working days of the date a grant is made to an eligible entity within the State.

"SEC. 7405. CONTINUED ELIGIBILITY.

"Entities receiving grants under this title shall remain eligible for grants for subsequent activities which extend or expand and do not duplicate those activities supported by a previous grant under this title. In considering applications for grants under this title the Secretary shall take into consideration the applicant's record of accomplishments under previous grants.

"SEC. 7406. LIMITATION OF AUTHORITY.

"The Secretary shall not impose restrictions on the availability of funds authorized under this title other than those set out in this title or other applicable Federal statutes and regulations.

"PART E—TRANSITION

"SEC. 7501. TRANSITION PROVISIONS.

"Any grant or contract awarded under this title prior to the date of the enactment of the Improving America's Schools Act of 1994 shall be allowed to continue the term of the original award in accordance with the conditions of the original award but not for a period in excess of 3 years from the date of the grant or contract.

"PART F—EMERGENCY IMMIGRANT EDUCATION PROGRAM

"SEC. 7601. PURPOSE.

"The purpose of this part is to assist eligible local educational agencies that experience unexpectedly large increases in their student population due to immigration to—

"(1) provide high-quality instruction to immigrant children and youth; and

"(2) help such children and youth—

"(A) with their transition into American society; and

"(B) meet the same challenging State performance standards expected of all children and youth.

"SEC. 7602. STATE ADMINISTRATIVE COSTS.

"For any fiscal year, a State educational agency may reserve up to 1.5 percent of the amount allocated to it under section 7604 to pay the costs of performing its administrative functions under this part.

"SEC. 7603. WITHHOLDING.

"Whenever the Secretary, after reasonable notice and opportunity for a hearing to any State educational agency, finds that there is a failure to meet the requirement of any provision of this part, the Secretary shall notify that agency that further payments will not be made to the agency under this part, or in the discretion of the Secretary, that the State educational agency shall not make further payments under this part to specified local educational agencies whose actions cause or are involved in such failure until the Secretary is satisfied that there is no longer any such failure to comply. Until the Secretary is so satisfied, no further payments shall be made to the State educational agency under this part, or payments by the State educational agency under this part shall be limited to local educational agencies whose actions did not cause or were not involved in the failure, as the case may be.

"SEC. 7604. STATE ALLOCATIONS.

"(a) PAYMENTS.—The Secretary shall, in accordance with the provisions of this section, make payments to State educational agencies for each of the fiscal years 1995 through 1999 for the purpose set forth in section 7601.

"(b) ALLOCATIONS.—(1) Except as provided in subsections (c) and (d) of this section, of the amount appropriated for each fiscal year for this part, each State participating in this program shall receive a share equal to the proportion of its number of immigrant children and youth who are enrolled in elementary and secondary public schools under the jurisdiction of each local educational agency described in paragraph (2) within that State, and in elementary and secondary nonpublic schools within the district served by each such local educational agency, relative to the total number of immigrant children and youth so enrolled in all the States participating in this program.

"(2) The local educational agencies referred to in paragraph (1) are those local educational agencies in which the sum of the number of immigrant children and youth who are enrolled in elementary or secondary public schools under the jurisdiction of such agencies, and in elementary or secondary nonpublic schools within the districts served by such agencies, during the fiscal year for which the payments are to be made under this part, is equal to—

"(A) at least 500; or

"(B) at least 3 percent of the total number of students enrolled in such public or nonpublic schools during such fiscal year;

whichever number is less.

"(c) DETERMINATIONS OF NUMBER OF CHILDREN AND YOUTH.—(1) Determinations by the Secretary under this section for any period with respect to the number of immigrant children and youth shall be made on the basis of data or estimates provided to the Secretary by each State educational agency in accordance with criteria established by the Secretary, unless the Secretary determines, after notice and opportunity for a hearing to the affected State educational agency, that such data or estimate are clearly erroneous.

"(2) No such determination with respect to the number of immigrant children and youth shall operate because of an underestimate or overestimate to deprive any State educational agency of the allocation under this section that such agency would otherwise have received had such determination been made on the basis of accurate data.

"(d) REALLOCATION.—Whenever the Secretary determines that any amount of a payment made to a State under this part for a fiscal year will not be used by such State for carrying out the purpose for which the payment was made, the Secretary shall make such amount available for carrying out such purpose to one or more other States to the extent the Secretary determines that such other States will be able to use such additional amount in carrying out such purpose. Any amount made available to a State from any appropriation for a fiscal year in accordance with the preceding sentence shall, for purposes of this part, be regarded as part of such State's payment (as determined under subsection (b)) for such year, but shall remain available until the end of the succeeding fiscal year.

"(e) RESERVATION OF FUNDS.—(1) If appropriations under this part exceed $40,000,000 for a fiscal year, a State educational agency may reserve up to 20 percent of its payment for redistribution through competitive grants to local educational agencies within the State in the following manner:

"(A) At least one-half of such grants shall be made to local educational agencies within the State with the highest numbers and percentages of immigrant children and youth.

"(B) Remaining funds shall be distributed to local educational agencies within the State with a sudden influx of immigrant children and youth which are otherwise not eligible for assistance under this part.

"(2) Local educational agencies with the highest number of immigrant children and youth receiving additional funds under this subsection may make information available on serving immigrant children and youth to areas in the State with sparse numbers of such children.

"SEC. 7605. STATE APPLICATIONS.

"(a) SUBMISSION.—No State educational agency shall receive any payment under this part for any fiscal year unless such agency submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

"(1) provide that the educational programs, services, and activities for which payments under this part are made will be administered by or under the supervision of the agency;

"(2) provide assurances that payments under this part will be used for purposes set forth in section 7601, including a description of how local educational agencies receiving funds under this part will use such funds to meet such purposes, and how the program designs are consistent with other education improvement plans, including any developed under Goals 2000: Educate America Act, if such plan exists, or title I;

"(3) provide assurances that such payments, with the exception of payments reserved under section 7604(e), will be distributed among local educational agencies within that State on the basis of the number of immigrant children and youth counted with respect to each such local educational agency under section 7604(b)(1);

"(4) provide assurances that the State educational agency will not finally disapprove in whole or in part any application for funds received under this part without first affording the local educational agency submitting an application for such funds reasonable notice and opportunity for a hearing;

"(5) provide for making such reports as the Secretary may reasonably require to perform the functions under this part;

"(6) provide assurances—

"(A) that to the extent consistent with the number of immigrant children and youth enrolled in the elementary or secondary nonpublic schools within the district served by a local educational agency, such agency, after consultation with appropriate officials of such schools, shall provide for the benefit of these children and youth secular, neutral, and nonideological services, materials, and equipment necessary for the education of such children and youth;

"(B) that the control of funds provided under this part and title to any materials, equipment, and property repaired, remodeled, or constructed with those funds shall be in a public agency for the uses and purposes provided in this part, and a public agency shall administer such funds and property; and

"(C) that the provision of services pursuant to this paragraph shall be provided by employees of a public agency or through contract by such public agency with a person, association, agency, or corporation who or which, in the provision of such services, is independent of such elementary or secondary nonpublic school and of any religious organization; and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this paragraph shall not be commingled with State or local funds;

"(7) provide that funds reserved under subsection (e) of section 7604 be awarded on the basis of merit and need consistent with such subsection; and

"(8) provide an assurance that State and local educational agencies receiving funds under this part will comply with the requirements of section 1121(b).

"SEC. 7606. PAYMENTS.

"(a) AMOUNT.—The Secretary shall pay by not later than June 1 of each year to each State educational agency that has its application approved under section 7605 the amount of the State's allocation as determined under section 7604.

"(b) SERVICES TO CHILDREN ENROLLED IN NONPUBLIC SCHOOLS.—If by reason of any provision of law a local educational agency is prohibited from providing educational services for

children enrolled in elementary and secondary nonpublic schools, as required by section 7605(a)(6), or if the Secretary determines that a local educational agency has substantially failed or is unwilling to provide for the participation on an equitable basis of children enrolled in such schools, the Secretary may waive such requirement and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this part. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with the provisions of title I.

"SEC. 7607. USES OF FUNDS.

"(a) USE OF FUNDS.—Funds awarded under this part shall be used to pay for enhanced instructional opportunities for immigrant children and youth, which may include—

"(1) family literacy, parent outreach, and training activities designed to assist parents to become active participants in the education of their children;

"(2) salaries of personnel, including teacher aides who have been specifically trained, or are being trained, to provide services to immigrant children and youth;

"(3) tutorials, mentoring, and academic or career counseling for immigrant children and youth;

"(4) identification and acquisition of curricular materials, educational software, and technologies to be used in the program; and

"(5) such other activities, related to the purposes of this part, as the Secretary may authorize.

"(b) CONSORTIA.—A local educational agency that receives a grant under this part may collaborate or form a consortium with one or more local educational agencies, institutions of higher education, and non-profit organizations to carry out the approved program.

"(c) SUBGRANTS.—A local educational agency that receives a grant under this part may, with the approval of the Secretary, make a subgrant to, or enter into a contract with, an institution of higher education, a non-profit organization, or a consortium of such entities to carry out an approved program, including a program to serve out-of-school youth.

"SEC. 7608. REPORTS.

"(a) TRIENNIAL REPORT.—Each State educational agency receiving funds under this part shall submit, once every 3 years, a report to the Secretary concerning the expenditure of funds by local educational agencies under this part. Each local educational agency receiving funds under this part shall submit to the State educational agency such information as may be necessary for such report.

"(b) REPORT TO CONGRESS.—The Secretary shall submit, once every 3 years, a report to the appropriate committees of the Congress concerning programs under this part.

"SEC. 7609. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of carrying out the provisions of this part, there are authorized to be appropriated $40,000,000 in fiscal year 1995, and such sums as may be necessary for each of the fiscal years 1996, 1997, 1998, and 1999.

The CHAIRMAN. Are there amendments to this title?

AMENDMENT OFFERED BY MR. ROTH

Mr. ROTH. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROTH: Beginning on page 618, strike line 1 and all that follows through page 688, line 10.

Mr. ROTH. Mr. Chairman, we Americans are people from every corner of the globe, every cultural, every religious, every linguistic, every ethnic background. We are the most diverse nation in the world. Yet we are one Nation, one people.

Why? One of the main reasons is because we have a wonderful bond, a wonderful common glue, a commonality called the English language.

From the very beginning of our government, Mr. Chairman, from 1789 to 1968, 179 years, we did not have bilingual education as a governmental policy. Then in the 1960's, the period of the Great Society, the concept of bilingual education was established.

Now for 25 years this issue has not been debated, and that is one of the reasons, one of the main purposes, for my amendment. Bilingual education is a failure. It costs the taxpayer, Federal, State, and local government, billions of dollars. It pits one group against another, and sets up now and in the future, linguistic ghettos, and it sets up entire subcultures. This is not what we want in America because we realize what they will mean to America's future. It only helps bilingualism, only helps professional activists and politicians who profit from this policy.

Listen to Everett Alvarez, Jr., best-selling author and a decorated Vietnam war hero:

Like my parents before me, and with even more justification than they had, I believe that education is the key to a successful and happy life in an open society. With that in mind, I oppose the movement to make Spanish (or any other foreign tongue) a second co-equal language in American schools. This is a hindrance, rather than a help to the young people who will eventually have to make their way in an English speaking society.

Listen, as well, to Jose Fabila, a Sacramento businessman who testified at the English language task force hearings we held in August of last year:

English is the language of opportunity for everybody in this country. Bilingual education has been created for political purposes. Immigrants have not even asked for these services. Government bureaucrats fight for bilingual programs because they get money and status from them. It is in this way that the government divides us on the basis of language and national origin. It is a grave danger to all of us.

And it was best said by Ernesto Ortiz, a foreman on a south Texas ranch who put it this way:

My children learn Spanish in school so they can grow up to be busboys and waiters. I teach them English at home so they can grow up to be doctors and lawyers.

Arthur Schlesinger, in his fine little book, The Disuniting of America, and many people are talking about this particular issue, where America is headed, but he says, and I quote in just a sentence:

And in a world savagely rent, and we see that, by ethnic and racial antagonisms it is all the more essential that the United States continue as an example of how a highly differentiated society holds itself together.

And in another place he says:

Bilingualism is an elitist, not a popular, movement. Institutionalized bilingualism remains another source of fragmentation of America, another threat to the dream of one people.

Mr. Chairman, people who have given this a good deal of thought realize that, if we are going to remain one Nation, one people, then we have to have a commonality that brings all of our cultures together. It is great for us to have different cultures and for people to speak any language they want in their home, to cherish their culture, but we have to have a commonality, a common link that brings all us together as Americans, and that is the English language. Not only are immigrants taught in bilingual education from outside of our country coming in, but also people who were born here are now in bilingual education.

Charles Pacheco, and ex-marine and a native-born American, has this story to tell: His daughter was placed into a bilingual education program, not because she didn't speak English, but because her last name was Hispanic in origin. Even after Mr. Pacheco informed the school that no one in his home spoke Spanish, his daughter remained trapped in that bilingual education class.

My position is best stated by a Chicago Tribune editorial:

Bilingual education has ossified into practices that foster and prolong ethnic segregation and isolation. It robs children of their best chance to become full participants in American life. And it contributes to the fragmenting of this nation into competing ethnic splinters, increasingly conscious and defensive of our differences instead of our unity.

We are all Americans. Let us rise above special interests. Let us rise above the education lobby. Let us rise above group mentality. This is our country, our entire country. It belongs to all of us.

Let us, therefore, proceed and vote on this amendment so that we can keep one Nation, one people, indivisible.

Joseph Califano, who was President Carter's Secretary of Health, Education, and Welfare from 1979 was with President Johnson when this program was initiated in 1968.

The CHAIRMAN. The time of the gentleman from Wisconsin [Mr. ROTH] has expired.

(By unanimous consent, Mr. ROTH was allowed to proceed for 30 additional seconds.)

Mr. ROTH. Mr. Chairman, here is what he said:

Of most serious concern to me was that the HEW bilingual education program had become captive of professional Hispanic and other ethnic groups with their understandable emotional, but often exaggerated, political rhetoric and biculturalism.

□ 1450

Joseph Califano was there when this was started, and he has now said that it is time for us to rethink this pro-

gram because it does not serve our immigrant children of America.

Mr. FORD of Michigan. Mr. Chairman, I rise in opposition to the gentleman's amendment.

Mr. Chairman, the gentleman's closing remarks are the most telling. He says that Joseph Califano was with the Johnson administration when they invented bilingual. That is just another illustration that the gentleman does not know what he is talking about. Bilingual education was not invented by or created by the Congress or by any State legislature. The requirement placed upon the States to provide bilingual education resulted from a Supreme Court decision, Lau versus Nichols, and the remedies developed by U.S. Commissioner of Education Jewell Bell to assist States in meeting the spirit of that decision.

The Lau decision involved Chinese children from San Francisco who were dispersed into schools where there were no Chinese speaking teachers. There was a lawsuit brought on behalf of some of those students. The Supreme Court held that if the children could not be communicated with by the teacher, they could not get a free public education.

They used the same reasons they have used in the past to force schools to buy school books for children and to force schools to buy slates for children, and pencils and papers.

If we adopt the gentleman's amendment, we abolish the help that the Federal Government gives to States and localities to provide the remedies developed to meet this Supreme Court decision. We do not impose a mandate. We came along and said if States are going to have to ensure a meaningful education to students who do not understand English, we had better give them some help. The gentleman's amendment would stop the help we have been giving them for 20 years to meet this court-imposed mandate.

The Bilingual Education Act is the major Federal assistance specifically designed to help State and local agencies meet the needs of the limited English-proficient students. Schools are at the present time facing the largest influx of immigrants since the early 1990's. Limited English-proficient students are the fastest growing segment of our school population.

California experienced a threshold increase in the limited English-speaking proficient population during the past decade, with 1 million students attending California's schools. In New Mexico, 2 of every 10 students is limited English-proficient. In Texas, 1 of every 10 students is limited English-proficient. During the 1980's the population of limited English-proficient children coming to the schools increased 38 percent in Montana, 46 percent in Oklahoma, 39 percent in South Dakota, 36 percent in North Dakota, and 41 percent in Delaware. We can go all across the country and track these numbers and we will see it.

The Federal Government which controls immigration policy has a responsibility to the public schools by offsetting the cost of their need of additional resources they are mandated to spend because the courts have said that they will have to have those programs. If we would adopt the gentleman's amendment, we would not stop one bilingual program in this country. What we would do is force our States or our local school districts at the point of a gun held by the court system to come up with money from some other source, and this year we are going to have to replace $156 million with local tax money. If we want to dump this burden into the local taxpayer and take it out of our regular school programs, we can vote for the Roth amendment. If Members think they are getting a cheap shot at people who do not speak English very well or little children who live in a household where English is not spoken, they can take the cheap shot.

Perhaps Members may, like the gentleman from Wisconsin, think that would be a good political move. I think it is just plain stupid.

Mr. Chairman, I urge the Members to vote against the amendment.

Mr. Chairman, I submit the following material following my remarks:

OPPOSE THE ROTH AMENDMENT TO REPEAL BILINGUAL EDUCATION

The Bilingual Education Act makes clear that parents choose, are not required, to enroll their child in a bilingual program. Bilingual Education offers choice.

Schools that are able to offer two-way bilingual programs, are finding that their limited-English-proficient students acquire English faster and in greater depth than limited-English-proficient students in the same school who are placed in English immersion programs.

The amendment is opposed by the Dept. of Education, OMB and diverse organizations, including: American Assn. of School Administrators, National Conference of State Legislatures, U.S. Catholic Conference, National School Boards Assn., National Parent Teacher Association, National Assn. of State Boards of Education, Nat'l Assn. of Elementary School Principals and others.

This amendment would discourage the use of bilingual education programs, in favor of English immersion programs. Under the Committee's bi-partisan bill, English immersion programs are supported and so are bilingual education programs. The bill approved by the Committee helps schools offer "choice" to their students for the instructional approaches which work best in each individual situation.

Limited English proficient children would be discouraged from reaching high academic standards in their native languages while acquiring English. This provision eviscerates a major premise of the bill which is to hold all students to high academic standards. Almost all the research looking at long-term results over at least four years has found that the greater the amount of instructional support in one's native language, combined with balanced support in English, the higher they are able to achieve academically in English in the succeeding academic years. In Arlington County Virginia, a two-way bilingual education program begun 8 years ago in one elementary school has been so successful that (1) a second program was begun in an elementary school close by to meet the large demand, (2) a junior high school program was implemented in the same area in response teacher and parent desire for a continuation of the program, and (3) a high school two-way bilingual program is about to be offered in that same area.

The Committee bill is carefully crafted to provide a balance of support for bilingual education programs and for special alternative instructional programs (those using English). The amendment would alter this balance which ensures that schools with students of diverse language backgrounds and schools without access to proficient bilingual education teachers are given full consideration for program funds.

Mr. FORD of Michigan, Mr. Chairman, lastly, let me read from a letter from Secretary Riley who opposes this amendment.

DEPARTMENT OF EDUCATION,
Washington, DC, March 21, 1994.

DEAR MEMBER OF CONGRESS: I am writing in strong opposition to the Roth amendments which may be offered to H.R. 6, the reauthorization of the Elementary and Secondary Education Act. These amendments to Title VII would prohibit the implementation of bilingual education, or, alternatively, eliminate all Federal support for Title VII services to limited-English-proficient children.

Since its inception some 25 years ago, Title VII has been the primary Federal education assistance program for states and local schools in their educational equity pursuits in behalf of limited-English-proficient students. Elimination of this program would place further burden on state and local education agencies as they implement legally mandated requirements to educate limited-English-proficient students (under the Supreme Court's *Lau v. Nichols* decision) while the number of these students increases to record proportions.

Moreover, research over the last decade, including the Education Department's independent evaluations of bilingual education programs, indicates clearly that bilingual education strategies can be effective in the development of English language competencies and related academic content achievement.

I hope you will vote against these amendments.

Yours sincerely,

RICHARD W. RILEY,
Secretary.

Mr. EMERSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, While Mr. ROTH, and I share many similar views, such as the importance of the English language, I must rise today in opposition to the Roth amendments to H.R. 6 which would restrict or eliminate federally supported bilingual education programs.

As my colleagues may know, I am the persistent author of several pieces of legislation regarding the English language. One bill would declare English to be the official language of our

Federal Government, another would offer tax credits to employers who offer English language training and instruction to the employees, and another would prohibit citizenship ceremonies in a language other than English.

I have introduced and strongly support these bills because I know it is the bond of language that has blended our many cultures to form a heritage that is uniquely American. The movement for official English is inclusive, and it seeks to extend the American Dream to all Americans, regardless of race, religion, national origin, or language ability.

In order to achieve nationwide communication in English, bilingual education must continue. Children from all over the world face a difficult transition from their native language into English fluency when they enter American schools. Bilingual education is based on the idea that the transition can be eased when children can be taught—temporarily—in the language they understand.

I do share the concerns of Mr. ROTH that some bilingual education programs may be losing sight of the original goal of bilingual education. The goal of bilingual education was and is to help children become fluent in English as quickly as possible. For example, while I recognize that there is a transition period whereby children need time to learn English, I do not agree with some educators and policymakers about the length of the transition period—which some believe should last as long as 8 years. Bilingual education was enacted because Congress wants limited English proficient students to quickly learn English and move on.

I think that—as with many Government programs—bilingual education could certainly stand changing and updating. However, these improvements will not take place if local schools lose Federal funds or if all references to bilingual education are eliminated. Instead, we need to work to ensure that local schools have the flexibility to use these funds for programs they believe work best. Bilingual education programs which use innovative methods to move students along more quickly and thus integrate them with their peers sooner should be encouraged, rewarded, and highlighted for others to replicate.

Knowledge of English is a key to opportunity in America. Those who don't speak English have only a limited number of doors available to them. In 1990, one in seven children lived in a home where a language other than English was spoken. For these children, a bilingual education class which quickly and effectively leads to fluency in English is crucial to their futures.

For these reasons, I cannot support the Roth amendments and urge their defeat. But I want to encourage my colleagues to support the underlying issue for these amendments, official English and the Language of Government Act. Legislating a common language makes common sense. By designating English as the official language of the Federal Government, we will create a channel of communication common to all the diverse peoples of this great Nation of ours. Bilingual education and official English can work together to bring our Nation together.

□ 1500

Mr. KILDEE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I oppose the gentleman's amendment. Bilingual education, as has been pointed out by the gentleman from Michigan [Mr. FORD], our chairman, is the only Federal assistance program designed to help State and the school districts to meet the needs of students with limited English proficiency.

I would suggest the gentleman read the bilingual section of this 902-page bill, where it gives the purpose of bilingual education. I helped write this purpose of bilingual education in a bipartisan way with people like Steve Bartlett and JOHN MCCAIN, when he was a Member of the House.

It is the purpose, the bill reads, of this title, to help ensure that limited English proficient students master English and develop high levels of academic attainment in content areas.

That is the purpose of bilingual education. With JOHN MCCAIN, and Steve Bartlett, when we worked on this bill over the last three authorizations, we allowed 25 percent of the money to be used for alternative methods of helping these students with limited English proficiency. And with Mr. GOODLING's amendment in committee, we allow waivers to go beyond that 25 percent.

We recognize that it would be a terrible social failure, a terrible educational failure, for a student to finish school not being proficient in English. Bilingual education, as written in this bill, recognizes that. But we wanted to make sure that those students do not fall behind in promotion or in graduation because of their lack of English proficiency. When they are in the third grade, we want them to become English proficient, but at the same time, when they are learning the other subjects, to use their native language when necessary, to make sure they do not fall behind their peers in that class.

Again, I will read to the gentleman. The purpose of this title is to ensure that limited English proficient students master English. We want them to do that. We do not want them to fall behind their peers in their other subjects.

Ms. ROS-LEHTINEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendments offered by Representative ROTH which would restrict or eliminate federally funded bilingual education programs.

One of the amendments would deny thousands of disadvantaged students of the essential services they need to succeed educationally. The other amendment would eliminate badly needed funding to schools which are legally required to provide special services to students with limited English proficiency.

Bilingual programs aid students who do not speak English to develop competency in English, and they aim to ensure that these students maintain good academic progress in other academic areas. Eliminating the bilingual programs would deprive bilingual children of an essential part of their education. The consequences to this are devastating—not only to these children and their families, but to the country as a whole, when these children reach adulthood.

I learned English through a bilingual program when I came to this country as a child and therefore, I witnessed firsthand the invaluable service this program provides. As a certified teacher, I have seen how students in bilingual programs succeed in school, and tackle challenging situations.

Bilingual programs address the different needs experienced by students who are learning a second language. These needs are the ability to communicate in English, the type of English needed to socially interact, and the type of English needed to successfully participate in the curriculum. The bilingual program offers techniques that account for different linguistic and cultural habits as well as speeding the process of language learning by reinforcing both languages.

Removing these programs means that we are disregarding the high percentage of students whose first language is not English. A bilingual program is imperative if we are to make productive citizens out of all our students. That is why I oppose Mr. ROTH'S amendments and I urge my colleagues to do the same.

When I came to the United States at age 7, I did not know how to speak one word in English. The classroom was totally bewildering to me, because I did not understand anything the teacher was saying. But, because the Dade County Public School System was, and continues to be, a vanguard in the bilingual educational movement, programs were already being implemented to help refugee children—thousands of them—just like me.

I went to Southside, Riverside, and Shenandoah Elementary Schools in Miami and all had excellent bilingual programs.

In a few years, all of us Cuban refugees were able to be mainstreamed into an English-only classroom.

Could I have survived without a bilingual program? No, I doubt it. Bilingual programs helped me understand the subject matter and also have the self-confidence I needed to excel in school. There are more little Ileana's out there. Help them learn. Support bilingual education. Defeat the Roth amendments.

Mr. DE LA GARZA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise against the amendment, but first let me add a little bit of history that may not be known to most of us here.

Where I live in Texas, my hometown of Mission, TX, the first nonoriginal language spoken there was Spanish, when the Spaniards first came. Later they wove in with what is now Mexico, but the language still remained Spanish. Later they came from the northeast, other white Europeans, but not Spanish speaking, to that area of Texas.

When I was in the State legislature, there was a gentleman named Felix Tijerina from Houston, who had grown up near Houston, and the problem there then was every household was Spanish speaking. Therefore when a child went to the first grade, he failed, except for a very bright one. The second grade, he failed. The third grade he failed, because there was no involvement at all from the Spanish community. All of the teachers were English-speaking teachers.

Felix Tijerina then moved as a young child to Houston, working in a restaurant washing dishes. Eventually he moved into an assistant cook position. He eventually became the cook. Eventually he became the manager. Eventually he bought the restaurant, which is the American dream. But he had not yet mastered English. He had only a third grade education. But he had a heart as big as this Chamber, and he did not want the youngsters to go through in this day and age what he had gone through. So he went and inquired, what is the problem? They do not know enough basic words of English to successfully finish the first grade.

Therefore, with his own funds, he went and got one of his teachers, and they looked about how to remedy this. The State would not touch it. Therefore, this teacher told him that you needed 400 basic words of English not to remain in the first grade beyond the 1 year. So he funded several seniors from the high school in the summer prior to the first grade for the children in that neighborhood where he had grown up, and paid them a stipend to teach the children the basic 400 words of English.

That little school was then called the Little School of the Four Hundred. It was sponsored by the League of United Latin American Citizens and Felix Tigerina through their own resources. Eventually it caught the eye of then Governor Price Daniels, and three Members of the Legislature, Malcolm McGregor of El Paso, Oscar Laurel of Laredo, and myself sponsored what we called the preschool English legislation. And it passed the House, and it passed the Senate. It was signed by Governor Daniels at the time.

This is what we are arguing here basically in ignorance. Why did we get there? Why did it happen? The only thing that we can do now is to fund what the courts ordered. During elections you hear about unfunded mandates.

□ 1510

That was the problem. Eventually, it became such a problem that the Federal courts moved into it. And then we legislated. I was here.

The problem became what we are now suffering, that is, it became a Spanish issue in the areas where Spanish was spoken, little knowing that it was French in another area and German in another area and Polish in another area and Slovak in another area.

But now we are bashing someone who looks Oriental or if they look like me. Someone recently said, "We need more European-sounding names around here." Is DE LA GARZA a European-enough name for my colleagues? Or does it have to be Winthrop or Walsh? That is what the argument is all about. It is not about the funding. It is that we are down on anyone that does not look American, whatever the heck that is. I guess it is one that looks like you.

And this is the area that we are legislating mostly in ignorance, with some degree of emotion of a negative kind. I urge my colleagues not to discuss this type of amendment. We need to educate our children. We need to stop crime in the streets. We need to get more housing. We need to build more roads.

We should not be wasting our time on if someone is speaking English or Spanish, does he look Oriental or does he look Hispanic.

The CHAIRMAN. The time of the gentleman from Texas [Mr. DE LA GARZA] has expired.

(By unanimous consent, Mr. DE LA GARZA was allowed to proceed for 1 additional minute.)

Mr. DE LA GARZA. Mr. Chairman, I was asked recently by a person, "Why don't you just put American where it says nationality?" I said, "Fine with me, but what do we do about Central America? What do we do about South America?"

He said, "Well, I hadn't thought about that. I thought Americans was us."

A friend of mine who is a singer from Mexico was in Canada not too long ago. And at the end of his program, he sang "God Bless America." A Canadian walked up to him and said, "Why are you singing that here?" He said, "Is not Canada a part of North America? Are we not Americans all from Chile to Canada? Should we say this language, yes, that language, no?"

I say, let us worry about the issues of the day and not emotional outbursts of a negative nature. That is why I oppose this amendment, Mr. Chairman.

Mr. TAYLOR of North Carolina. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The Chair recognizes the gentleman from California [Mr. CUNNINGHAM], a member of the committee.

Mr. TAYLOR of North Carolina. Mr. Chairman, is it possible to have some support statements made on the floor, since most have been negative?

The CHAIRMAN. The Chair is to give priority to members of the committee and does not confer recognition by stated position on the issue. The gentleman will be recognized in due course.

Mr. CUNNINGHAM. Mr. Chairman, I move to strike the requisite number of words.

The gentleman from Wisconsin [Mr. ROTH], my good friend, probably 99 percent of the time on this House floor I would be in support of the gentleman, but as a member of the committee, I must oppose this amendment. And if Members look at the gentlewoman from Florida [Ms. ROS-LEHTINEN], take a look at a young woman that came to this country from Cuba and spoke no English. She rose to be a Member of the U.S. Congress.

I would ask my colleagues to take a look at what her opportunities would have been if she would have gone through junior high school or even high school and not spoken or not been able to learn the English language.

That happens in many cases in the State of California. I support English as a first language for this country. If I were going to move, and I am sure, Mr. Chairman, if Members would take their children to Russia, I would want my children to learn Russian better than they knew English. I would want them to know English as well from their home country, but I would want them to know Russian because they would have to operate not only in the school system but in the business place with that language. And to be successful, it would be mandatory.

I would hope that those Russian schools would support my children in learning the language in the mother-tongue of that country.

I take a look at the Paul Ecke School in my own district, which has a lot of limited-English-proficient children. It is a flower-picking area. I am talking about legal children, legal residents of this country. The illegals, it is a totally different issue.

But there are many children, 5 years old, 6 years old, 7 years old. I have sat

in those classrooms and watched the teachers teach these children.

Again, visualize a 5-year-old learning English, and then take that same child to when they are in the fifth or sixth grade and not proficient in the English language. What kind of future, where we have a large portion of children dropping out of school, what happens to them? They end up selling crack on the street corner or getting involved in low-income jobs and not having much of a future or even on welfare.

So the investment that we make in these children early on, getting them prepared to live and work in this country and speak the language helps them and it helps us.

This is not an issue of race or what a person looks like. It is an issue of what a person can learn, what a person can do to help themselves so that we as the Government do not have to help them when they are adults.

I see a time in the future in the country, like France, where they have actually modems that go into the homes. When I walk precincts in my district, I go into homes where none of the parents speak English. They are legal citizens of this country, but they are on welfare or, in many cases, low-income jobs. I would like to see, through the information highway someday, where we reach out into the homes with these people to teach them English so that they can take part in the workplace and strengthen the economy and get off the Government dole.

Mr. Chairman, in this case I go against the amendment of my good friend, the gentleman from Wisconsin [Mr. ROTH]. In the name of the children and as a good investment, vote against this amendment.

Mr. MARTINEZ. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

My colleagues are looking at someone who has not always been a bilingual supporter. I think it was not until more recent years that I began to understand the gravity of young people entering into our schools speaking a different language and not being able to comprehend the studies and not being able to do the studies and falling behind and falling further and further behind all the time.

Understand this, there are a lot of myths surrounding bilingual education, and they are promoted generally by somebody who has a certain vested interest. I am not suggesting my friend, the gentleman from Wisconsin [Mr. ROTH] has a vested interest. He is genuinely sincere in what he is trying to do here. He is down the hall from me. I see him all the time. On occasion we talk about this.

He talks to me about the Hispanics who sign letters and make statements, antibilingual education. That is nothing new to me.

I remember not too long ago when this same kind of debate was taking place in California, that there was an editorial or there were letters to the editor on the issue in the Times, the local paper there. And if Members looked at the letters to the editor, those that were against bilingual education were signed by Hispanics. Those that were pro-bilingual education were not signed by Hispanics. Non-Hispanics signed those letters. But almost all of those that signed the letters in support of bilingual education were professionals where the other people were just laypeople and were emotional about it.

There are several reasons. I can understand, and if Members look at the history of Hispanics in the United States and understand that they are fiercely loyal to this country, fiercely patriotic, and still they are trying to allow themselves the enjoyment of their culture and appreciation of their culture and pride of their culture. For too many years they were denied that. For too many years they were denied that.

And so we can understand why some Hispanics, wanting to be that proud American, want to be called just an American not a Mexican-American. I had a friend who once told me, he said, "I am sick and tired of being called a Mexican-American. My parents were born in this country. Their parents before them were born in this country, and their parents before this country was a country were born here. And yet I am still called a Mexican-American."

□ 1520

Yet, if some blond, blue-eyed individual got off the boat one generation ago, he is now called an American. So we can understand why there is a fierce, determined need to be called American.

If we look at our history in wars, in every major war Hispanics have been the most decorated heroes of those wars, even the ones they do not call a war. If we look at World War II, the Hispanic community as an ethnic group won more Congressional Medals of Honor than any other group, fiercely proud of being American, fiercely proud of their ability to speak the English language.

Let me tell the Members, if we visit the reunions of the Congressional Medal of Honor winners we will find many of them still speak English with a broken accent, deprived of proper education at a very young age.

I want to associate my remarks with those of the gentlewoman from Florida [Ms. ROS-LEHTINEN] who is an immigrant from Cuba who came to this country. She sits here in Congress a proud American, proud of her ability to speak Spanish, which she learned without the benefit of bilingual education.

Let me tell the Members a few of the myths about bilingual education and where it does do some good. The gentleman from Michigan [Mr. FORD] and others have spoken about the need for bilingual education because it is the Head Start for Hispanics. It is the Head Start for Hispanics.

We know what Head Start does for our young people. It gives them the ability and a greater chance of finishing school, of being more likely to graduate and go on to higher education. It gives them the advantage of less likelihood of being in criminal activities or being members of gangs. It does all of these things.

Bilingual education is the Head Start for Hispanics. I have two daughters-in-law, one born in Ecuador and one born in the United States of America. The one born in the United States of America is a first generation American. The one born in Ecuador is, naturally, an immigrant.

My daughter-in-law has taught her three children Spanish, and they speak Spanish fluently without any accent of English, and they speak English without any accent of Spanish. As a result, they have done very well in school, and have been promoted several grades, to the point that she is now holding them back because they will leave their age group too far from their age group.

My other daughter-in-law, who was born in this country, first generation American, is a bilingual education teacher in the Montebello School District, and yet she will not teach her children Spanish until they learn English. Should this not this tell us something?

I did not speak Spanish to begin with, I spoke English to begin with, and I as an adult had to learn Spanish in order that I could have the same kind of pride in my culture and my background as does the gentlewoman from Florida [Ms. ROS-LEHTINEN], as does the gentleman from New York [Mr. SERRANO], and many other Members of the Hispanic Caucus here. We are just as good Americans as anyone else.

Bilingual education is necessary for our children to get a head start. Without it, they do not learn the labels that they need to know and make the translations they need to know from Spanish to English. It benefits us, it benefits me, it benefits all of us that there is bilingual education.

Mr. TAYLOR of North Carolina. Mr. Chairman, I rise to strike the requisite number of words.

Mr. Chairman, I know there has been a lot of heat and implications of racism in this debate. I very much support legal immigration in this country of all races. This is not just an issue of dealing with Latin American immigrants who come to the United States and become citizens and a great part of this Nation. It speaks to all people who wish to immigrate to this area.

Mr. Chairman, I would like to quote Dr. Daniel J. Boorstin. He is a Pulitzer

Prize historian, former Librarian of Congress, and has received the highest intellectual honors the United States Government can bestow. He has two statements.

First, "The menace to America today is in the emphasis of what separates us, rather than what brings us together, the separation of race, of religious dogma, of religious practice, of origin, and of language."

He goes on to say, "Bilingual teaching tends to restrict opportunities for the very people who need the opportunity to enter the mainstream of American life."

Mr. Chairman, I know there are a lot of sincere feelings expressed on this floor by people who feel that continuing to spend the over $1 billion that we spend in this country on programs to teach non-English speaking and non-English-proficient students in their native languages, but I would remind the Members that Dr. Boorstin, whom we would not classify as a racist, we would not classify as someone with a hidden agenda, we would classify him as one of the leading educators and one of the great minds of this country, says, and I repeat the quote, "Bilingual teaching tends to restrict opportunities for the very people who need the opportunity to enter the mainstream of American life."

Of course, I can cite additional facts. In 1985, a poll in Dade County, FL, revealed that 98 percent of Dade County Hispanic parents agreed that it was essential for their children to speak and write English perfectly. Thomas Sowell, in his book "Inside American Education," cited numerous surveys proving that the great Majority of Hispanic parents, more than three-quarters of Mexican-American parents and more than 80 percent of Cuban-American parents, are opposed to the teaching of Spanish in the schools at the expense of English for their children.

Ninety-seven percent of all Americans support making English the official language, as was proved by the October, 1993 USA Weekend poll.

Mr. Speaker, that is why I am supporting the amendment of the gentleman from Minnesota (Mr. ROTH) to title 7 of H.R. 6. I think the overwhelming evidence is that we are spending $1 billion that could be better spent in improving education in the communities. As Dr. Boorstin said, we are removing opportunities, we are hurting the very people that we talk about helping. That is why I support this amendment.

Mr. SERRANO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, one of the problems with this amendment, the Roth amendment, is that it is an amendment that speaks to the language issue during an education debate, and while the language issue may, for some people, be a legitimate issue, it certainly does not belong in this kind of a debate, because this debate should be about education.

The fact of life is that if we take it as an education issue, bilingual education has been proven to help. The National Academy of Sciences found in 1992, in its assessment of two major evaluations, that bilingual education was helping and not hindering young people so they could acquire English as their main language.

Much has been said here today about parents somehow desiring their children not to speak English. We cannot really believe that. The fact of life is that most polls taken of parents newly arrived from any community, indicates that parents want for their children as quickly as possible to learn to speak English.

Bilingual education is a tool to allow people to learn subject matter while at the same time they learn to speak English. I can tell the Members from personal experience the difficulty of being placed in a mainstream program without knowledge of the language.

When I arrived in New York from Puerto Rico, I arrived as a migrant, not as an immigrant, speaking Spanish only. I recall how difficult it was for myself and for that group of youngsters who were in that classroom, because we had the language problem; one, we were not allowed to participate in any regular classroom work, so it was something like the fifth grade before most of us knew who George Washington was and what he had accomplished, when in fact we could have been told in Spanish who Jorge Washington was in the second grade and what he had accomplished.

Also, I recall the difficulty, the traumatic difficulty, of having a neighbor of mine who came from a family and at that time was told that you did not make one move in the classroom without the teacher's permission, so he could not communicate with the teacher in Spanish or in English the fact that he had to leave the room, and he wet his pants, and until the time he was in high school, his records indicated that because of his behavior in the second and third grade, there was something terribly wrong with this guy, and there in fact was nothing wrong, only the fact that they could not communicate in the same language.

Those are facts of life, how people have to deal with this particular problem. The other thing that is interesting about this debate is that it strikes bilingual education programs, without making any provisions for the fact that, as the gentleman from Michigan [Mr. FORD] said, these programs would still continue to be part of every State's responsibility.

□ 1530

For instance, California would have to come up with $59 million if this amendment was approved. New York would have to come up with $26 million, Texas with $12, the State of Washington with $3, Alaska almost $1.2, and on and on to replace these programs at the local level, replace the Federal funding, which is going to cost a lot to these local governments.

The real issue in this debate is the issue of whether or not we as Americans are going to continue to be fearful of languages other than English.

I must tell my colleagues this part of the debate is the part I find the most difficult to understand.

Why is it that we continuously get on the floor of this House and talk about how we must compete with other people throughout the world, and yet when our businessmen meet those other business people they have to speak in English, because we have never learned their language. The Japanese businessmen speak English. Is it because they recognize English as the most important language in the world? Is it because they are fearful of us? Is it because they think it is such an easy language to speak? Or is it perhaps that a very intelligent business community has decided that it is good business to learn languages other than their own? The Germans, the French all speak other languages.

I recall in the 1960's or 1970's in the era of the so-called spaghetti westerns, if Members will recall we had French actors, we had Italian actors, we had Spanish actors who dubbed their movies in three or four different languages. Yet, when Clint Eastwood or Charles Bronson or any of our other actors did not speak another language, we realized that this horrible dubbing did not sound anything like Clint Eastwood or Charles Bronson.

Let us not be dubbed in other languages. Let us learn the other languages of the world.

Mr. DIAZ-BALART. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have great respect for my friend, the gentleman from Wisconsin [Mr. ROTH], of which he knows, and I am of the belief that this is a legitimate debate, because I have at times been asked whether or not it is possible that bilingual education, by continuing teaching in the classroom in a native language, that the students may be retarded in their learning of English. I have been asked that question, whether they may be retarded in their learning of English. I have studied this issue at some length and in some depth, visiting a number of bilingual education programs and have learned that, on the contrary, bilingual education increases the rapidity, increases the speed with which students become totally fluent in the English language, and at the same time, at the same time it permits them not to sink while they are learning. In other

words, to stay afloat in the substantive areas that they are taught in the language of the country of their origin. That is an important issue to focus in on.

I realize the decibels of emotion are high on this issue. It is natural. There is much passion with regard to this issue. So I think it is important to see where the evidence leads us with regard to what is actually occurring in the classroom.

I recently had an opportunity to visit the Miami Springs Middle School in my district. The kids that are in the bilingual education program are in that program again in the substantive areas like math, like science, and like history in the numerous languages of their countries of origin for a relatively short period of time. Actually during the day it is just a few hours. And it is a maximum of 3 years during their education that these students are in these substantive areas to stay afloat in those substantive areas while a great majority, the overwhelming amount of time that they spend each day in school is immersed in English. That fact is important to realize. The kids in bilingual education spend the overwhelming majority of their day immersed in the English language to become as proficient as possible and to be able to be in an English curriculum, in a totally English curriculum as soon as possible.

That is the goal, and actually that goal is achieved time and time again all throughout the country where bilingual education programs are maintained. It is very rare to see a pupil that is all 3 years in a bilingual education program. Within 1 year or a year and a half, they are usually immersed fully, and their curriculum is totally in English. So it is a program that works. It is a program that I understand evokes emotion, but I think it is important for us to keep the decibels as low as possible on the emotional scale and on the passion scale, and that we focus in on the education issue.

It works. It is cost-effective. The States fund these programs for the greatest majority of what they require. What we do is really more than anything else encourage States to have that option and school boards to offer the option of those programs.

So I think it is important that we make a statement today and defeat the amendment of my good friend, the gentleman from Wisconsin [Mr. ROTH].

Mr. GENE GREEN of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the Roth amendment. I would like to briefly talk about the three reasons, and then like a lot of other Members on the floor relate personal experiences with bilingual education and the need for bilingual education.

First, the Roth amendment forces the States to pay the total cost, and whether in California, New York, or Texas, we are already providing substantial local and State funding for bilingual, because it does work. And this would just require those local States to pay even more money.

This is not a funding item. This is a grant formula. If the city of Houston or the Houston School District does not receive this grant, then they have to pay for it locally. This is not something that is automatically sent from Washington to say OK, Houston, independent school district, or L.A. Consolidated, you have to provide it. They competitively seek these grants to help provide this funding for the students.

We need to recognize that bilingual is not just teaching someone in their native language. It is also teaching them while they learn English, and so they are not getting further behind, like the gentleman from New York [Mr. SERRANO] said earlier. It is to make sure that they also learn math, and science and history at the same time that they are learning English, and not just being taught in their native tongue.

Let me talk about an experience that I have had in Texas, in Houston. I was raised in a majority Hispanic school, and I saw in the middle 1960's before there was bilingual programs in Texas what would happen in a high school where a child would come in, and they would stay 2 or 3 days and then would drop out. And in 1973, my first term in the legislature, we actually provided State funding across the board for bilingual. I was a small amount of $6 million, but it was hard to get at that time in 1973.

I realized coming and serving in Washington for my first term here in Congress that so much more is being done on a local basis, both in local school districts and in States for bilingual, and recognizing it. So we do not have those students who come in, whether they are in kindergarten or 11th grade, dropping out after that week. They actually are working in their native tongue so that they can stay there, and they can be educated and they can be productive citizens.

This last year, like a lot of Members, like my colleagues from Florida, I spent a lot of time in the local schools in my district, since I serve on the Committee on Education and Labor. And I am proud that one of my elementary schools has the bilingual teacher of the year, Love Elementary, in the Houston School District. But I had an opportunity this year to both start a bilingual program, a kindergarten program that was bilingual, in September, and the children were really quiet and subdued. And then I went back and visited not that same program, but a different program in May where those children started in that kindergarten with a program in bilingual, but in May they are not speaking Spanish anymore, they are speaking English. And they are aggressive. They want to talk, and they want to talk in English. I was a part of the reading program, and they did not want to talk in Spanish, they wanted to talk in English, whereas when I went in in September I had to read the program in Spanish. But when I went back in May they did not want me to read in Spanish, they wanted it in English, because it was a kindergarten program that started in Spanish, but by May they are speaking English, and they want to be taught in English.

So you do not start in my district or any other district in the kindergarten in bilingual and continue through it through high school. That is not the way the system works. Children are in bilingual for a very short period of time so that they do not get further behind while they are learning English.

Bilingual was funded on a statewide basis in Texas in 1973. If I had my way, we would fund it even more than what we are doing now under the grant program. But we are not, so I ask Members to join with me in opposing the Roth amendment, because we are not doing near enough on the Federal level to eliminate some of the education problems that we have that are caused by our immigration policy. Do not take away what little bit we have.

□ 1540

Mr. KNOLLENBERG. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today in strong support of the amendments offered by my colleague from Wisconsin [Mr. ROTH].

The bilingual education program included in H.R. 6 is, in essence, an unfunded mandate. H.R. 6 requires State and local taxpayers to pay $7 to $8 for every dollar of Federal funding provided for bilingual education.

H.R. 6 authorizes over $1 billion for bilingual education over the term of the reauthorization, which represents and requires $8 billion in matching spending from State and local education agencies. Not only is bilingual education costly, it simply has not worked.

The original purpose of our bilingual education program was simple: to teach immigrants English quickly and effectively. Bilingual education has gotten away from that simple and important goal, and is hurting those that it was intended to help.

Similarly, the purpose of H.R. 6 was simple: To provide funding for the improvement of America's public education system. With this in mind, we should remember who our clients are. We are serving America's Children; all of our children.

This simple goal is lost in bilingual education, which is counterproductive to preparing all young people to enter,

serve, and compete within the American public.

By teaching young people in their native languages, we are handicapping their performance in a highly competitive arena. Bilingual education may make the school day easier for children speaking English as a second language. However, it creates another class of student unable to read, speak and write English in an English-speaking society.

And the United States clearly is an English speaking society. While we have traditionally enjoyed the benefits of great cultural diversity, English has served as a common tie to link all of our religions, races, and cultures—India, Pakistan, Iraq, Eastern Europe, Korea, Orient. With people coming together in South Africa and the Middle East, let's not further splinter our own society by removing the important link of the English language, and reinforcing a social hierarchy based on the ability of our children to speak and communicate in English.

More than ever, education is vital to the success of our young people and our Nation. Let's not continue to handicap our bilingual students and splinter our society by teaching coequal second languages in our schools. Pass the Roth amendments and give our bilingual students the English skills that they will need to compete and succeed in the United States.

Mr. KILDEE. Mr. Chairman, will the gentleman yield?

Mr. KNOLLENBERG. I yield to the gentleman from Michigan.

Mr. KILDEE. I thank the gentleman for yielding.

Mr. Chairman, the gentleman spoke very sincerely, I am sure. But I would like to correct one statement he made. He stated this is a Federal mandate. This is not; it is a grant application program. I just wanted to clear that up.

Mr. KNOLLENBERG. The gentleman would not disagree, though, with the fact that I come from a district that has a great, great number of folks from all over the world. Believe me, if there is a test case anywhere, it is in my district, as the gentleman knows. That is the point I am making.

I think what we have to do is concentrate on English learning and that will help us to retain those cultural diversities, whether it be Spanish-speaking countries, European countries, or whatever. What we want to do is to make sure they keep their culture but learn the English language.

Mr. KILDEE. If the gentleman would yield again, I know the gentleman speaks very sincerely on this, we have spoken on this privately. I value the gentleman's views on various issues. But I just want to clarify one point. This is not a federally mandated program.

Mr. KNOLLENBERG. The only thing I would like to say in rejoinder to that is that there is a cost involved, and any time you impose this kind of mandate on the States, money has to come from somewhere. So it has to be, in my judgment, an unfunded mandate. We can argue that point, I guess, but nonetheless it is not funded; it is unfunded.

Mr. KILDEE. We may not agree, but I just wanted to make my statement that it is not a federally mandated program.

Mr. KNOLLENBERG. I accept the gentleman's statement.

Mr. FARR of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today to express my very strong opposition to the amendment from the gentleman from Wisconsin. The Supreme Court has rightly decided that our children are entitled to an education, no matter what their origins.

This legislation would eliminate a program that has been a proven success and its impact would be highly discriminatory on those who cannot defend themselves—our children.

The main goal of bilingual education is to teach children to be competent in English. Studies show:

That bilingual education increases odds for a child's success;

Studies show that teaching children in their native language does not interfere with their learning English;

Studies show that native language instruction helps children keep up with students already being taught in English—English only instruction does not; and

Studies show that parents of bilingual education children are more likely to get involved in their children's education if bilingual instruction is used in schools.

When people say that their grandfather was an immigrant and he succeeded economically without bilingual education, they must remember that years ago the labor pool was a lot less educated and skilled than it is today. Then, low-skilled, lower waged jobs would allow a family to buy a modest home. Now, these jobs barely cover basic living expenses. To compete, all children must be allowed the same opportunity to succeed in today's competitive world.

In my district, close to one-quarter of children in grades K–12 are in bilingual education programs. These children deserve the same chance for success that I want for my own daughter.

In my district, a young man, Raul Huerta, was raised by a single parent who spoke only Spanish and he went through bilingual programs. Raul is now going to Sacramento State University and works at recruiting children of migrant families into higher education.

Also in my district, a young lady, Yesenia Hueremo is one of seven children. Her parents died within a short time of one another, leaving her and her siblings as orphans. Yesenia went through bilingual programs in both elementary and junior high school. Overcoming both language and personal difficulties, and earning a 3.5 grade average, she is now on her way to college. A productive member of our society—is that not what we want from our children?

Yesenia is also bilingual and biliterate. Studies have shown that with the increasingly global economy, business and industry need a work force that is competent in a variety of languages. There are at least 3.3 million children in our schools, like Yesenia, who have the potential of being truly bilingual. They speak almost every language in the world. They are the best hope that we have to produce a multilingual work force—a critical component for America's ability to compete in the world marketplace.

Therefore, Mr. Chairman, I believe this proposed amendment has no place in an educated society—as a matter of fact, it would create quite the opposite. As a former Peace Corps volunteer, I urge my colleagues to join me in casting a no vote against the Roth amendment.

Mr. ROHRABACHER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of this amendment, which will do two things which Members of this Chamber have been claiming they wanted to do for a long time. First, it will save the Federal Government a quarter of a billion dollars every year that it is currently spending on a counterproductive program. We can get study after study, for every study that someone brings forth that says this is so effective, there are other studies, in fact more numerous studies, which show that bilingual education, as it exists today, is counterproductive and hurts the people it is intended to help rather than helping those people that people of goodwill are trying to help in this body.

Second of all, it will end one of the largest unfunded mandates ever imposed on local schools, one that costs States and school districts—it will eliminate one of the largest unfunded mandates that have been imposed on public schools, local schools, across States and school districts, billions of dollars every year. Again, we can argue as to whether or not this is an unfunded mandate.

□ 1550

Two weeks ago, Mr. Chairman, when I tried to propose something that would require something as part of the registration process, it was attacked as being an unfunded mandate. Well, obviously what we do here, what laws we have passed, what regulations we have passed in this body, end up mandating,

end up forcing, local schools to adopt bilingual education programs whether they want it or not, and it costs them a lot of money. Now how it is defined as an unfunded mandate, that is a matter of debate, but let us note, first of all, as far as the efficacy of the program itself:

Everywhere in the world, every country in the world that has a bilingual problem or situation, recognizes that immersion in a foreign language is the quickest and most effective way to learn that language. Those of my colleagues who have been to Israel have undoubtedly seen how new immigrants from all over the world are taught in that country. Hebrew immersion is the way Israelis have found to speed the assimilation into their society of new citizens who are coming from different places. I guess that we cannot just be as smart as the State of Israel and other countries because there are political considerations here that have to be taken into account, and not educational considerations.

In fact, only in the United States, and only in the Government, does anyone apparently believe that it is more important for students to hold on to their native language in some way rather than quickly learn a common language through the immersion process. That is what happens.

Mr. Chairman, I urge my colleagues to strike a blow for fiscal sanity, and we do not have the money, it is an ineffective program, but also, Mr. Chairman, it is a huge unfunded mandate. There have been some suggestions today, for example, that in some way those people who are opposing bilingual education are in some way trying to put roadblocks in the way of people who come to this country or other people that have English as a second language. The fact is we are not trying to put roadblocks in the way. We do not believe bilingual education leads to the kind of learning that is beneficial for those who the proponents of bilingual education claim to want to help. In fact we believe that it hurts those young people not to immerse them in the language as we find in every place else in the world.

By the way, if the amendment offered by the gentleman from Wisconsin [Mr. ROTH] is adopted, and local people do believe that it is effective, we are not saying that local schools cannot have bilingual education programs. We are just saying it is not mandated by the Federal Government, and we are not going to pay the bill for something we think is ineffective. If those people at the local level really believe this is effective, they will continue to have bilingual programs, and again no one is suggesting that our people should not be bilingual, that we should not teach people to learn other languages. The fact is that we want people to learn other languages.

By the way, Mr. Chairman, bilingual education, as it is mandated today, that is not the issue at all, but, the way it is mandated, it affects more than just the Spanish language. In my part of the country we have people from Korea, Vietnam, China, Japan, other parts of Asia, and Africa as well. The fact is that this idea, which might be a well-intended idea of providing bilingual education, is a nightmare for the local schools who find out that they have not just Spanish and English, but Hmong, which is a language of the hill tribes in Laos, literally tens of different languages that they are literally supposed to provide education for. It hurts the local school's ability to provide education for all of their children, including children where English is their second language to begin with.

Finally, Mr. Chairman, let us just take one look at the overall effect, and that is what keeps our Nation together, what opens the door of opportunity. It is language that we all share and a love liberty.

Ms. ROYBAL-ALLARD. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment offered by the gentleman from Wisconsin [Mr. ROTH].

Mr. Chairman, The bilingual education programs reauthorized in H.R. 6 are critical to promoting equal education opportunities for public school children. Many limited English-proficient students simply cannot learn and compete in the classroom without the English language instruction and supportive services authorized by this bill.

It is important to emphasize that the primary objective of bilingual education is to teach children English, while simultaneously providing instruction in core academic subjects in their native language. This approach is designed to prevent a child from falling behind in basic subjects until they acquire English language proficiency and make the transition into an English-only classroom.

The elimination of these essential programs could cause irreparable harm to tens-of-thousands of children and permanently hamper their academic growth by increasing the likelihood that they will lose their self-esteem, interest in academics, and drop out of school.

Our Nation simply cannot afford to waste these young lives and ultimately lose the benefits of their untapped talents. We must protect our children and defeat the Roth amendments.

Mr. GOODLING. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to take a little time, I suppose, to give a history lesson. Having been a history professor at one time, first of all, I want to point out that bilingual education began in the United States in 1839 and included States such as Ohio, Louisiana, and New Mexico, where they taught in several languages because of the diversity of the population. German, French, and Spanish were used for instruction. Then from 1880 to 1917 German instruction was used in Ohio, Minnesota, and Maryland as part of a bilingual education program. In 1908, Mr. Chairman, New York discovered that 13 percent of the 12-year-olds enrolled in New York public schools did not go on to high school. They were children of parents who were not born in the United States. However 32 percent of all other children whose parents were born here did go on to high school.

Mr. Chairman, an individual could drop out of school back in that day and still get a job and still be very much a participant in our society. Unfortunately, or fortunately, at the present time the technology is so great that one positively must compete with a high school education, and it will not be too long until education beyond a high school education will be needed to be functionally literate in our country.

Mr. Chairman, our problem in the past has not been over whether there should be a bilingual education program or not. I led a fight for several years, and then I was joined by the gentleman who is now mayor of Dallas to continue that fight, to indicate that 100 percent of the dollars available for grants should not be only for transitional bilingual—that we should give an opportunity to local areas to determine that is the best approach. All the studies would indicate that no matter which approach is used, whether we use transitional bilingual, whether we use ESL, whether we use immersion, it is usually a 3-to-5-year process to move from the language of one's family and the country from where they came to being fluent in English. Therefore, Congressman BARTLETT and I indicated that we thought that at least a 75- to 25-percent mix should be in order. That was worked out, as I said, with the help of the mayor of Dallas who was a Congressman at that time.

Then, Mr. Chairman, I added language to the legislation before us to add some additional flexibility for local determination. Basically it says, "If you have many children with many languages, and you cannot get certified bilingual educators, you do not have to use transitional bilingual." I am not saying "certified," although I am sure the unions would say "certified," properly prepared people, "you can get a waiver from the secretary."

I think it is important to point out that this is not a mandated program. No one has to participate in this program. Very few people participate in this program.

Last year, for instance, we had about 300,000 students participating in this program—300,000 students out of

43,353,428. Only 300,000 students were participating in this competitive grant program. It is strictly up to a local school district if they want to seek a grant. Most do not, but it is entirely up to the local district whether or not to apply for these funds. Then the grant money is sent out from the secretary's office for that purpose.

When I was growing up in the framing and fruit growing business in my area, Mr. Chairman, of course all the older folks spoke German. When they would come to the packing house to buy their fruit to can, my father could understand what they were saying. My mother could understand and respond.

□ 1600

So we did not lose any customers because somebody in the House understood. I could not do either. We had a mother there who could respond, and we did not lose any customers because she was not able to speak the language that was being spoken. So again, Mr. Chairman, I just make to summarize the history lesson.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. GOODLING] has expired.

(By unanimous consent, Mr. GOODLING was allowed to proceed for 5 additional minutes.)

Mr. GOODLING. Mr. Chairman, I just want to repeat again that this is a competitive grant program, a program that a local district can apply for if they wish, a program that does not only say that they must use transitional bilingual education programs. Twenty-five percent of that money, with some flexibility with this new language, can be used for other methods of teaching limited English proficient. If one came with the first group, for instance, that came from Vietnam, immersion was the way to go because the parents of all those youngsters spoke English. If one was not fortunate enough to be in that wave and, let us say, came in during our most recent immigration and arrived here and did not even have any formal education at all in their own language—and most of our young people coming from many areas at the present time have had no formal education at all, nor did their parents—it makes it very, very difficult to meet that 3-to-5-year transition period, if, as a matter of fact, we totally tried to immerse them.

So again, repeating, it is a competitive grant program. School districts can reject it or accept it. No one is required to participate. Only 300,000 students participated last year out of the 43 million that are in public schools in the United States.

Mr. Chairman, let me yield to the gentleman from Wisconsin [Mr. ROTH], the sponsor of the amendment.

Mr. ROTH. Mr. Chairman, I thank my friend, the gentleman from Pennsylvania, for yielding.

I think it is important to note that once they are in the program it is almost impossible to get out of the program, and it is not only immigrant children that are brought into the program but youngsters born here are brought into the program, too.

Basically, what we are concerned about as the issue here is that we want to keep our Nation as one Nation and one people, and the way we do that is keeping the commonality we have. We are the most diverse people in the world. That is why "The Disuniting of America" and books such as this are being published today, because we are concerned about our country turning into another Canada or another Yugoslavia or other places around the world where they do have all these differences. And we are a Nation that has people from every corner of the globe, every linguistic background, and every cultural background, and we want to keep that unity.

That is why I had before quoted, for example, our great war hero, Everett Alvarez, who talked about bilingual. He said, "No, I am not in favor of bilingual education because it holds my people back."

I had a hearing here on Capitol Hill not only with people with a Spanish background but also immigrants from Hungary, immigrants from the Soviet Union, and, yes, people from Cuba, all of them opposed to bilingual education because it harms their people.

We have, for example, Jose Fabila, who is a successful businessman in Sacramento. He said, "No, I'm very much opposed to bilingual education. Bilingual education is created for political purposes."

This we hear over and over, and if we had a hearing on Capitol Hill and invited some of the business people, the common people right off the street, to appear before our committee, we would find that they are not in favor of this program. For example, Ernesto Ortiz is a foreman on a south Texas ranch, and he said it best, I think, when he said, "Children are taught in Spanish at school so they can become busboys and waiters. I am trying to teach them English at home so they can become doctors and lawyers."

This gentleman understood that the language of opportunity in our country is still the English language. Like someone said, "You know, the reason I want my kids taught in English is because the SAT's are given in English and application forms are in English."

In many of these bilingual education programs they only get 30-to-45 minutes a day at the most in English, and they come out of these schools nonproficient in either language. What we are trying to say is that we want to give these young kids a good education so we can assimilate them into our national culture as quickly as we can, and the way we do that is to bring them in and teach them in English, not in some foreign language.

We are not just talking about Spanish here. In Florida they have to teach them in Mandarin and sometimes in Cantonese and all the other different languages they are required to teach youngsters in. We are saying that is not in the best interest of our country.

I was on a talk show in Canada because of this particular legislation, and I wish all my colleagues cculd have heard the people of Canada talk and what they had to say about what is happening in their country, how the Separatist Party is now the second largest party in Canada, ripping the heart out of that country, and what is going on in various countries around the world because of these linguistic differences.

What we are trying to say is that we want to keep this as one Nation and one people.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

(On request of Mr. FORD of Michigan, and by unanimous consent, Mr. GOODLING was allowed to proceed for 3 additional minutes.)

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield to me?

Mr. GOODLING. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, the gentleman from Wisconsin [Mr. ROTH] just made another misstatement that cannot be left standing with the Members who are watching this from their offices. He said flatly that once they get into bilingual, it is virtually impossible to get out of it.

We fought that battle the last time we reauthorized this legislation with the young gentleman who is now the mayor of a major city in Texas. He was an immersion person, and we finally got around to a compromise and we said that at the end of 3 years of bilingual education the child shall be evaluated to determine whether he needs any more bilingual education, and if he does not, in the opinion of the educators, he is brought out of the program.

It is virtually impossible to stay in the program, not virtually impossible to get out of the program. It is not a permanent educational experience for the child. It is a transition from some language other than English into English. If we want everybody in this country to speak English, we should be supporting this instead of trying to destroy it.

Mr. ROTH. Mr. Chairman, will the gentleman yield?

Mr. GOODLING. I yield to the gentleman from Wisconsin, but I do wish to reserve some time for myself.

Mr. ROTH. Mr. Chairman, the gentleman is obfuscating the amendment again and what is behind the amendment.

These kids are not out in 3 years. Sometimes they are in until the seventh or eighth grade and they are nonproficient in either language. That is why the dropout rate is so high, because of bilingualism.

When this was brought in in 1968, they said it was going to be here because the dropout rate is so high. The dropout rate is higher today than it was in 1968.

Here I have a note from Charles Pacheco, an ex-marine who was born here in the United States. His daughter was placed in the bilingual program, not because she did not speak English but because of her Hispanic name, and he tried to get her out of that class and could not get her out. So we are not going to put kids in there and have you tell me they can take them out right away, because we have heard time and time again that it is impossible to get them out.

Mr. GOODLING. Mr. Chairman, let me just close by indicating that in spite of what we may hear from some national leaders, every immigrant parent wants their child to become proficient in the English language as quickly as they possibly can. That is every parent, because they know it is the ladder of success. As we have heard today, there are many who spoke here today who, because of their ability to go through a bilingual program, became very, very successful.

But again, let me repeat that it is a competitive grant program. Nobody has to accept it. Nobody has to request it. Only 300,000 out of some 40 million students participated in it last year. It does not address whether school districts use their own money and State money to do other things in this area. That is something else. But in this program 300,000 students participated out of 43 million.

□ 1610

Mr. PASTOR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, bilingual education, as you have heard from our distinguished colleague from Pennsylvania and other members before me, is a teaching method, along with other methods such as immersion and transition. They are all teaching methods with one goal: To have the non-English speaking student learn English without falling behind in his core subject studies.

You heard one of my colleagues from California tell you that in Israel only the immersion method is used. He is mistaken. I was in Israel in August to visit bilingual education centers where Ethiopian and Eastern European Jews were being taught Hebrew. They used their native language as a transition into Hebrew; a prime example of bilingualism as a good teaching method.

Mr. Chairman, I am a leader in the Hispanic community. For somebody to insinuate that as a supporter of bilingual education, I am un-American or that I wish to separate non-English speaking persons from this country, or that I seek to create chaos is completely wrong.

Mr. Chairman, this is America. We all should learn how to speak English, because that is the only way that an individual in this country can progress. The people who will tell you that this is a movement of subversion are wrong. Along with immigrant bashing, those who oppose bilingual education are taking the simple objective of teaching English to non-English speaking students, and turning this necessary and just program into some sort of clandestine operation that seeks to over-run this country.

Mr. Chairman, I tell you they are wrong, and that the characterization of this teaching method is completely incorrect.

I took an oath to uphold the law of this country. In no way do I want to do anything to make this a weaker country. I only want to make sure that my children, and all our children, are able to speak English.

Mr. DOOLITTLE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I support the Roth amendment. I think it is unfortunate that it is being portrayed as somehow anti-Hispanic or anti-immigrant. It is nothing of the kind. Indeed, the evidence on this issue seems to suggest that bilingual education has failed to properly teach children English. And when we have such scarce resources, we as a Government ought to be doing those things that work. No other country in the world that I am aware of uses this type of a bilingual education program to teach children the national language. Every other country uses bilingual education to support minority language maintenance.

What needs to occur, I think, is to recognize the data available on this subject. Thomas Sowell in his book "Inside American Education" cited numerous surveys proving that the great majority of Hispanic parents—more than three-fourths of Mexican-American parents and more than four-fifths of Cuban-American parents—are opposed to the teaching of Spanish in the schools at the expense of English. After all, these are the families who want their children to succeed in the U.S.A.

If we want to help these children, which I believe is the motive of all of us here, then we ought to do those things that encourage their learning English the best. I think that this bilingual education program is one that is ineffective and should be discontinued. I thing the Roth amendment is a step in the right direction.

Mr. Chairman, I would be happy to yield the balance of my time to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Chairman, we are talking about teaching methods here. I do appreciate the tenor of the debate we have had so far. As my colleague from California has just suggested, we are not only talking about teaching methods, we are talking about a particular type of teaching method that is a failed teaching method. In fact, many of our colleagues who have been on the floor today supporting bilingual education were actually educated in a nonbilingual education system. In fact, they are giving testimony as to not how important bilingual education is, but instead they have risen before us today in defense of bilingual education. But they themselves are a product of a system that did not have the type of bilingual education system they are advocating today.

In terms of what type of method is used in other countries that has been found to be successful, I would like to differ from my colleague, who stated that Israel has this type of bilingual education system. I have been told by several people who have visited Israel recently that yes, they teach other people who do not speak Hebrew. They teach them to speak Hebrew in their classrooms. They do not, however, have a bilingual education system that teaches non-Hebrew speaking citizens in their own native language. The only languages that are automatic other than Hebrew are courses in how to learn how to speak Hebrew in that particular foreign language.

We have no objection to having classes in the United States teaching people how to speak English. That is not bilingual education. That is not what this debate is about. This debate is about whether we will have a bilingual education system that makes it possible for young people to go through our education process without fully learning the English language.

We believe that the English language should be adopted, not as a punishment, but because we care about young people who are being educated in our system. We know that if they are permitted an easy way out of learning to speak English, that that will be the worst possible condemnation that this society could put on their heads.

The fact is the doorway to economic opportunity, the key to that doorway, is an understanding of English. Every one recognizes that. That is something that is recognized on both sides of the aisle today. What we are coming to now is the debate as to really what is the best method and how can we use our scarce resources in the best possible way to ensure that the young people that come from different lands, that have English as their second language, do become part of the American mainstream and have the opportunity that all other Americans have.

I would suggest to my colleagues on the other side of the aisle, who are well

intended in this, and to my fellow Americans who are listening today or reading this is the CONGRESSIONAL RECORD, that English immersion, making sure that every student is able to speak the English language by not giving that student an easy way out in learning other things without having to learn English, that the best thing we can do for that student is to not give them that easy way out.

The fact is, America is the land of opportunity for those people who have been prepared to take advantage of the opportunity. Learning English is a prerequisite to enjoying the freedom we have here in America. The two things that keep us together as a Nation is the love of liberty and the English language. That permits all of us to take advantage of the opportunities our forefathers and mothers struggled to build in this country.

Mr. Chairman, I would suggest that the bilingual program does not enable students to achieve proficiency in the English language.

Mr. HAYES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I represent a little over 600,000 people, almost three-quarters of whom speak French as their primary language. I am proud to represent them in this great hall of democracy. My hometown is Lafayette, LA. It is named after one of only two gentlemen who are pictured in the People's Hall, a French citizen named the Marquis of Lafayette, who during the Revolutionary period helped his good friend, George Washington, to combine the resources of the two countries and to fight a war for independence against people who spoke impeccable English.

Two centuries before there was a United States or any State, the people were excluded from Nova Scotia by those same folks who spoke impeccable English, because they were Catholic and there was no first amendment, because they spoke a different language. There was no 5th and 14th amendment, and they settled in the bayous of south Louisiana.

Later in the War of 1812, when an American President and an American hero who became President called upon them to march to the plantations of Chalmette, to stand up and fight against a takeover by folks in red coats who spoke impeccable English, they did so. They did so because they understood that the principles of the democracy which had evolved while they were first here was something worth fighting and dying for.

It is also something worth representing the Seventh District of Louisiana for. I should probably pause at this time and ask a parliamentary inquiry. I do not know the precise rules on using a phrase from another language. This, however, is from an American language.

It is a derivation. It is Cajun Catholic. The phrase is "lache pas la patate." I will have it removed from the RECORD, since I am sure it should not have been in in the first place and since I am sure that virtually no one in this Chamber understands one word of it, due to their lack of education.

What it means is, "Don't drop the potato." That is a literal translation. It is a funny expression, but its meaning is so much more important than its literal words. Many of the romance languages have those kinds of idioms.

What it means is, do not concentrate on the wrong thing so that you lose the basic.

In other words, we have a terrible problem in this Nation with illegal aliens. We have stretched resources trying to cover folks who got here against the law. All of those things I support remedial measures, when we have an Immigration bill. And I want more money for Naturalization and Immigration. I want to support the law.

But when you start losing folks like me, who more often than the leadership on this side of the aisle would care, who support propositions from this side of the aisle, then you must be making a mistake.

I suggest what we are doing is dropping the issue, dropping the potato and losing a much, much more important war.

Mr. LEWIS of California. Mr. Chairman, I move to strike the requisite number of words.

I had not intended to speak on this item, but I must say that I was motivated to speak not only by the very sensitive remarks of the previous speaker, my colleague from Louisiana, but because of the inspiration of the presentation made earlier by my colleague, the gentlewoman from Florida [Ms. ROS-LEHTINEN].

The gentlewoman from Florida [Ms. ROS-LEHTINEN] reminds me of some years ago, when a relatively new American, who had come to this country from Latin America, chose to become a schoolteacher as the gentlewoman from Florida did. She, too, had learned her English by way of bilingual experience in southern California, became an educator and, eventually, she was my classroom Spanish teacher, teaching me in my own native tongue—her original native tongue.

One of my frustrations is that the inspiration of that schoolteacher has not pervaded southern California deeply enough. For of all of the parts of the country where we have the potential of developing bilingualism, it is in southern California. Not very long down the line approximately half of our population will be from Latin America.

What a crime it is that we have not taken advantage of that proximity so that we all could read and write and speak English well and read and write and speak Spanish as well.

I remember that Spanish teacher one day, with a twinkle in her eye, this takes me to my colleague from Louisiana, she loved plays on words in Spanish. And the phrase that day was "En la boca cerrada no entran moscas." In English the play on words would suggest that silence is golden. Literally, it says that in closed mouths flies do not enter.

It is also very important around here for us to remember from time to time that we make our point best by being very careful about what we say about the subject that we are advocating. It has been stated many times here on the floor today that there is a horrendous Federal mandate involving bilingual education.

The fact is there is not a Federal mandate. The Bilingual Education Act contains no mandates. It is a voluntary competitive grant program. Title VII requires nothing of any school in the Nation.

Since 1968, the Bilingual Education Act has provided Federal assistance to school districts which operate or wish to start programs for limited-English-proficient students. Under current law and under H.R. 6, schools can apply for grants to start either a bilingual education program or a monolingual English only program for LEP students. There is no Federal mandate of bilingual education programs.

State and local schools implement bilingual programs on their own because they work, not because of the U.S. Congress.

Mr. Chairman, it is very important for us to recognize that in this shrinking world, our opportunity lies with reaching out, understanding better and communicating better with our friends to the south. The most important legislation we have passed, in my mind, since I came to Congress is that which is designed to create a cooperative venture between Canada, Mexico, and the United States that will allow our entire hemisphere to become more competitive in the world marketplace. It will provide jobs and opportunities for all of us, including our children and grandchildren, well into the next century.

Bilingual education is an opportunity. It is not a problem for the American education system.

Mr. TORRES. Mr. Chairman, I move to strike the requisite number of words.

I rise in strong opposition to the Roth amendments to H.R. 6, Improving America's School Act, as it is called.

The Roth amendments would severely weaken and ultimately eliminate title VII, the bilingual education programs of H.R. 6, which were passed by the bipartisan leadership of the Committee on Education and Labor. The Roth amendments would undo a bipartisan initiative with a 26-year history of legislative and classroom success.

It would deprive limited-English-proficient students, who are the fastest

growing group of students in the Nation, of critical educational programs. It would also destroy a national infrastructure designed to cope effectively with the students.

The Roth amendments would consign limited-English-proficient children to an inferior education and a generation of students would be lost, I say lost, in the educational system.

For the first time ever, for the first time ever a bipartisan coalition on the Committee on Education and Labor worked together to pass a comprehensive authorization of title VII. These title VII programs have proven to be the best way to teach children with limited English proficiency and to teach them much-needed English language skills.

I want to emphasize, teach them much-needed English skills. Not Spanish; we are not teaching kids Spanish. We are teaching them English, the language of this Nation.

Children who speak languages other than English can be great resources to the United States in our global economy, as just enunciated by my good colleague, the gentleman from California [Mr. LEWIS].

The gentleman from Pennsylvania [Mr. GOODLING] gave us a good example of his own experiences of growing up in this country, when he said that his mother could understand English but his father could not. And yet the experience that his mother had in understanding English was a good deal for their store, for their business.

My own experience in English was the same, Mr. Chairman. I grew up speaking Spanish as my first language. But I was lucky that my mother and my grandmother spoke English. So they taught me English by teaching me through that first language, Spanish.

By the time I got to grammar school, I knew English. I could read English. The teachers were amazed that I could speak English. This Mexican kid could speak English and read English.

I was taught at home, and the teachers would ask me, "Show the kids how to read English. Tell them about 'See Jack run; see Jane run; watch Spot run.'"

They were amazed that I could do that. One might say that at a very early age I was a teacher's aide.

Mr. Chairman, by teaching English and preserving their native language skills, bilingual education can permit some of our future leaders to retain the skills necessary to negotiate in Mexico in Spanish or with Japan in Japanese or with the Russians in Russian and so on and so on. I want to make this point clear, again, and I do it every time when this senseless type of rhetoric comes before us. We are talking about children. Children who want to learn, who want to learn English. That is what they want to learn.

□ 1630

They want to learn about American history. They want to learn about math and about science and about art, and all that we can teach them.

Without the programs that have been made possible by title XII, limited English-proficient students will not be able to fully appreciate or benefit from education reform. They will be more likely to suffer from high dropout rates, from low rates of academic achievement and disproportionately low rates of placement in gifted and talented programs.

The proliferation of bilingual programs is a testament to the fact that across this country school boards, educators, and parents are more interested in results than in rhetoric. Mr. Chairman, educators and Americans recognize the value bilingual education has in preparing our youth for the 21st century.

Congress, this House, must understand and recognize this important value. It is ludicrous to assert that a multilingual nation will be another Canada or a Yugoslavia, and to intimate that because we know more languages or speak more languages, we will be less Americans. That is ludicrous.

Mr. Chairman, I speak and I have a working knowledge of four languages, English and Spanish and Portuguese and German, and it is because I was able to speak these languages and learn them at an early age that I had opportunities opened up to me in this country. I was an international trade union organizer; I was a U.S. Ambassador to the U.N. system; I am a better Congressman today, and let me tell the Members, I am just as good an American if not a better American than some others who do not know another language.

Mr. MENENDEZ. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let me just say—at this point, Mr. MENENDEZ addressed the House in Spanish.

For those who did not catch that, I simply said that those of you who do not understand what I am saying might not be able to help American businesses compete in many of the world's emerging markets, such as Mexico, under NAFTA.

It is not about Spanish, it is about a diversity of languages and the customs and cultures of doing business worldwide. Chevrolet learned that when they tried to introduce the Chevy Nova in Latin America. If Members know what "Nova" means in Spanish, basically it means "it does not move," it will not go. Imagine marketing a car that simply would not move.

America's diversity is what makes it uniquely qualified to compete in the global economy. Is it not ironic, then, that some of the most ardent boosters of global trade are here on the floor today, trying to cut off that resource, by putting an end to bilingual education?

While the whole world seems to be moving together toward a truly global village, only here in America do we consider moving backward. We consider retreating from our diversity, to imprison ourselves in our monolingualism.

The bilingual education program is one of our most successful, because it makes sense. There is no question that immigrants to the United States are better off once they learn English. When those of limited English proficiency arrive here, they know they need to learn English, and they want to learn English. The fact is that the goal, the purpose, the ends of the bilingual education program is to take a non-English speaking child and have them become fluent in English—while they move along educationally in their other subjects—math, science, and history.

In my own experience, as a former school board member for 5 years, in a school district where the majority of students were from immigrant families, we enjoyed tremendous success.

For example, a young woman who did not understand English went on not only to conquer the language, but to become a valedictorian of her high school, an honor student at Stevens Institute of Technology, and ultimately the valedictorian of the University of Medicine and Dentistry of New Jersey. Today she is a doctor.

Only a bilingual education could have made this possible. Every immigrant needs to learn English. But a successful student needs to learn much, much more.

As each of you will recall from your school days, there was more to school than just English. History, math, and science courses round out a complete education. Imagine now if I were your history teacher, lecturing you, as I began my remarks, in Spanish. How do you think you would fare on your final exam? Do you think you would pass my course? Probably not. But do you consider your knowledge of history deficient? Do you consider yourself incapable of learning history? Of course not. You would have passed the test, had it been in English. But it was not, and now you've got to repeat my class. Unless, of course, you decide to drop out, which is what many students of limited English proficiency end up doing. Not because they were incapable of learning, but because nobody gave them a chance to do it.

Now that we have given many students that chance, and begun opening some doors of opportunity for them, amendments proposed by the gentleman from Wisconsin seek to slam the doors shut.

Bilingual education costs money, that is true. All education costs

money. Putting a student of limited English proficiency through the same classes, taught in a language he does not understand, over and over and over again—costs even more money. It is taxpayer money wasted.

The cost of bilingual education, like the cost of English education, is an investment. Not only an investment in preparing our students to compete in a global economy, but in empowering all students to do their best, and to become productive, successful Americans. Do not shut any child out. Do not shut American business out. Defeat the Roth amendments.

Mr. COLEMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think sometimes in the course of debates like this we have sometimes gotten angry and sometimes not discussed what the real issue is. I think today, instead, we have actually had a fairly serious debate about these amendments offered by our colleague, the gentleman from Wisconsin [Mr. ROTH], and I appreciate them.

I can tell the Members that 21 years ago in my State, in our legislature we had a proposal called bilingual education offered in the State of Texas, and I remember being asked to coauthor it. I asked a lot of questions of the author, a gentleman named Carlos Truan from Corpus Christi, a member of the House at that time, about that legislation and how in the world we would get to the point where we would do what it is that all of us know bilingual education is meant to do, that is to teach a child English, math, reading, writing skills, social studies, geography, all the rest, in a way that educates the child and in fact leaves no one else behind, not the English-speaking child, not the Spanish-speaking child, or others in the class who may have been brought up to speak as a first language a completely different language than the two I just mentioned.

I remember thinking, "This will not be easy," but I coauthored that legislation that year, and I remember going home to my State representative district and hearing from both sides very loudly, sometimes, about how good it was and how bad it was. What I found out, boy, this is the difference between the school districts I represented.

I had several school districts in my legislative district. I thought maybe it is the way it is being administered, but no, I found out that some schools within the district had a very different opinion, as well, about how effective or how bad it was. Then, no, I discovered even more importantly, within the same schoolhouse programs met with great success and others had great problems. The reasons, I found out, were really and truly basically how it was being administered by the teacher in the classroom.

My great fear, I say to my colleague, the gentleman from Wisconsin [Mr. ROTH] about his amendments is simply that I am afraid his amendments attempt to take away some of the very options that school districts now have. Let me say that in terms of both of his amendments, and I know that we are only considering one at present, but I know that probably what I consider the most effective way in which to address the needs of children with limited English proficiency to make a smooth transition into our society, is to allow them to develop those basic skills in areas like math and science and other areas, as well as in writing and reading.

□ 1640

But to do so, we have found, in their native language can be helpful, and a lot of schools and school districts have determined that there are different methods of teaching that help move us along in that direction. Whether it is English immersion known as English Only Program that they think will meet their best local needs or whether or not they believe we should have limited English proficient students' bilingual education programs, English as a second language program, then I think those are decisions that can best be made, quite honestly, even in the classrooms, and I know some school districts do not share that view and a lot of them want to say well, we will mandate, some States have often said we will mandate how it will be done. I think the last thing we ought to do here in Congress is mandate how they ought to be done. I really and truly believe that our goals should be what the gentleman from Wisconsin notes his goal is and that is to see to it that we remain united as a Nation, that we do the very very best we can for all of the students in that classroom.

I happen to think that a bilingual education program that is properly run can properly do that. I do not think that is beyond the realm of our capabilities as a country, as a people, as educators. I happen to believe very strongly that bilingual education programs do work. I can show evidence, as you can show me evidence of the problems along the way, I can show you evidence. We have heard some of it discussed here today that these programs do work, and I think it would be a mistake to cut off funds and try to deny the reality that children who speak a language other than English make up the fastest growing segment of our K through 12 population. and that is a fact.

And I think to simply deny that and attempt to cut off the funds is a mistake. I do not think that is how we get to solve the problems that others have spoken to and alluded to here in the debate on the education bill.

I think what we need to do is maintain the course we have set for ourselves in what I consider to be a very progressive bill on education.

I want to compliment my colleagues, the gentlemen from Michigan, Mr. KILDEE and Mr. FORD, and others on the committee for this legislation.

I would ask my colleagues to defeat the Roth amendment and let us move on to the real issues that confront this Nation, and that is educating our children.

Mr. MORAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, when I began working for the Federal Government I was an auditor and I was assigned to the migrant farm worker program. I went down to the Rio Grande Valley of Texas, with no particular ideological bent, and I was brought in to talk to a leader of the barrios down there. It was a beautiful September day, and this man was smiling, as only a father can look when he is expressing the pride he has in his child. His youngest daughter had started school. All of his other children were in the migrant stream.

The way that it used to work is that the children had to work in the migrant stream, they needed the money, and the fact is they were not welcome in the Texas school system.

We were talking that morning, it was about 10:30, and as we were talking, this little girl came running home. She was crying her eyes out. She was a beautiful little girl, kindergarten, 5 years old. She came into the House, and it was actually kind of a shack. She did not want to tell us what had happened and finally we got it out of her, that in her excitement to show the teacher what she knew, she had burst out a word in Spanish, and at that time the Texas education agency did not allow Spanish to be spoken in the school system, and she had been physically punished on her calves and, in fact, her calves were black and blue. This 5-year-old girl had been beaten because in her excitement to participate in school she had been physically punished for speaking Spanish.

I asked the official of the State education agency what he thought about having bilingual education and teaching a little respect and appreciation for the Spanish culture and he told me, why do they need to learn about burritos and tacos and things like that; that is what the Spanish culture is all about. They do not need that. If they want to get ahead, they need to learn our culture and we are doing the best thing for them.

Mr. Chairman, in the years following, people like Armando Rodriguez and Gil Sanchez, and many people whose names have well been forgotten now, started the bilingual education program and the Texas education agency changed its attitude. And thousands of children have had an opportunity to participate in this society and this

economy because of the value and appreciation of having a bilingual capability, an appreciation for bilingual education in the public school system in Texas, and in fact around the country.

This is an important program. This is part of what America is all about, and this is something we owe to all America's children.

Mr. FILNER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to the Roth amendment. I come to this debate as a classroom teacher for more than 20 years. I come to this debate as a former school board member, and president of the school district in San Diego, CA, which has had as much experience in bilingual education as any school district in this Nation. I have been in hundreds of classrooms, talked to thousands of students and their parents.

This is not a failed educational method. Bilingual education works in San Diego, CA, and all over this Nation.

I have watched the debate for the last hour or so, and the aims of all of my colleagues are the same. The aims are to teach English to children as rapidly as possible.

I have seen bilingual education work in San Diego, I have seen the test results, I have talked with children. It does work.

We cannot let children fall behind in the basic skills of mathematics and social studies while they are learning English. Bilingual education is a way for these students to keep up with those basic skills while learning the English language.

I beg my colleagues in this House not to hurt the children in San Diego and the rest of this Nation. Do not cut this program out. Do not allow bilingual education to fail. It is a working program and we should continue to help these children.

Mr. MINETA. Mr. Chairman, I rise today in strong opposition to the Roth amendment that seeks to eliminate federally supported bilingual education programs.

This amendment would eliminate title VII, the 25-year-old Bilingual Education Act, that reauthorizes bilingual education programs. Title VII grants have helped school districts develop and implement bilingual education programs. Bilingual education is a proven success at teaching students who come to school speaking a language other than English.

As we all know, most funding for education, including bilingual education, comes from State and local governments. The Federal Government has sole jurisdiction over immigration policy; it must share the responsibility to serve the needs of the immigrants that Federal policy allows to enter the United States. Limited English proficient students represent the fastest-growing segment of our school-age population.

In 1990, one of every seven students lived in a home where a language other than English was spoken. The Federal Government should support providing these students the programs they need to develop the language skills to succeed.

I urge my colleagues to vote no on the Roth amendment.

Mr. RICHARDSON. Mr. Chairman, one out of every seven children in America, living in almost every district in this Nation, starts school speaking a language other than English. Through the bilingual education act, these children including Hispanics, Asians, Armenians, Native Americans, and many others, are able to learn and become future teachers, doctors and leaders in our communities. Now, after 25 years of success, bilingual education is being threatened. The Roth amendment will directly take away the only program that gives thousands of innocent children the chance at a good education and a successful future.

This amendment which eliminates bilingual education will severely hinder the ability of teachers and schools to effectively reach the fastest growing segment of the kindergarten through 12th grade population which is minority children. Bilingual education, which has bipartisan support, helps these children improve their English and ensures that they do not fall behind in other essential subjects such as math. Therefore, it is critical that any serious and comprehensive education reform must address the needs of an increasingly diverse student body in our nation's rural, suburban, and urban areas. Striking these programs which have been so successful towards giving our children a quality education is the same as turning our backs to the future of our country. Thousands of students will begin to suffer from language-related educational problems including low academic achievement, low self esteem, and high student drop-rates.

In my own State of New Mexico, one out of every five students is limited-English-proficient. In addition, 41 programs funded under the Bilingual Education Act would lose the chance to assist students towards receiving a quality education—10,000 students in New Mexico alone would be deprived of the bilingual service they now receive and need.

Mr. Chairman, this amendment will not only prevent our students from learning, but it will also imply to children that their native languages and cultures are not worth preserving. One group that will be harmed by the amendment are native Americans. The amendment seeks to revisit a dark chapter in the history of Federal-Indian policy where the Federal Government prohibited Indian children from speaking their native language in school. In the 1800's, this Government took Indian children out of their homes, put them in boarding schools, forbade them for speaking their own language, and severely punished them if they did speak their own language. This policy resulted in the destruction of native cultures and hundreds of native languages. Of the several hundred native languages that once existed in the United States, only 155 are still remembered or spoken today. Many of these languages have fallen out of use. Today, we in Congress recognize the errors of the past and understand the important role that language plays in education. Specifically, Congress has worked to preserve, promote, and protect the rights of native Americans to use, practice and develop their own languages. To eliminate bilingual education would be to relive the mistakes of the past by continuing the destruction of native language culture. Teaching each child the importance of their native culture and history is paramount to any students's ability to not only comprehend the present, but to accept the challenges of the future.

Mr. Chairman, the question is, "do we condemn those children who grow up with a language other than English? Or do we encourage the students and their peers to create a learning environment that is both challenging and expressive. Voting for the Roth amendment will not create a learning environment and is the same as voting against our own children's future. The education of innocent children is at stake, and bilingual education is essential for all children in order to keep our Nation strong. Let's not interfere with what works, and instead enable teachers to do what they do best—teach.

Mr. DOOLEY. Mr. Chairman, I rise today in opposition to the Roth amendment because I believe that bilingual education is an important link in our Nation's public education system. The Bilingual Education Act is the only Federal education program specifically designed to assist State and local education agencies in meeting the needs of limited-English-proficient students.

In California there are more than 1 million limited-English-proficient students attending our schools. The research on bilingual education is clear. Use of both English and the child's native language serves to promote the learning of English, and allows students to achieve in other subjects such as math and science—raising prospects for overall success in school.

I have seen over and over again in my congressional district, the benefits of bilingual education. We merely cripple children's prospects for success and assimilation if we are not willing to acknowledge a language barrier and assist in overcoming it. Bilingual education gives thousands of children in my—and all over the country—the tools to succeed, and the ability to become productive, law-abiding citizens.

For 25 years, we have watched as kids have assimilated into our society with aid of bilingual education. We must not destroy the most important citizenship program that we have in this country today.

Mr. TOWNS. Mr. Chairman, as both a Representative of a highly multicultural district, and as a former educator, I must oppose this amendment offered by my distinguished colleague from Wisconsin. The amendment before us would eliminate the Federal Bilingual Education Program, including funding for materials, staff training, teachers, and aides. It would also prohibit the use of native language instruction. These policies ignore the growing diversity of our student population.

New York City is populated with thousands of immigrants who have greatly enriched our economic and social fabric. Our public school system provides educational services, which include bilingual education programs, to a growing immigrant student population. I find it unconscionable that in this land of milk and honey we would seek to eliminate bilingual education programs, services and/or re-

sources for language minority children. I am saddened that we would seek to weaken and ultimately diminish the Bilingual Education Program by prohibiting the use of the native language for instructional purposes.

This proposal, clearly, offends those of us who endorse the educational goals of preparing our students for this increasingly multicultural world. If we want to provide an education of enrichment of all our children, then we must oppose this amendment. I strongly urge you to vote "no."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin [Mr. ROTH].

The question was taken; and the Chairman announced that noes appeared to have it.

RECORDED VOTE

Mr. ROTH. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 58, noes 334, not voting 46, as follows:

[Roll No. 73]

AYES—58

Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Barrett (NE)
Bartlett
Bentley
Bliley
Bunning
Burton
Callahan
Coble
Collins (GA)
Combest
Crane
DeLay
Dickey
Doolittle
Dreier
Duncan
Everett
Ewing
Fawell
Fields (TX)
Gekas
Goodlatte
Hancock
Hansen
Herger
Hunter
Hutchinson
Johnson, Sam
Kim
King
Kingston
Knollenberg
Linder
Manzullo
McCandless
McMillan
Mica
Myers
Oxley
Packard
Paxon
Petri
Rogers
Rohrabacher
Roth
Royce
Sensenbrenner
Shuster
Smith (OR)
Solomon
Spence
Stump
Taylor (NC)

NOES—334

Abercrombie
Allard
Andrews (NJ)
Andrews (TX)
Applegate
Baesler
Ballenger
Barca
Barcia
Barrett (WI)
Barton
Bateman
Beilenson
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Blute
Boehner
Bonilla
Bonior
Borski
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Crapo
Cunningham
Danner
Darden
de la Garza
de Lugo (VI)
Deal
DeFazio
DeLauro
Dellums
Derrick
Diaz-Balart
Dicks
Dingell
Dixon
Dooley
Dornan
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Emerson
Engel
English
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gilman
Glickman
Gonzalez
Goodling
Gordon
Goss
Green
Greenwood
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastert
Hayes
Hefley
Hefner
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Klug
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Machtley
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCollum
McCrery
McCurdy
McDade
McDermott
McHale
McHugh
McInnis
McKeon
McKinney
McNulty
Menendez
Meyers
Mfume
Michel
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Nadler
Neal (MA)
Neal (NC)
Norton (DC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Roberts
Roemer
Ros-Lehtinen
Rose
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Serrano
Sharp
Shaw
Shays
Shepherd
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (TX)
Snowe
Spratt
Stark
Stearns
Stenholm
Strickland
Studds
Stupak
Swett
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zimmer

NOT VOTING—46

Ackerman
Andrews (ME)
Bacchus (FL)
Barlow
Becerra
Boehlert
Boucher
Buyer
Clay
Cox
Deutsch
Faleomavaega (AS)
Ford (TN)
Fowler
Gallo
Gillmor
Gingrich
Grams
Grandy
Gutierrez
Hamburg
Hastings
Hoke
Johnson, E. B.
Johnston
Lehman
Lowey
McCloskey
Meehan
Meek
Miller (CA)
Murphy
Natcher
Owens
Pelosi
Pickle
Ridge
Romero-Barcelo (PR)
Rostenkowski
Slattery
Stokes
Sundquist
Underwood (GU)
Velazquez
Washington
Zeliff

□ 1718

The Clerk announced the following pair:

On this vote:

Mr. Grams for, with Mr. Deutsch against.

Messrs. SAXTON, KASICH, LANCASTER, TUCKER, McHUGH, and HYDE changed their vote from "aye" to "no."

Mr. KIM changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. GENE GREEN OF TEXAS

Mr. GENE GREEN of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GENE GREEN of Texas: Page 688, line 8, strike "$40,000,000" and insert "$100,000,000".

□ 1720

Mr. GENE GREEN of Texas. Mr. Chairman, this amendment would raise the authorization of the Emergency Immigrant Education Program for fiscal year 1995 from $40 million to $100 million. This amendment, as proposed, would increase the amount to $100 million, however, a compromise has been reached with Republican Members and it is my hope that this amendment is now acceptable to both sides of the aisle.

The Emergency Immigrant Education Program provides funding to States who have been paying the cost of education for children of recent immigrants to this country. These children often are more costly to educate since they often have special needs and this program offers a moderate amount of Federal assistance to recognize the Federal Government's responsibility to compensate States for the costs associated with our Federal immigration policy.

We are asking for an increase in authorized amount because the program has not kept pace with the steady increase in the number of immigrant children in our schools. As you may be aware, States such as Texas and California have recently begun legal action against the Federal Government in order to recover the costs associated with immigration. This program addresses part of those costs and is supported by both Gov. Pete Wilson and Gov. Ann Richards.

Passing this amendment will send a strong message to the States that the Federal Government can and will accept responsibility for its actions. It is our Federal immigration policy that causes much of the burden on our public schools and this amendment will help those States who have thus far been bearing a greater share of this burden.

I urge my colleagues to accept this amendment and give our States the resources they need to provide education services to all children.

Mr. SHAW. Mr. Chairman, will the gentleman yield?

Mr. GENE GREEN of Texas. I yield to the gentleman from Florida.

Mr. SHAW. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, this is a tremendously important amendment. I compliment the gentleman for offering it, the gentleman from Florida [Mr. JOHNSTON], as well as the gentleman from California [Mr. MILLER], who have done a wonderful job in pushing this amendment forward.

In my home State of Florida over the last 5 years we have expended almost $1 billion on the program of educating newcomers to our State. It is a terrible burden upon the States who are impacted tremendously by people coming from offshore the United States.

Mr. Chairman, this is a responsibility of the Federal Government. The States have no control over who is admitted to the schools or who is even admitted to our shores. This is clearly a tremendous responsibility.

Mr. Chairman, I compliment the gentleman for this amendment, and urge its approval.

Mr. GOSS. Mr. Chairman, I commend my colleague and good friend from Florida, HARRY JOHNSTON, for his hard work in seeking to assist Florida and other highly impacted States in recouping resources strained by immigration—both legal and illegal. Because of its rapid growth, which routinely outpaces the census, Florida is a donor State in many of the Federal funding formulas. Add to that our border location and the wonderful quality of life and opportunities we offer, and you begin to understand the root of our problem with immigration. The social costs associated with immigration should be a matter of Federal policy and should be addressed by Federal solutions. Yet Florida is spending hundreds of millions of dollars on her own—without nearly the support from the Federal Government that is needed. Of course I support any measure designed to pay back those dollars. And I think that is the intention of this amendment, which is specifically designed to help States cope with the costs of providing emergency education for immigrants.

At the same time, however, I recognize the inherent problem with making more resources available for immigrant services—and that is the magnet effect. America is viewed by millions around the world as the land of opportunity, a place where dreams come true through employment, health care, and education. If we continue to expand the authorization for services every time more people seek to avail themselves of those services, we will embark on an indefinite and unsustainable spiral. Given our precarious Federal budget situation, we cannot keep increasing funding every time we have an increase in the numbers of refugees and immigrants seeking entry into this country. So my concern with this amendment is that it will be viewed and implemented as a new authorization, a new baseline level for future services that will act as a magnet for ever increased immigration—rather than a payback for the costs already incurred by the States.

Ms. THURMAN. Mr. Chairman, I rise in strong support of the Green/Johnston amendment to increase Emergency Immigrant Education Act funding to $100 million dollars.

Today, there are 700,000 immigrant students in the United States that qualify for support under the E.I.E.A.

At a funding level of $40 million dollars, only 460,000 students can receive support. Even among those served, the amount of aid per student does not come close to covering actual costs. Local school systems are being forced to absorb the difference.

Increasing the E.I.E.A. allotment to $100 million is an important first step, but only part of the solution. the distribution formula itself also needs to be reformed.

Mr. Chairman, Floridians are very generous people, but they simply cannot continue to carry the financial burden of our Nation's immigration policies.

About 150,000 foreign born students, both legal and illegal immigrants, are costing Florida $975 million each year. This is money that won't be available to improve health care, build parks, expand prison space, or make roads safer. These are all legitimate State responsibilities that are being shortchanged because of Federal immigration policies.

The U.S. Supreme Court has ruled that all students, regardless of legal status, are entitled to a public education. I say it is about time that the Federal Government help States like Florida and others that have the largest number of immigrant students.

AMENDMENT OFFERED BY MR. GOODLING TO THE AMENDMENT OFFERED BY MR. GENE GREEN OF TEXAS

Mr. GOODLING. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. GOODLING to the amendment offered by Mr. GENE GREEN of Texas:

In the amendment made to page 688, line 8, strike "$100,000,000" and insert "$75,000,000".

Mr. GOODLING (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. GOODLING. Mr. Chairman, I have said many times that I am very thankful that I was the superintendent of Spring Grove Schools and not the superintendent of Dade County Schools. Every morning he must wonder how many hundred new students he has and where he is going to get the funds in order to finance their education. Until we do something out of the proper committee in relation to immigration, we certainly have a responsibility to help the local districts with those students who are coming into their districts from other countries.

Mr. Chairman, what I do not agree with is that we would move immediately from an authorization level of $40 million to an authorization level of $100 million. I realize we are up against the $40 million figure and the ceiling must be raised. My amendment says that we will move from the $40 million authorization level to an authorization level of $75 million, rather than $100 million.

Mr. KILDEE. Mr. Chairman, will the gentleman yield?

Mr. GOODLING. I yield to my chairman, the gentleman from Michigan.

Mr. KILDEE. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I think this amendment to the amendment is reasonable. It moves us along the road, and I would urge its adoption.

Mr. GENE GREEN of Texas. Mr. Chairman, will the gentleman yield?

Mr. GOODLING. I yield to the gentleman from Texas.

Mr. GENE GREEN of Texas. Mr. Chairman, like the chairman of my committee, I also think this amendment is acceptable and is a good compromise. We worked this out to provide that funding for the children.

Mr. CONDIT. Mr. Chairman, will the gentleman yield?

Mr. GOODLING. I yield to the gentleman from California.

Mr. CONDIT. Mr. Chairman, I rise today in support of the Miller-Johnston amendment to increase the fiscal year 1995 authorization level for the emergency immigrant education program from $40 to $100 million.

The Federal Government implements and enforces immigration policy. It is our responsibility. Yet State and local governments have shouldered much of the financial burden of providing services to illegal and legal immigrants, particularly in the areas of education, health, and criminal justice. While illegal immigrants do contribute tax dollars, most of this money goes to the Federal Treasury.

Federal immigration policy is nothing short of an unfunded mandate on local and State governments. The Federal Government sets the numbers that are allowed in legally and has basically failed in keeping individuals from entering illegally. The education, health, and welfare costs of these individuals—required by Federal law—are left to cities, counties, and States. This is simply unfair.

This amendment is a first step in coming to terms with the enormous costs incurred by local and State governments in the area of education. Quite frankly, it is not enough. There are currently 700,000 students in the United States that qualify for support under this program. Only 460,000 students can receive support at a funding level of $40 million. The Federal Government has a responsibility to fully reimburse local and State governments for all costs associated with immigration.

Many of my colleagues who do not come from immigration-impacted States may ask, why should the Federal Government pay for these programs, especially when the Federal Government has an enormous debt? Immigration is a Federal responsibility and immigration-related costs should therefore be a Federal fiscal priority. State and local governments are experiencing dramatic budgetary shortfalls, and are being forced to cut vital

services, even in the face of growing populations. Crucial State and local responsibilities are being compromised by Federal immigration policy.

Mr. Chairman, I firmly believe that the Federal Government has an obligation to fully reimburse State and local governments for the costs of illegal immigration. I also believe that we need to make corresponding cuts in the budget in order to fully pay for this reimbursement. It is the right and the fiscally responsible action to take.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. GOODLING] to the amendment offered by the gentleman from Texas [Mr. GENE GREEN].

The amendment to the amendment was agreed to.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Texas [Mr. GENE GREEN], as amended.

The amendment, as amended, was agreed to.

The CHAIRMAN pro tempore. Are there other amendments to title VII?

If not, the Clerk will designate title VIII.

The text of title VIII, as modified, is as follows:

"TITLE VIII—IMPACT AID

"SEC. 8001. FINDINGS.

"The Congress finds that—

"(1) certain activities of the Federal Government place a financial burden on the local educational agencies serving areas where such activities are carried out; and

"(2) it is the shared responsibility of the Federal Government, the States, and local educational agencies to provide for the education of children connected to those activities.

"SEC. 8002. PURPOSE.

"In order to fulfill the Federal responsibility to assist with the provision of educational services to federally connected children, and to help them meet challenging State standards, it is the purpose of this title to provide financial assistance to local educational agencies that—

"(1) experience a substantial and continuing financial burden due to the acquisition of real property by the United States;

"(2) educate children who reside on Federal property and whose parents are employed on Federal property;

"(3) educate children of parents who are in the military services and children who live in low-rent housing;

"(4) experience sudden and substantial increases in enrollments because of military realignments; or

"(5) need special assistance with capital expenditures for construction activities because of the enrollments of substantial numbers of children who reside on Indian lands or who are defined in sections 2 and 3 of the Act of September 23, 1950 (Public Law 815, 81st Congress; 20 U.S.C. 631 et seq.).

"SEC. 8003. PAYMENTS RELATING TO FEDERAL ACQUISITION OF REAL PROPERTY.

"(a) IN GENERAL.—Where the Secretary, after consultation with any local educational agency and with the appropriate State educational agency, determines for a fiscal year ending prior to October 1, 1999—

"(1) that the United States owns Federal property in the local educational agency, and that such property—

"(A) has been acquired by the United States since 1938;

"(B) was not acquired by exchange for other Federal property in the local educational agency which the United States owned before 1939; and

"(C) had an assessed value (determined as of the time or times when so acquired) aggregating 10 percent or more of the assessed value of all real property in the local educational agency (similarly determined as of the time or times when such Federal property was so acquired);

"(2) that the ownership by the United States of such Federal property places a substantial and continuing financial burden on such agency; and

"(3) that such agency is not being substantially compensated for the loss in revenue resulting from such ownership by increases in revenue accruing to the agency from the conduct of Federal activities with respect to such Federal property,

then such agency shall be entitled to receive for such fiscal year such amount as, in the judgment of the Secretary, is equal to the continuing Federal responsibility for the additional financial burden with respect to current expenditures placed on such agency by the ownership of such Federal property.

"(b) AMOUNT.—

"(1) IN GENERAL.—The amount to which a local educational agency is entitled to receive under subsection (a) for a fiscal year—

"(A) shall not exceed—

"(i) the amount which, in the judgment of the Secretary, such agency would have derived in such year, and would have had available for current expenditures, from the property acquired by the United States; and

"(ii) the amount which is equal to the difference of—

"(I) the maximum amount that such agency is eligible to receive for such fiscal year under section 8004(b)(1)(C); and

"(II) the amount that such agency receives in such fiscal year under section 8004(b)(2); and

"(B) shall be reduced by the Secretary by an amount equal to the amount of revenue, if any, that such agency received from activities conducted on such property during the previous year.

"(2) APPLICATION OF CURRENT LEVIED REAL PROPERTY TAX RATE.—In making a determination of the amount that would have been derived in such year under paragraph (1)(A)(i), the Secretary shall apply the current levied real property tax rate for current expenditures levied by fiscally independent local educational agencies or imputed, for fiscally dependent local educational agencies, to the current annually determined aggregate assessed value of such acquired Federal property.

"(3) DETERMINATION OF AGGREGATE ASSESSED VALUE.—Such aggregate assessed value of such acquired Federal property shall be determined (on the basis of the highest and best use of property adjacent to such acquired Federal property as of the time such value is determined), and provided to the Secretary, by the local official responsible for assessing the value of real property located in the jurisdiction of such local educational agency for the purpose of levying a property tax.

"(c) APPLICABILITY TO TENNESSEE VALLEY AUTHORITY ACT.—For the purposes of this section, any real property with respect to which payments are being made under section 13 of the Tennessee Valley Authority Act of 1933 shall not be regarded as Federal property.

"(d) OWNERSHIP BY UNITED STATES.—The United States shall be deemed to own Federal property for the purposes of this Act, where—

"(1) prior to the transfer of Federal property, the United States owned Federal property meeting the requirements of subparagraphs (A), (B), and (C) of subsection (a)(1); and

"(2) the United States transfers a portion of the property referred to in paragraph (1) to another nontaxable entity, and the United States—

"(A) restricts some or any construction on such property;

"(B) requires that the property be used in perpetuity for the public purposes for which it was conveyed;

"(C) requires the grantee of the property to report to the Federal government (or its agent) containing information on the use of the property;

"(D) except with the approval of the Federal government (or its agent), prohibits the sale, lease, assignment, or other disposal of the property unless such sale, lease, assignment, or other disposal is to another eligible government agency; and

"(E) reserves to the Federal government a right of reversion at any time the Federal government (or its agent) deems it necessary for the national defense.

"SEC. 8004. PAYMENTS FOR ELIGIBLE FEDERALLY CONNECTED CHILDREN.

"(a) COMPUTATION OF PAYMENT.—

"(1) IN GENERAL.—For the purpose of computing the amount that a local educational agency is eligible to receive under subsection (b) or (f) for any fiscal year, the Secretary shall determine the number of children who were in average daily attendance in the schools of such agency, and for whom such agency provided free public education, during the preceding school year and who, while in attendance at such schools—

"(A) resided on Federal property and had a parent employed on Federal property situated in whole or in part within the boundaries of the school district of such agency;

"(B) resided on Federal property and had a parent on active duty in the uniformed services (as defined in section 101 of title 37, United States Code);

"(C) resided on Indian lands;

"(D) had a parent on active duty in the uniformed services (as defined by section 101 of title 37, United States Code) but did not reside on Federal property; or

"(E) resided in low-rent housing.

"(2) DETERMINATION OF WEIGHTED STUDENT UNITS.—For purposes of computing the basic support payment under subsection (b), the Secretary shall calculate the total number of weighted student units for a local educational agency by adding together the results obtained by the following computations:

"(A) Multiply the number of children described in subparagraphs (A) and (B) of paragraph (1) who are not eligible to receive services under the Individuals With Disabilities Education Act (20 U.S.C. 1400 et seq.) by a factor of 1.0.

"(B) Multiply the number of children described in subparagraphs (A) and (B) of paragraph (1) who are eligible to receive services under such Act by a factor of 1.50.

"(C) Multiply the number of children described in paragraph (1)(C) who are not eligible to receive services under such Act by a factor of 1.25.

"(D) Multiply the number of children described in paragraph (1)(C) who are eligible to receive services under such Act by a factor of 1.825.

"(E) Multiply the number of children described in subparagraphs (D) and (E) of paragraph (1) who are not eligible to receive services under such Act by a factor of .25.

"(F) Multiply the number of children described in subparagraphs (D) and (E) of paragraph (1) who are eligible to receive services under such Act by a factor of .375.

"(b) BASIC SUPPORT PAYMENTS AND PAYMENTS WITH RESPECT TO FISCAL YEARS IN WHICH INSUFFICIENT FUNDS ARE APPROPRIATED.—

"(1) BASIC SUPPORT PAYMENTS.—

"(A) IN GENERAL.—From the amount appropriated under section 8013(b) for a fiscal year, the Secretary is authorized to make basic support payments to eligible local educational agencies with children described under subsection (a).

"(B) ELIGIBILITY.—A local educational agency shall be entitled to receive a basic support payment under subparagraph (A) for a fiscal year with respect to a number of children determined under subsection (a) only if the number of children so determined with respect to such agency amounts to the lesser of—

"(i) at least 400 such children, or

"(ii) a number of such children which equals at least 3 percent of the total number of children who were in average daily attendance, during such year, at the schools of such agency and for whom such agency provided free public education.

"(C) MAXIMUM AMOUNT.—The maximum amount that a local educational agency is eligible to receive under this subsection for any fiscal year is the sum of the total weighted student units, as computed under subsection (a)(2), multiplied by—

"(i) the greater of—

"(I) one-half of the average per pupil expenditure of the State in which the local educational agency is located, or

"(II) one-half of the average per pupil expenditures of all of the States, or

"(ii) the comparable local contribution rate certified by the State, as determined under regulations prescribed to carry out the Act of September 30, 1950 (Public Law 874, 81st Congress), as in effect on January 1, 1994.

"(2) PAYMENTS WITH RESPECT TO FISCAL YEARS IN WHICH INSUFFICIENT FUNDS ARE APPROPRIATED.—

"(A) IN GENERAL.—For any fiscal year in which the sums appropriated under section 8013(b) are insufficient to pay to each local educational agency the full amount computed under paragraph (1), the Secretary shall make payments based upon the provisions of this paragraph.

"(B) LEARNING OPPORTUNITY THRESHOLD PAYMENTS.—For fiscal years described in subparagraph (A), the Secretary shall compute a learning opportunity threshold payment (hereinafter 'threshold payment') by multiplying the amount obtained under paragraph (1)(C) by the total percentage obtained by adding—

"(i) the percentage of federally connected children for each local educational agency determined by calculating the fraction, the numerator of which is the total number of children described under subsection (a)(1) and the denominator of which is the total number of children in average daily attendance at the schools served by such agency; and

"(ii) the percentage that funds under this paragraph represent of the total budget of the local educational agency, determined by calculating the fraction, the numerator of which is the total amount of funds calculated for each educational agency under this paragraph, and the denominator of which is the total current expenditures for such agency.

"(C) RATABLE DISTRIBUTION.—For fiscal years described in subparagraph (A), the Secretary shall make payments as a ratable distribution based upon the computation made under subparagraph (B).

"(c) PRIOR YEAR DATA.—All calculations under this title shall be based upon data for each local educational agency from the fiscal year preceding the fiscal year for which the agency is making application for payment.

"(d) USE OF FUNDS FOR CHILDREN WITH DISABILITIES.—The local educational agency shall use an amount equal to the amount of funds generated by the factors in subparagraphs (B), (D), and (F) of subsection (a)(2) which are in excess of the factor of 1.0 applied to the amount of payments generated for each fiscal year applicable to the weighted student unit factor of 1.0 to provide a free appropriate public education to children described in subsection (a)(2), in accordance with part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.).

"(e) HOLD-HARMLESS AMOUNTS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this section, the total amount that the Secretary shall pay to a local educational agency under subsections (b) and (f)—

"(A) for fiscal year 1995, shall not be less than 80 percent of the payment such agency received for fiscal year 1994 under section 3(a) of the Act of September 30, 1950 (Public Law 81–874, 81st Congress), as in effect for fiscal year 1994;

"(B) for fiscal year 1996, shall not be less than 60 percent of such payment received for fiscal year 1994; and

"(C) for fiscal year 1997, shall not be less than 40 percent of such payment received for fiscal year 1994.

"(2) REDUCTION IN PAYMENTS.—In order to make payments to local educational agencies in accordance with paragraph (1), the Secretary shall reduce payments to other local educational agencies determined under subsection (b).

"(f) SUPPLEMENTAL ASSISTANCE.—

"(1) RESERVATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), from amounts appropriated under section 8013(b) for a fiscal year, the Secretary shall reserve not less than 6 percent to provide supplemental assistance to meet special circumstances relating to the provision of education in local educational agencies eligible to receive assistance under this section.

"(B) RESERVATION IN FISCAL YEARS WHEN AMOUNTS FROM PRIOR FISCAL YEAR RESERVATIONS AVAILABLE.—With respect to a fiscal year in which amounts are available from a reservation made by the Secretary under subparagraph (A) for a prior fiscal year, the Secretary shall, from amounts appropriated under section 8013(b) for the current fiscal year, reserve an amount which, when added to the amount available from such prior fiscal year reservation, equals not less than 6 percent of amounts appropriated under such section for such current fiscal year.

"(C) AVAILABILITY.—Amounts reserved under subparagraph (A) are authorized to remain available until expended.

"(2) ELIGIBILITY.—

"(A) IN GENERAL.—A local educational agency shall be eligible to receive supplemental assistance under this subsection only if such agency—

"(i)(I) has an enrollment of federally connected children described in subsection (a)(1) which constitutes at least 40 percent of the total student enrollment of such agency; and

"(II) has a tax rate for general fund purposes which is at least 95 percent of the average tax rate for general fund purposes (before any State mandated tax rate reductions) of all local educational agencies in the State;

"(ii)(I) has an enrollment of federally connected children described in subsection (a)(1) which constitutes at least 35 percent of the total student enrollment of such agency; and

"(II) has a tax rate for general fund purposes which is at least 125 percent of the average tax rate for general fund purposes (before any State mandated tax rate reductions) of all local educational agencies in the State; or

"(iii) is a local education agency whose boundaries are the same as a Federal military installation or includes Federal property under exclusive Federal jurisdiction.

"(B) SPECIAL RULE.—If a local educational agency receives assistance under this subsection for 3 consecutive fiscal years because such agency satisfied the requirements of clause (i) or (ii) of subparagraph (A), then such agency shall be deemed to meet such requirements with respect to assistance under this subsection for each consecutive succeeding fiscal year in which such agency applies for assistance under this subsection.

"(C) EXCLUSION OF REMAINING CASH BALANCES.—In determining eligibility under this paragraph, the Secretary shall exclude any cash balances of the local educational agency remaining at the end of the school year as allowed by State law.

"(3) CURRENT YEAR DATA.—Notwithstanding subsection (c), the Secretary shall, for purposes of providing assistance under this subsection (or section 3(d)(2)(B) of the Act of September 30, 1950 (Public Law 81–874, 81st Congress), as in effect on October 1, 1993), use—

"(A) data from the fiscal year in which the local educational agency is applying for assistance under this subsection; or

"(B) the most recent data available which is adjusted to such fiscal year.

"(4) APPLICATION PROCEDURES.—The Secretary shall prescribe regulations establishing procedures for the application for assistance by a local educational agency under this subsection.

"(5) PROHIBITION ON STATE RESTRICTIONS WITH RESPECT TO ASSISTANCE.—A State shall not restrict the ability of a local educational agency to use assistance received by such agency under this subsection.

"(6) PROHIBITION ON CONSIDERATION OF ASSISTANCE IN STATE AID CALCULATION.—Notwithstanding section 8009(b), a State shall not take into consideration any assistance received under this subsection in determining a State aid calculation for a local educational agency.

"SEC. 8005. POLICIES AND PROCEDURES RELATING TO CHILDREN RESIDING ON INDIAN LANDS.

"(a) IN GENERAL.—A local educational agency that claims children residing on Indian lands for the purpose of receiving funds under section 8004 shall establish policies and procedures to ensure that—

"(1) such children participate in programs and activities supported by such funds on an equal basis with all other children;

"(2) parents of such children and Indian tribes are afforded an opportunity to present their views on such programs and activities, including an opportunity to make recommendations on the needs of those children and how they may help those children realize the benefits of those programs and activities;

"(3) parents and Indian tribes are consulted and involved in planning and developing such programs and activities;

"(4) relevant applications, evaluations, and program plans are disseminated to the parents and Indian tribes; and

"(5) parents and Indian tribes are afforded an opportunity to present their views on the agency's general educational program to such agency.

"(b) RECORDS.—A local educational agency that claims children residing on Indian lands for the purpose of receiving funds under section 8004 shall maintain records demonstrating its compliance with requirements contained in subsection (a).

"(c) WAIVER.—A local educational agency that claims children residing on Indian lands for the purpose of receiving funds under section 8004 is excused from the requirements contained in subsections (a) and (b) for any year with re-

spect to any Indian tribe from which it has received a written statement that the agency need not comply with those subsections because the tribe is satisfied with the provision of educational services by such agency to such children.

"(d) TECHNICAL ASSISTANCE AND ENFORCEMENT.—The Secretary shall—

"(1) provide technical assistance to local educational agencies, parents, and Indian tribes to enable them to carry out this section; and

"(2) enforce this section through such actions, which may include the withholding of funds, as the Secretary determines to be appropriate, after affording the affected local educational agency, parents, and Indian tribe an opportunity to present their views.

"SEC. 8006. APPLICATION FOR PAYMENTS UNDER SECTIONS 8003 AND 8004.

"(a) IN GENERAL.—A local educational agency desiring to receive a payment under section 8003 or 8004 shall—

"(1) submit an application for such payment to the Secretary; and

"(2) provide a copy of such application to the State educational agency.

"(b) CONTENTS.—Each such application shall be submitted in such form and manner, and shall contain such information, as the Secretary may require, including—

"(1) information to determine the eligibility of the local educational agency for a payment and the amount of such payment; and

"(2) where applicable, an assurance that such agency is in compliance with section 8005 (relating to children residing on Indian lands).

"(c) DEADLINE FOR SUBMISSION.—The Secretary shall establish deadlines for the submission of applications under this section.

"(d) APPROVAL.—

"(1) IN GENERAL.—The Secretary shall approve an application submitted under this section that—

"(A) is filed by the deadline established under subsection (c); and

"(B) otherwise meets the requirements of this title.

"(2) REDUCTION IN PAYMENT.—The Secretary shall approve an application filed up to 60 days after a deadline established under subsection (c) that otherwise meets the requirements of this title, except that, notwithstanding section 8004(e), the Secretary shall reduce the payment based on such late application by 10 percent of the amount that would otherwise be paid.

"(3) LATE APPLICATIONS.—The Secretary shall not accept or approve any application that is filed more than 60 days after a deadline established under subsection (c).

"SEC. 8007. PAYMENTS FOR SUDDEN AND SUBSTANTIAL INCREASES IN ATTENDANCE OF MILITARY DEPENDENTS.

"(a) ELIGIBILITY.—A local educational agency is eligible for a payment under this section if—

"(1) the number of children in average daily attendance during the current school year is at least ten percent or 100 more than the number of children in average daily attendance in the preceding school year; and

"(2) the number of children in average daily attendance with a parent on active duty (as defined in section 101(18) of title 37, United States Code) in the Armed Forces who are in attendance at such agency because of the assignment of their parent to a new duty station between July 1 and September 30, inclusive, of the current year, as certified by an appropriate local official of the Department of Defense, is at least ten percent or 100 more than the number of children in average daily attendance in the preceding school year.

"(b) APPLICATION.—A local educational agency that wishes to receive a payment under this section shall file an application with the Secretary by October 15 of the current school year, in such manner and containing such information as the Secretary may prescribe, including information demonstrating that it is eligible for such a payment.

"(c) CHILDREN TO BE COUNTED.—For each eligible local educational agency that applies for a payment under this section, the Secretary shall determine the lesser of—

"(1) the increase in the number of children in average daily attendance from the preceding year; and

"(2) the number of children described in subsection (a)(2).

"(d) PAYMENTS.—From the amount appropriated for a fiscal year under section 8013(c), the Secretary shall pay each local educational agency with an approved application an amount, not to exceed $200 per eligible child, equal to—

"(1) the amount available to carry out this section, including any funds carried over from prior years, divided by the number of children determined under subsection (c) for all such local educational agencies; multiplied by

"(2) the number of such children determined for that local educational agency.

"(e) NOTIFICATION PROCESS.—

"(1) ESTABLISHMENT.—The Secretary shall endeavor to establish, with the Secretary of Defense, a notification process relating to the closure of Department of Defense facilities, or the adjustment of personnel levels assigned to such facilities, which may substantially affect the student enrollment levels of local educational agencies which receive or may receive payments under this title.

"(2) INFORMATION.—Such process shall provide timely information regarding such closures and such adjustments—

"(A) by the Secretary of Defense to the Secretary; and

"(B) by the Secretary to the affected local educational agencies.

"SEC. 8008. FACILITIES.

"(a) CURRENT FACILITIES.—From the amount appropriated for any fiscal year under section 8013(e), the Secretary may continue to provide assistance for school facilities that were supported by the Secretary under section 10 of the Act of September 23, 1950 (Public Law 815, 81st Congress; 20 U.S.C. 640) as in effect prior to the date of the enactment of the Improving America's Schools Act of 1994.

"(b) TRANSFER OF FACILITIES.—

"(1) IN GENERAL.—The Secretary shall, as soon as practicable, transfer to the appropriate local educational agency or another appropriate entity all the right, title, and interest of the United States in and to each facility provided under section 10 of the Act of September 23, 1950 (Public Law 815, 81st Congress; 20 U.S.C. 640), or under section 204 or 310 of the Act of September 30, 1950 (Public Law 874, 81st Congress), as in effect on January 1, 1958.

"(2) OTHER REQUIREMENTS.—Any such transfer shall be without charge to such agency or entity, and prior to such transfer, the transfer must be consented to by the local education agency or other appropriate entity, and may be made on such terms and conditions as the Secretary deems appropriate to carry out the purposes of this Act.

"SEC. 8009. STATE CONSIDERATION OF PAYMENTS IN PROVIDING STATE AID.

"(a) GENERAL PROHIBITION.—Except as provided in subsection (b), a State may not—

"(1) consider payments under this title or under the Act of September 30, 1950 (Public Law 874, 81st Congress) in determining for any fiscal year—

"(A) the eligibility of a local educational agency for State aid for free public education; or

"(B) the amount of such aid; or

"(2) make such aid available to local educational agencies in a manner that results in less State aid to any local educational agency that is eligible for such payment than it would receive if it were not so eligible.

"(b) STATE EQUALIZATION PLANS.—

"(1) IN GENERAL.—A State may reduce State aid to a local educational agency that receives a payment under section 8004 or under the Act of September 30, 1950 (Public Law 874, 81st Congress) as such Act existed prior to the enactment of the Improving America's Schools Act of 1994 (other than a payment under section 2 or an increase in payments described in paragraphs (2)(B), (2)(C), (2)(D), or (3)(B)(ii) of section 3(d)) for any fiscal year if the Secretary determines, and certifies under subsection (c)(3)(A), that such State has in effect a program of State aid that equalizes expenditures for free public education among local educational agencies in such State.

"(2) COMPUTATION.—

"(A) IN GENERAL.—For purposes of paragraph (1), a program of State aid equalizes expenditures among local educational agencies if, in the second preceding fiscal year, the amount of per-pupil expenditures made by, or per-pupil revenues available to, the local educational agency in the State with the highest such per-pupil expenditures or revenues did not exceed the amount of such per-pupil expenditures made by, or per-pupil revenues available to, the local educational agency in the State with the lowest such expenditures or revenues by more than 10 percent.

"(B) OTHER FACTORS.—In making a determination under this subsection, the Secretary shall—

"(i) disregard local educational agencies with per-pupil expenditures or revenues above the 95th percentile or below the 5th percentile of such expenditures or revenues in the State; and

"(ii) take into account the extent to which a program of State aid reflects the additional cost of providing free public education in particular types of local educational agencies, such as those that are geographically isolated, or to particular types of students, such as children with disabilities.

"(3) EXCEPTION.—Notwithstanding paragraph (2), if the Secretary determines that the State has substantially revised its program of State aid, the Secretary may certify such program for any fiscal year only if—

"(A) the Secretary determines, on the basis of projected data, that the State's program will meet the 10 percent disparity standard described in paragraph (2) in that fiscal year; and

"(B) the State provides an assurance to the Secretary that, if final data do not demonstrate that the State's program met such standard for that year (or that it met such standard with a greater percentage of disparity than anticipated), the State will pay to each affected local educational agency the amount by which it reduced State aid to the local educational agency on the basis of such certification, or a proportionate share thereof, as the case may be.

"(c) PROCEDURES FOR REVIEW OF STATE EQUALIZATION PLANS.—

"(1) WRITTEN NOTICE.—

"(A) IN GENERAL.—Any State that wishes to consider payments described in subsection (b)(1) in providing State aid to local educational agencies shall submit to the Secretary, not later than 120 days before the beginning of the State's fiscal year, a written notice of its intention to do so.

"(B) CONTENTS.—Such notice shall be in the form and contain the information the Secretary requires, including evidence that the State has notified each local educational agency in the State of its intention to consider such payments in providing State aid.

"(2) OPPORTUNITY TO PRESENT VIEWS.—Before making a determination under subsection (b), the Secretary shall afford the State, and local educational agencies in the State, an opportunity to present their views.

"(3) QUALIFICATION PROCEDURES.—If the Secretary determines that a program of State aid qualifies under subsection (b), the Secretary shall—

"(A) certify the program and so notify the State; and

"(B) afford an opportunity for a hearing, in accordance with section 8011(a), to any local educational agency adversely affected by such certification.

"(4) NON-QUALIFICATION PROCEDURES.—If the Secretary determines that a program of State aid does not qualify under subsection (b), the Secretary shall—

"(A) so notify the State; and

"(B) afford an opportunity for a hearing, in accordance with section 8011(a), to the State, and to any local educational agency adversely affected by such determination.

"(d) REDUCTIONS OF STATE AID.—

"(1) IN GENERAL.—A State whose program of State aid has been certified by the Secretary under subsection (c)(3) may reduce the amount of such aid provided to a local educational agency that receives a payment described in subsection (b)(1) by any amount up to—

"(A) the amount of such payment; multiplied by

"(B) 100 percent minus the percentage of disparity determined under subsection (b).

"(2) PROHIBITION.—A State may not make a reduction described in paragraph (1) before its program of State aid has been certified by the Secretary under subsection (c)(3).

"(e) REMEDIES FOR STATE VIOLATIONS.—

"(1) IN GENERAL.—The Secretary or any aggrieved local educational agency may, without exhausting administrative remedies, bring an action in a United States district court against any State that violates subsection (a) or subsection (d)(2) or fails to carry out an assurance provided under subsection (b)(3)(B).

"(2) IMMUNITY.—A State shall not be immune under the eleventh amendment to the Constitution of the United States from an action described in paragraph (1).

"(3) RELIEF.—The court shall grant such relief as it determines is appropriate, which may include attorney's fees to a prevailing local educational agency.

"SEC. 8010. FEDERAL ADMINISTRATION.

"(a) PAYMENTS IN WHOLE DOLLAR AMOUNTS.—The Secretary shall round any payments under this title to the nearest whole dollar amount.

"(b) OTHER AGENCIES.—Each Federal agency administering Federal property on which children reside, and each agency principally responsible for an activity that may occasion assistance under this title, shall, to the maximum extent practicable, comply with requests of the Secretary for information the Secretary may require to carry out this title.

"SEC. 8011. ADMINISTRATIVE HEARINGS AND JUDICIAL REVIEW.

"(a) ADMINISTRATIVE HEARINGS.—A local educational agency and a State that is adversely affected by any action of the Secretary under this title shall be entitled to a hearing on such action in the same manner as if such agency were a person under chapter 5 of title 5, United States Code.

"(b) JUDICIAL REVIEW OF SECRETARIAL ACTION.—

"(1) IN GENERAL.—A local educational agency or a State aggrieved by the Secretary's final decision following an agency proceeding under subsection (a) may, within 60 days after receiving notice of such decision, file with the United States court of appeals for the circuit in which such agency or State is located a petition for review of that action. The clerk of the court shall promptly transmit a copy of the petition to the Secretary. The Secretary shall then file in the court the record of the proceedings on which the Secretary's action was based, as provided in section 2112 of title 28, United States Code.

"(2) FINDINGS OF FACT.—The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence. The Secretary may thereupon make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(3) REVIEW.—The court shall have exclusive jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"SEC. 8012. DEFINITIONS.

"For purposes of this title, the following definitions apply:

"(1) ARMED FORCES.—The term 'Armed Forces' means the Army, Navy, Air Force, and Marine Corps.

"(2) AVERAGE PER-PUPIL EXPENDITURE.—The term 'average per-pupil expenditure' means—

"(A) the aggregate current expenditures of all local educational agencies in the State; divided by

"(B) the total number of children in average daily attendance for whom such agencies provided free public education.

"(3) CONSTRUCTION.—The term 'construction' means—

"(A) the preparation of drawings and specifications for school facilities;

"(B) erecting, building, acquiring, altering, remodeling, repairing, or extending school facilities;

"(C) inspecting and supervising the construction of school facilities; and

"(D) debt service for such activities.

"(4) FEDERAL PROPERTY.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) through (E), the term 'Federal property' means real property that is not subject to taxation by any State or any political subdivision of a State due to Federal agreement, law, or policy, and that is—

"(i) owned by the United States or leased by the United States from another entity;

"(ii)(I) held in trust by the United States for individual Indians or Indian tribes;

"(II) held by individual Indians or Indian tribes subject to restrictions on alienation imposed by the United States;

"(III) conveyed at any time under the Alaska Native Claims Settlement Act (Public Law 92–203, 43 U.S.C. 1601 et seq.) to a Native individual, Native group, or Village or Regional corporation; or

"(IV) public land owned by the United States that is designated for the sole use and benefit of individual Indians or Indian tribes; or

"(iii) owned by a foreign government or by an international organization.

"(B) SCHOOLS PROVIDING FLIGHT TRAINING TO MEMBERS OF AIR FORCE.—The term 'Federal property' includes, so long as not subject to taxation by any State or any political subdivision of a State, and whether or not that tax exemption is due to Federal agreement, law, or policy, any school providing flight training to members of the Air Force under contract with the Air Force at an airport owned by a State or political subdivision of a State.

"(C) NON-FEDERAL EASEMENTS, LEASES, LICENSES, PERMITS, IMPROVEMENTS, AND CERTAIN OTHER REAL PROPERTY.—The term 'Federal property' includes, whether or not subject to taxation by a State or a political subdivision of a State—

"(i) any non-Federal easement, lease, license, permit, or other such interest in Federal property as otherwise described in this paragraph, but not including any non-Federal fee-simple interest;

"(ii) any improvement on Federal property as otherwise described in this paragraph; and

"(iii) real property that, immediately before its sale or transfer to a non-Federal party, was owned by the United States and otherwise qualified as Federal property described in this paragraph, but only for one year beyond the end of the fiscal year of such sale or transfer.

"(D) CERTAIN POSTAL SERVICE PROPERTY AND PIPELINES AND UTILITY LINES.—Notwithstanding any other provision of this paragraph, the term 'Federal property' does not include—

"(i) any real property under the jurisdiction of the United States Postal Service that is used primarily for the provision of postal services; or

"(ii) pipelines and utility lines.

"(E) PROPERTY WITH RESPECT TO WHICH STATE OR LOCAL TAX REVENUES MAY NOT BE EXPENDED, ALLOCATED, OR AVAILABLE FOR FREE PUBLIC EDUCATION.—Notwithstanding any other provision of this paragraph, 'Federal property' does not include any property on which children reside that is otherwise described in this paragraph if—

"(i) no tax revenues of the State or of any political subdivision of the State may be expended for the free public education of children who reside on that Federal property; or

"(ii) no tax revenues of the State are allocated or available for the free public education of such children.

"(5) FREE PUBLIC EDUCATION.—The term 'free public education' means education that is provided—

"(A) at public expense, under public supervision and direction, and without tuition charge; and

"(B) as elementary or secondary education, as determined under State law, except that, notwithstanding State law, such term—

"(i) includes preschool education; and

"(ii) does not include any education provided beyond grade 12.

"(6) INDIAN LANDS.—The term 'Indian lands' means any Federal property described in paragraph (4)(A)(ii).

"(7) LOCAL EDUCATIONAL AGENCY.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'local educational agency'—

"(i) means a board of education or other legally constituted local school authority having administrative control and direction of free public education in a county, township, independent school district, or other school district; and

"(ii) includes any State agency that directly operates and maintains facilities for providing free public education.

"(B) EXCEPTION.—The term 'local educational agency' does not include any agency or school authority that the Secretary determines on a case-by-case basis—

"(i) was constituted or reconstituted primarily for the purpose of receiving assistance under this title or the Act of September 30, 1950 (Public Law 874, 81st Congress) or increasing the amount of such assistance; or

"(ii) is not constituted or reconstituted for legitimate educational purposes.

"(8) LOW-RENT HOUSING.—The term 'low-rent housing' means housing located on property that is—

"(A) used for low-rent housing that is located on land described in subclause (I), (II), (III), or

(IV) of paragraph 4(A)(ii) or on land that met one of the descriptions in any such subclause immediately before its use for such housing;

"(B) part of a low-rent housing project assisted under the United States Housing Act of 1937;

"(C) located in the State of Oklahoma that—

"(i) is owned by an Indian housing authority and used for low-income housing (including housing assisted under the mutual help homeownership opportunity program under section 202 of the United States Housing Act of 1937), and

"(ii) at any time prior to the date of the enactment of Public Law 103-102—

"(I) was designated by treaty as tribal land, or

"(II) satisfied the definition of Federal property under section 403(1)(A) of the Act of September 30, 1950 (Public Law 874, 81st Congress); or

"(D) used to provide housing for homeless children at closed military installations pursuant to section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411).

"(9) SCHOOL FACILITIES.—The term 'school facilities' includes—

"(A) classrooms and related facilities; and

"(B) equipment, machinery, and utilities necessary or appropriate for school purposes.

"SEC. 8013. AUTHORIZATION OF APPROPRIATIONS.

"(a) PAYMENTS FOR FEDERAL ACQUISITION OF REAL PROPERTY.—For the purpose of making payments under section 8003, there are authorized to be appropriated $16,750,000 for fiscal year 1995 and such sums as may be necessary for each of the fiscal years 1996, 1997, 1998, and 1999.

"(b) BASIC PAYMENTS.—For the purpose of making payments under section 8004(a), there are authorized to be appropriated $425,500,000 for fiscal year 1995 and such sums as may be necessary for each of the fiscal years 1996, 1997, 1998, and 1999.

"(c) PAYMENTS FOR CHILDREN WITH DISABILITIES.—For the purpose of making payments under section 8004(d), there are authorized to be appropriated $45,000,000 for fiscal year 1995 and such sums as may be necessary for each of the fiscal years 1996, 1997, 1998, and 1999.

"(d) PAYMENTS FOR HEAVILY IMPACTED LOCAL EDUCATIONAL AGENCIES.—For the purpose of making payments under section 8004(f), there are authorized to be appropriated $42,000,000 for fiscal year 1995 and such sums as may be necessary for each of the fiscal years 1996, 1997, 1998, and 1999.

"(e) PAYMENTS FOR INCREASES IN MILITARY CHILDREN.—For the purpose of making payments under section 8007, there are authorized to be appropriated $2,000,000 for fiscal year 1995 and such sums as may be necessary for each of the fiscal years 1996, 1997, 1998, and 1999.

"(f) FACILITIES MAINTENANCE.—For the purpose of making payments under section 8008, there are authorized to be appropriated $2,000,000 for fiscal year 1995 and such sums as may be necessary for each of the fiscal years 1996, 1997, 1998, and 1999.

The CHAIRMAN pro tempore. Are there amendments to title VIII?

AMENDMENT OFFERED BY MR. FISH

Mr. FISH. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FISH: On page 694, after line 7, insert the following:

"(e) ADDITIONAL ASSISTANCE FOR HEAVILY IMPACTED LOCAL EDUCATIONAL AGENCIES.—

"(1) IN GENERAL.—From amounts appropriated under section 8013(a)(2) for a fiscal year; the Secretary shall provide additional assistance under this subsection to local educational agencies that are heavily impacted because of Federal acquisition of real property in such local educational agencies.

"(2) ELIGIBILITY.—A local educational agency shall be eligible to receive assistance under this subsection only if Federal property in such agency comprised 25 percent or more of the total land area within such agency during the preceding fiscal year.

"(3) MAXIMUM AMOUNT.—The amount that a local educational agency may receive under this subsection for a fiscal year may not exceed the difference of—

"(A) the amount such agency is entitled to receive under subsection (b) for such fiscal year; and

"(B) the amount such agency actually receives under such subsection for such fiscal year.

Page , strike line and all that follows through line (subsection (a) of section 8013) and insert the following:

"(a) PAYMENTS FOR FEDERAL ACQUISITION OF REAL PROPERTY.—

"(1) IN GENERAL.—For the purpose of making payments under section 8003 (except subsection (e) of such section), there are authorized to be appropriated $16,750,000 for fiscal year 1995 and such sums as may be necessary for each of the fiscal years 1996, 1997, 1998, and 1999.

"(2) PAYMENTS FOR HEAVILY IMPACTED LOCAL EDUCATIONAL AGENCIES.—For the purpose of making payments under section 8003(e), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1995, 1996, 1997, 1998, and 1999.

Mr. FISH (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. KILDEE. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN pro tempore. The gentleman from Michigan reserves a point of order on the amendment, and the gentleman from New York [Mr. FISH] is recognized for 5 minutes in support of his amendment.

Mr. FISH. Mr. Chairman, much of the debate over H.R. 6 has centered around the role of the Federal Government in education. I am a firm believer that the primary responsibility for education lies with the States. However, when the Federal Government directly affects the ability of a school district to provide the best education it can for its students, the Federal Government must be involved—hence Congress established the Impact Aid Program. It is hypocrisy that as this House has moved toward a greater involvement in education policy—mandates, standards, and requirements—it has turned it's back on impact aid. Where is our responsibility to the children in the school districts in America which have suffered a loss of tax base either because a sizable number of students reside on military bases, or Indian land, or because the Federal Government has literally taken land from the school district.

My amendment deals specifically with section 2 of the Impact Aid Program. Section 2 provides funds to school districts where tax roles have been reduced because of acquisition of property by the Federal Government after 1938. For several years section 2 has been funded at 55 to 60 percent of authorization levels. The result is impacted school districts have not been compensated with a payment in lieu of taxes needed to make up for the diminished tax base resulting from the loss of this land. This to me is a failure of responsibility by the Federal Government that caused the problem in the first place.

Mr. Chairman, it happens that many of the school districts that receive section 2 moneys have been able to maintain strong education programs in their districts because the payments received make up only a small portion of their overall budgets, or they are still able to generate adequate revenue from the remaining taxable lands in their districts. However, there are section 2 school districts that have lost over 25 percent of their local taxable lands. With a small tax base and decreasing impact aid payments, the only options for these schools is to continue to increase local property taxes, and continue to cutback educational expenditures. How does one explain that a teacher is being laid off or a child's school is closing because Congress no longer feels the responsibility to make payments to school districts on land that was formerly within its boundaries.

I reluctantly accept that section 2 impact aid may never be fully funded. What this amendment does, is establish a category for severely impacted school districts. It acknowledges that there are school districts which cannot absorb steadily decreasing impact aid payments, and need additional assistance to provide their students with the education they deserve. I would make eligibility dependent on a 25 percent or greater land taking and cap funding at the level of full entitlement for eligible school districts.

My amendment mirrors the creation of a new subcategory of funding created under section 3 of the Impact Aid Program. The section 3 subcategory acknowledges that there are section 3 schools that are severely impacted by Federal activities. My amendment merely asks this House to acknowledge that there are section 2 school districts that are also severely impacted by Federal activities. It demands our support.

□ 1730

Mr. GILMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise today in support of Representative FISH's impact aid amendment to H.R. 6, Improving America's Schools Act of 1994. Impact aid is a program which compensates school

districts for revenue lost when Federal ownership or Federal activity adversely interferes with any or all of the basic revenue sources school districts avail themselves of: residential taxes, property taxes from business and industry, sales taxes, income taxes, and local licenses and fees. In essence, impact aid is simply general operating revenue for the loss of what would otherwise be an existing tax base. For some school districts, impact aid is their single largest source of revenue.

Mr. FISH's amendment deals specifically with section 2 of the impact aid program, which provides funds to school districts where tax roles have been reduced because of procurement of property by the Federal Government. One must look at the dollars a school district receives from impact aid as a payment from the Federal Government to help pick up the cost of running a school, just as one looks at the dollars paid to the school district from local property taxpayers. The one thing all these dollars, Federal and local property taxpayers have in common, is that they provide the school district with the flexibility needed to operate a school districtwide program. Take away or reduce any of these funding sources and the district loses its ability to effectively operate a districtwide educational reform program. Without the Federal dollars received from impact aid, a federally impacted school district will have little success at developing an educational reform effort.

The Highland Falls-Fort Montgomery School District, the site of the U.S. Military Academy at West Point, is an example of a school district that has been recognized for its high quality, but whose quality is threatened by the continued negative economic circumstances that have forced the district schools to cut staff, services, and programs. Unless a correcting formula is found to balance the economic instability, the quality, upon which students and parents have a right to defend, will be in danger of being lost.

Mr. Chairman, the Fish amendment establishes a category for severely impacted school districts. It acknowledges that there are school districts which cannot absorb steadily decreasing impact aid payments, and need additional assistance to provide their students with quality education. Additionally, this amendment would make eligibility dependent on a 25 percent or greater land taking and cap funding at the level of full entitlement for eligible school districts.

The greatest challenge for the Impact Aid Program is to provide school districts the resources to create a learning environment necessary to achieve the national goals established by the President and the governors. Highland Falls-Fort Montgomery School District is meeting these goals. More than 20 million students are affected by the Impact Aid Program. These students deserve a chance. Accordingly, I urge my colleagues to support this important amendment.

POINT OF ORDER

The CHAIRMAN pro tempore. Does the gentleman from Michigan [Mr. KILDEE] insist on his point of order?

Mr. KILDEE. Mr. Chairman, reluctantly, I rise to a point of order.

The CHAIRMAN pro tempore. The gentleman will state his point of order.

Mr. KILDEE. Mr. Chairman, the amendment offered by my good friend, the gentleman from New York [Mr. FISH], proposes to amend the amendment to H.R. 6 offered by myself on February 24, 1994, and found in the CONGRESSIONAL RECORD of February 24, 1994, on pages 2986 through 2991.

The amendment was previously agreed to. Accordingly, this amendment is not in order.

I call the Chair's attention to section 27.1 of chapter 27 of Deschler's Procedure, which provides as follows: "It is fundamental that it is not in order to amend an amendment already agreed to."

Mr. Chairman, I insist upon my point of order.

The CHAIRMAN pro tempore. Does the gentleman from New York [Mr. FISH] wish to be heard on the point of order?

Mr. FISH. Mr. Chairman, No. 1, it was only in the last 2 or 3 minutes that I learned the point of order would lie against this amendment. I would hope that we could have some debate as to why it is unseemly to do what we have done in another section of this bill for section 2 school recipients. I think the burden falls on the leadership of the committee to tell the House the answer.

Specifically, I would say that the background that brings the gentleman to make this point of order is quite unusual, and I doubt if Mr. Deschler had this in mind.

The fact of the matter was, there was an error in the drafting by legislative counsel that required a change when the bill was brought to the House floor. It is not a question of an amendment to change anything that the committee had agreed to. It was the committee's work product which was not faithfully reported by legislative counsel. If anything, it was the most technical of amendments to put back in what they had intended from the beginning. This could be called an oversight, a printing error, but not a substantive amendment.

I do think that my amendment is within the purview and the context of an amendment to an amendment under the rules of the House.

The CHAIRMAN pro tempore (Mr. DARDEN). Is there further discussion on the point of order? If not, the Chair is prepare to rule.

The Chair rules that the Fish amendment would, in fact, insert language in a portion of the bill which has already been amended; that is, on page 694.

The Chair further finds that on February 24, an amendment offered by the gentleman from Michigan [Mr. KILDEE] and adopted in the committee rewrote the bill from page 689 to page 729.

Accordingly, the point of order is sustained.

□ 1740

Mr. GOODLING. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do that because I want to emphasize that the gentleman from New York [Mr. FISH] was completely in order. It was the subcommittee's language that was inadvertently included in the bill reported by the full committee, which was a mistake. In order to get the full committee's language into the bill, it had to be offered as part of an en bloc amendment. So, I am merely rising to say that that was not my understanding that this was the way this was going to be handled, and I think it was not handled properly.

Mr. KILDEE. Will the gentleman yield?

Mr. GOODLING. I am happy to yield to the gentleman from Michigan [Mr. KILDEE].

Mr. KILDEE. Mr. Chairman, I share the same concern that the gentleman from Pennsylvania [Mr. GOODLING] shares. I think, however, the outcome would have been the same. I have great respect for the gentleman from New York [Mr. FISH] and I have great respect for the gentleman from Pennsylvania [Mr. GOODLING], but I am convinced in my own heart that the outcome would have been the same.

However, I will assure the gentleman from New York [Mr. FISH] that I will be most happy to have hearings on this issue and see whether we can come up with some approach to the problems the gentleman seeks to solve. I am convinced, as I am sure the gentleman from Pennsylvania is, that the outcome would have been the same, that the amendment would have been defeated. I felt reluctantly compelled to raise the point of order.

Mr. GOODLING. Mr. Chairman, I would not question the fact that the outcome would have been the same. I probably would have assisted in that effort. However, the understanding that we thought we had was that he would be allowed to offer his amendment because the mistake was made in drafting the legislation.

The CHAIRMAN pro tempore (Mr. DARDEN). Are there further amendments to title VIII?

AMENDMENT OFFERED BY MR. MACHTLEY

Mr. MACHTLEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MACHTLEY: Page 695, line 6, insert "or employed on property under the jurisdiction of the uniformed services" after "United States Code)".

Mr. KILDEE. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN pro tempore. The gentleman reserves a point of order on the amendment, and the gentleman from Rhode Island [Mr. MACHTLEY] is recognized for 5 minutes in support of his amendment.

Mr. MACHTLEY. Mr. Chairman, in view of the last order from the Chair, my intentions are to speak on this amendment and to offer an opportunity for other Members to speak on this amendment, and then we will withdraw this amendment.

Mr. Chairman, I yield to the gentleman from Virginia [Mr. BATEMAN].

Mr. BATEMAN. Mr. Chairman, I rise in favor of the proposition which the Machtley amendment would have placed before the House. It is something that needs to be done, ought to be done, and I hope we will find a vehicle by which it can be done.

Mr. MACHTLEY. Reclaiming my time, Mr. Chairman, today along with the gentleman from Utah [Mr. ORTON] and the gentleman from Virginia [Mr. SCOTT], I am offering an amendment to strengthen the Education Department's Impact Aid Program.

For many years and with strong support in Congress, impact aid has helped literally thousands of school districts cope with lost revenue resulting from Federal activities and employees who did not fully contribute to the local tax base.

In my home State of Rhode Island impact aid helps many of our school districts enhance the level of education for our children. In fact, without impact aid our children would be given an inferior education. Without this critical support, the adverse impact of our naval base would be far too much for our local school districts to meet with their property taxes.

Mr. Speaker, I am pleased that H.R. 6 continues the Impact Aid Program at a reasonable level of support, providing some $775 million in funding in fiscal year 1995. However, while the bill includes what are called military "b"s as eligible for impact aid, it does not address the impact of what are called civilian "b"s which have been covered for many years by our Federal Government.

Those familiar with impact aid know that "b" students, and I am not talking about the grades which they get but the category in which they fall, are children of parents who work but do not live on the military base, while "a" students' parents both work and live on the military base. My amendment would deal with the defense aspect of this, only.

Mr. Chairman, last year civilian "b"s accounted for some $43 million, which was merely 6.4 percent of the entire impact aid. Our amendment would simply aid the civilian "b"s, as has been done in the past, and which all of the communities are now counting on, in determining which Federal employees' children are to be counted for impact aid support.

Our reasoning for this amendment is, I think, solid, and has been the reasoning which has permitted this to be used in the past. Although local school districts receive property taxes from the Nation's civilian employees, they are unable to levy taxes on the employees' place of work. As a result, over 2,100 school districts nationally are adversely impacted, in that they are unable to raise the revenue were a private sector entity to be located on the Federal property.

Oftentimes, military facilities are located on very valuable property, which would generate literally millions of dollars in local tax revenue. For those who argue, "But communities across America fight tooth and nail to keep their military bases," I would also suggest that while those are going to be kept in some districts, that the school districts within these communities will not share the sentiment when their impact aid is not equally distributed, both for civilian as well as military people who live on the base.

We simply ask to address a small inequity in what I consider to be a generally well-crafted bill. I urge support for this modest amendment.

Mr. ORTON. Will the gentleman yield?

Mr. MACHTLEY. I am happy to yield to the gentleman from Utah.

Mr. KILDEE. Mr. Chairman, I reserve my point of order.

The CHAIRMAN pro tempore. The gentleman reserves his point of order.

Mr. ORTON. Mr. Chairman, I rise in support of the Machtley-Orton amendment to H.R. 6. As the gentleman has indicated, this amendment would restore a portion of the impact aid funding for students whose parents are civilian employees of the Defense Department and work but do not live on Federal installations.

I would just like to note that the funding levels in this bill originally included the impact aid, so we have funded it at a greater level than would be necessary if in fact we do not include "b" impact aid. Therefore, by adopting this amendment, and I certainly hope that we can resolve this issue before final passage of the bill, but by adopting this amendment it would not take money from any other aid or for aid to any other schools or students.

Mr. Chairman, just let me indicate that in my district, I know that 2,100 schools around the country are impacted by this aid, in Utah there are 25 schools districts who receive this aid and would be faced with reductions of the tax base due to Federal ownership of property and increased civilian student enrollments attributable to the Federal activity taking place on that land.

I do believe that these students, although they do have a less dramatic impact than students of parents residing on Federal lands, there is still an impact, and civilian type "b" aid has been adjusted to take into consideration that lesser impact with a lesser subsidy.

Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. KILDEE. Mr. Chairman, I reserve my point of order.

The CHAIRMAN pro tempore. The gentleman from Michigan reserves his point of order.

The gentleman from Utah [Mr. ORTON] is recognized for 5 minutes.

Mr. ORTON. Mr. Chairman, I will not take all of that time.

I will just say that, in closing, impact aid is the only source of revenue that the school districts have in order to make up for this loss, and unless schools have some opportunity to expand their tax base, we could see over 2,100 schools in this country losing funding, vital funding necessary to be able to stay open and provide benefits and education for these students.

Mr. Chairman, I would just urge my colleagues to support this concept. I understand that we are going to withdraw this particular amendment. Mr. Chairman, I would hope that at some point, however, we could place back into the bill the civilian type "b" impact aid as the Machtley-Orton amendment would restore.

Mr. CUNNINGHAM. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. KILDEE. Mr. Chairman, I reserve my point of order.

The CHAIRMAN pro tempore. The gentleman from Michigan [Mr. KILDEE] continues to reserve his point of order.

Mr. CUNNINGHAM. Mr. Chairman, I move to strike the requisite number of words, even though the gentleman is going to withdraw the amendment.

I think it is important for us to understand exactly what this is. I lived impact aid. For example, I registered in the State of Illinois. When I got orders to California, I still paid Illinois State taxes. Those taxes were not forward to the State of California, so my children impacted the State of California's education system.

What I would love to do is to have, when the military shifts around, that the military would be paying the State taxes, but we cannot affect State laws, so there is a direct impact on that school district by military "a"s and "b"s that are moving.

On the hand of the civilian side, the civilians who live and reside in that State are paying State taxes in that

State. They are paying Federal taxes, like the military does, so that there is not the impact on those particular school districts for the State taxes. Ninety-five percent of all the aid that goes to the schools is from the States.

For that, Mr. Chairman, I would go against my friend, the gentleman from Rhode Island [Mr. MACHTLEY] and his amendment, and ask the Members not to support it in the future.

□ 1750

Mr. DICKS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I rise today in strong support of the Machtley-Orton amendment. Most of my colleagues, have over the years, realized the impact that Federal installations place on our local school districts and the students they want to teach. Fortunately, Congress has remedied that Federal impact by providing funding for districts who must educate the dependents of our Federal employees. I am pleased to see that this reauthorization again compensates for these government-caused shortfalls by providing $533 million in impact aid to mitigate the lost revenue created by dependents of federally employed personnel.

Unfortunately, a misperception exists and has thus caused us to overlook an equally important segment of those previously assisted through impact aid funding. This amendment would restore impact aid for dependents of civilian employees of the Federal Government whose parents work, but do not live, on Federal property. These parents of civilian "b" students work for a variety of employers located on Federal Government property. In a normal community, these local businesses employ workers and pay property taxes to the local school district. However, these businesses located on Federal property are exempt from local property taxes and thus undercut the financial base of the local school district. The Puget Sound Naval Shipyard, for example, located in my district in Bremerton, WA, employs the parents of over 5,000 civilian "b" students, a third of the district's school students, and would lose just under $1 million in impact aid funds that have previously helped keep our local school districts operating.

Similar situations exist across the Nation as over 2,100 schools face reduced tax bases due to Federal ownership of property and increased civilian student enrollments. Although, civilian "b" students account for only 6.4 percent of the total impact aid payment or $43.2 million, that loss of funding would be detrimental to many districts unable to recoup that tax base.

I urge my colleagues acceptance of the Machtley-Orton amendment which would signal continued support of our Nation's students. We can not penalize those families who have chosen to serve their country through Federal employment nor the school districts faced with educating those federally connected students.

Mr. GOODLING. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have to rise in opposition to the amendment, primarily because I cannot go before the Base Closing Commission and put forth an argument why they positively cannot take the New Cumberland Army Depot and Mechanicsburg Navy Depot and Army War College away from my district because it will devastate the district, and then come in and say that I also realize that I make out like a bandit on Civilian B payments under impact aid due to their presence, and, therefore, we should continue it.

So for that reason, I have to be true to my colors.

Mr. SCOTT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this amendment to impact aid would expand the eligible children served under this title to include dependents of nonmilitary personnel employed on property under the jurisdiction of the uniformed services. These include children of vital personnel such as machinists, engineers, medical professionals, and other support staff that help to keep our military installations and personnel functioning at their peak capacity. These families are often as closely tied to Federal activity as military personnel; when bases close or personnel are transferred, these families are less able to contribute to the tax base of their communities. While they do contribute tax dollars from home ownership or other personal property, these revenues represent only part of the total educational budget of most local educational agencies.

Employers generally contribute a significant share of the cost of educating their employees' children, in the form of property taxes assessed by local governments. Where the Federal Government employs significant numbers of people, both military and civilian, we have an obligation to help defray the cost of educating their children. Impact aid funds have been provided to help defray these costs, but local governments cannot collect taxes from the Federal Government.

Mr. Speaker, there are over 8,000 civilian category B children living in my district, and over 500,000 of these children nationwide. We have restored funding for some category B children in subcommittee with the inclusion of children living in low-rent housing and military dependents in the markup. Under the current proposal, however, the third district of Virginia stands to lose over $1.3 million dollars in funds for civilian category B children. It is unfair to ask school districts to carry the weight of this burden. Let us show our support for our schools and our military by helping to ensure that dependents of civilian personnel have the same opportunities for a quality education as the children of our uniformed personnel.

Mr. KILDEE. Mr. Chairman, while I feel I am technically correct, and the parliamentarian has so upheld my point of order, in the interest of comity and in the interest of clearing up any misunderstandings that may have been created in dialog between the two staffs, I will both withdraw my point of order and ask that the amendment by the gentleman from New York [Mr. FISH] be added to the Machtley amendment, and we will hopefully have a brief debate on that and then vote on it.

The CHAIRMAN pro tempore (Mr. DARDEN). The point of order of the gentleman from Michigan is withdrawn.

Mr. KILDEE. If we could join the two amendments, having the Fish amendment as an amendment to the Machtley amendment and have a discussion, then we could vote on that.

The CHAIRMAN pro tempore. The gentleman from New York [Mr. FISH] of course would have to offer his amendment as an amendment to the pending amendment offered by the gentleman from Rhode Island.

Does the gentleman from Michigan submit to the Chair a unanimous-consent request?

Mr. KILDEE. Mr. Chairman, I ask unanimous consent that the gentleman from New York [Mr. FISH] be allowed to offer his amendment as an amendment to the Machtley amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. MACHTLEY. Mr. Chairman, reserving the right to object, before I make my unanimous consent I would ask that the gentleman from California [Mr. THOMAS] be permitted to strike the requisite number of words and address my amendment. My intention then is to ask unanimous consent to withdraw my amendment so that the gentleman from New York [Mr. FISH] can then proceed.

Mr. KILDEE. Mr. Chairman, if the gentleman will yield under his reservation, at that point if he withdraws his amendment, I want to make sure that the gentleman from New York [Mr. FISH] has the opportunity to offer his amendment, and if he cares for a vote on that, to have a vote on that. I want to do a nunc pro tunc.

The CHAIRMAN pro tempore. Does the gentleman from Michigan [Mr. KILDEE] now withdraw his unanimous consent request?

Mr. KILDEE. I do, Mr. Chairman.

The CHAIRMAN pro tempore. The gentleman withdraws his request.

Mr. THOMAS of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today in support of Mr. MACHTLEY's amendment to add DOD civilian part B students to the list of those to be counted for impact aid.

One school system in my district is greatly impacted by the elimination of the civilian part B, Impact Aid Program in H.R. 6. Sierra Sands Unified School District, which has been negatively affected by the impact aid formula over the years, would be devastated by this proposal to eliminate category B funding.

Sierra Sands Unified School District is located in the desert community of Ridgecrest, CA, and serves the children of military and civilian personnel at the Naval Air Warfare Center, China Lake [NAWC]. In fact, over 50 percent of the district's students are dependents of NAWC-China Lake scientists, engineers, and support personnel. However, since the Navy decided to get out of the housing business in 1968 and eliminate 1,600 housing units, a majority of base personnel no longer live on base. This has resulted in the redesignation of students from category A to category B, and severe funding shortfalls in the district.

Impact aid funding for Sierra Sands has dropped from approximately 40 percent in 1974, even though a majority of their students were already category B, to under 3 percent of the district's budget due to cutbacks in category B funding.

The district's funding problems are exacerbated by the fact that the Department of Defense is still the primary employer and a significant land holder in the Ridgecrest area. Only 13 percent of the district's annual revenue is from local property tax. The district has had to rely on the State of California for additional funding in the past, but current State budget problems have forced this funding to also diminish. All of these factors have caused the district's annual per pupil funding to fall $674 over the past 2 years to only $3,473.

Because of the testing and evaluation nature of NAWC-China Lake's mission, the Ridgecrest area has one of the most highly educated populations in the United States. These scientists and engineers are particularly concerned about the education of their children. Unless Sierra Sands Unified School District receives the Federal assistance they need to offset the effect of Federal presence in the area, per pupil spending will continue to decline, much-needed physical plant maintenance will continue to be put off, and the quality of education could begin to decline. If this should occur, prospective employees could decline to move to the area and current employees could decide to move out of the area, endangering the successful completion of NAWC-China Lake's mission.

I urge the House to adopt the Machtley amendment to restore. For schools such as Sierra Sands where the only difference between them and category A districts is where personnel are housed, the elimination of part B would be greatly unfair to the students—those we wish to help.

□ 1800

Mr. MACHTLEY. Mr. Chairman, will the gentleman yield?

Mr. THOMAS of California. I am happy to yield to the gentleman from Rhode Island.

Mr. MACHTLEY. Mr. Chairman, I appreciate very much the gentleman's support of this amendment, as I do appreciate very much the support of other Members.

There are over 150 Members who are going to be adversely impacted should category B not be included in this impact aid.

School districts for many years have counted on this money, as they should have, because it was creating a level playing field. We have determined, in anticipation of a point of order being raised, that we would not go forward with this amendment today, but it is my hope the chairman and ranking minority member of this subcommittee would recognize there is enormous support for inclusion of category B, and that when they get to conference on this issue that they would recognize there are many Members in this House who, on a bipartisan basis, are very much concerned about providing adequate educational resources for all students.

Mr. THOMAS of California. Mr. Chairman, I would say only that we have got to be able to work out some way to continue B. I do not care what threshold screening is put upon the category B, frankly, my school district can meet any level of screening necessary, and we ought not leave these people unsupported.

Mr. EVERETT. Mr. Chairman, I rise in strong support of the Machtley amendment to extend the coverage of the Impact Aid Program to include category "B" students whose parents are military civilians. If we are truly interested in improving the educational standards of this Nation, Federal aid to compensate local communities who are financially burdened by the presence of a military facility is essential.

I do not have to tell the Members of this Chamber how important impact aid is to federally impacted school systems. As you all know, this funding is basically a reimbursement for tax revenues these communities would otherwise receive. Without this assistance, the addition of military-connected students in the classrooms would unfairly burden the entire school system. I firmly believe this is a quality-of-life issue for the children of military families who deserve to have access to a decent education.

The complete reauthorization of the Impact Aid Program should be a vital and an integral part of any effort to reform our national education system. The policy of the United States should continue to support financial assistance to school districts, either because of a loss of real property due to Federal acquisition, or because of the financial burdens placed upon them when they are responsible for educating the dependents of all people who live and, or work on military facilities.

Although we have a new administration in the White House, "B" category students continue to be ignored as relevant factors to the impact aid formula. Unfortunately, the legislation before us endorses the Clinton administration's intention to phase out "B" students from the formula by determining that military civilians are less of an impact on local communities than active duty military. That premise is simply unfounded.

Category "B" students represent 350,000 military dependents—from both civilian and active duty personnel. If the reauthorization of impact aid does not include the coverage of all "B" students, these students will become the full financial burden of local school districts, and will undoubtedly impair the quality of education offered by these elementary and secondary schools.

Mr. Chairman, I represent the Second Congressional District of Alabama which is heavily impacted by two major military installations: Air University at Maxwell Air Force Base, including the Gunter Annex, and the Army's Aviation Center at Fort Rucker.

Sixteen separate school systems in my district are impacted by these military bases, with almost 14,000 students who are federally connected—more than 13,000 are "B" category students. In fiscal year 1992, that amounted to a direct payment of almost $1.5 million. That may not seem like much here in Washington, but to those school systems in my district, it's a matter of survival. It was made very clear to me by some of the school superintendents from my district that this program represents the only Federal dollar to Alabama school systems that is not specifically earmarked, giving each school system the flexibility to manage their schools in a way that best suits their individual needs.

We talk a good deal around here about the need to improve the quality of education for our children if we want them to be able to function in this increasingly competitive and technologically demanding society in which we live. The Impact Aid Program is basic to the need of equitable funding for all school districts, and I would urge all Members to support the full reauthorization of this program. Support the Machtley amendment.

Mr. LANCASTER. Mr. Chairman, I rise today in support of the Machtley-Orton-Scott impact aid amendment. While there are a number of wealthy school districts that will not suffer from the deletion of a substantial part of their Federal impact aid money, this across the board cut of allowances for students of nonmilitary parents who work on Federal installations would deal a devastating blow to the budgets of financially strapped schools in my district and in others throughout the Nation.

In my district 16 school districts receive impact aid funds. Three of these school systems currently receive approximately $630,000 in impact aid funds for civilian "B" students. One system is the 11 largest system in the State,

but the lowest per-student funding in the State. The loss of these federal funds will work real hardships on education in these schools. As the result of closures of other military facilities, the Naval aviation Depot in Cherry Point, in my district is expected to employ another 1,100 civilian employees within the next year, causing a severe Federal impact on the local school system in years to come.

The compensatory funds provided for civilian "B" impact aid student are vital to the curricula of these schools.

Mr. Chairman, if there are wealthy districts that use the civilian "B" category funds as gravy, then perhaps it is time to means test this program. It is unfair to cut funding that is desperately needed just to maintain the status quo in poorer, severely impacted districts. If there are justifiable cuts, they should be made on a district-by-district basis, but don't throw out the baby with the bathwater.

The civilian "B's" have been targeted year after year, and better sense has prevailed to restore them. It would be ironic if this administration—with its ambitious educational goals—should be the one to succeed in wrecking a program that has been successful and fair in North Carolina and has never suffered any taint of scandal or misuse.

I ask my colleagues to restore this funding.

Mr. MACHTLEY. Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN pro tempore (Mr. DARDEN). Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

AMENDMENT OFFERED BY MR. FISH

Mr. FISH. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FISH: Page 694, after line 7 (at the end of section 8003), insert the following:

"(e) ADDITIONAL ASSISTANCE FOR HEAVILY IMPACTED LOCAL EDUCATIONAL AGENCIES.—

"(1) IN GENERAL.—From amounts appropriated under section 8013(a)(2) for a fiscal year, the Secretary shall provide additional assistance under this subsection to local educational agencies that are heavily impacted because of Federal acquisition of real property in such local educational agencies.

"(2) ELIGIBILITY.—A local educational agency shall be eligible to receive assistance under this subsection only if Federal property in such agency comprised 25 percent or more of the total land area within such agency during the preceding fiscal year.

"(3) MAXIMUM AMOUNT.—The amount that a local educational agency may receive under this subsection for a fiscal year may not exceed the difference of—

"(A) the amount such agency is entitled to receive under subsection (b) for such fiscal year; and

"(B) the amount such agency actually receives under such subsection for such fiscal year.

Page , strike line and all that follows through line (subsection (a) of section 8013) and insert the following:

"(a) PAYMENTS FOR FEDERAL ACQUISITION OF REAL PROPERTY.—

"(1) IN GENERAL.—For the purpose of making payments under section 8003 (except subsection (e) of such section), there are authorized to be appropriated $16,750,000 for fiscal year 1995 and such sums as may be necessary for each of the fiscal years 1996, 1997, 1998, and 1999.

"(2) PAYMENTS FOR HEAVILY IMPACTED LOCAL EDUCATIONAL AGENCIES.—For the purpose of making payments under section 8003(e), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1995, 1996, 1997, 1998, and 1999.

Mr. FISH (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. FISH. Mr. Chairman, I yield to the chairman, the gentleman from Michigan [Mr. KILDEE].

Mr. KILDEE. Mr. Chairman, I thank the gentleman for yielding to me.

I say to the gentleman from New York [Mr. FISH] that I know there are several problems throughout the country on impact aid, and I cannot say 100 percent sure we have addressed all of them in this bill.

For that reason, I would be most happy to have a hearing just on those districts that feel that they have not been treated as fairly as they could be, and would be most happy to have you be the leadoff witness on that hearing. Other people have come to me with some problems.

We have worked very, very hard to try to wrestle with the problems of impact aid within the Federal budget and the Federal deficit, but I recognize that nothing is perfect. So I would hope to have hearings very soon just on that issue and have you certainly lead off as a witness to bring to the committee the special needs you may have in your district.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. FISH. I am happy to yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I rise again in support of the Fish amendment, as I indicated earlier. I want to commend the gentleman from Michigan [Mr. KILDEE] for permitting this amendment to go forward and withdrawing his point of order. I am also very much impressed with the gentleman's willingness to have his committee conduct hearings on the need for impact aid.

For as long as I have been in Congress, and that has been a number of years, the impact aid problem has become an annual, a perennial problem, only because we have never developed a satisfactory formula to help these impacted school districts. When there is a township, like we have in our own area, in New York's Hudson Valley, affecting both the gentleman from New York [Mr. FISH] and my area in the Hudson River Valley where the U.S. Military Academy at West Point, along with the Palisades Park Commission, takes up over 9 percent of the taxable property, leaving less than 10 percent of taxable property burdening the taxpayers in trying to finance their school district. We have a serious problem, and that is not just unique to our own area in New York State. This problem exists in regions throughout our Nation.

Accordingly, I hope your proposed committee hearings will not be limited to just those few districts that are impacted but will try to develop an equitable, reasonable formula for helping all those school districts burdened by nontaxable Federal lands.

Mr. FISH. Mr. Chairman, I thank my colleague.

Mr. Chairman, I previously spoke on this amendment and the need for it because of the underfunding of section 2 and the problem we have created by the Federal Government taking lands from school districts.

I appreciate very much what the chairman has said with respect to allowing this to go forward and that he promises to have hearings on this very important issue, because we simply cannot walk away from this.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New York [Mr. FISH].

The question was taken, and on a division (demanded by Mr. KILDEE) there were—ayes 6, noes 8.

So the amendment was rejected.

The CHAIRMAN pro tempore. Are there further amendments to title VIII?

If not, the clerk will designate title IX.

The text of title IX is as follows:

"TITLE IX—GENERAL PROVISIONS

"PART A—DEFINITIONS

"SEC. 9101. DEFINITIONS.

"Except as otherwise provided, for the purposes of this Act, the following terms have the following meanings:

"(1)(A) Except as provided otherwise by State law or this paragraph, the term 'average daily attendance' means—

"(i) the aggregate number of days of attendance of all students during a school year; divided by

"(ii) the number of days school is in session during such school year.

"(B) The Secretary shall permit the conversion of average daily membership (or other similar data) to average daily attendance for local educational agencies in States that provide State aid to local educational agencies on the basis of average daily membership or such other data.

"(C) If the local educational agency in which a child resides makes a tuition or other payment for the free public education of the child in a school located in another school district, the Secretary shall, for purposes of this Act—

"(i) consider the child to be in attendance at a school of the agency making such payment; and

"(ii) not consider the child to be in attendance at a school of the agency receiving such payment.

"(D) If a local educational agency makes a tuition payment to a private school or to a pub-

lic school of another local educational agency for a child with disabilities, as defined in section 602(a)(1) of the Individuals with Disabilities Education Act, the Secretary shall, for the purposes of this Act, consider such child to be in attendance at a school of the agency making such payment.

"(2) The term 'average per-pupil expenditure' means, in the case of a State or of the United States—

"(A) without regard to the source of funds—

"(i) the aggregate current expenditures, during the third preceding fiscal year (or, if satisfactory data for that year are not available, during the most recent preceding fiscal year for which satisfactory data are available) of all local educational agencies in the State or, in the case of the United States for all States (which, for the purpose of this paragraph, means the 50 States and the District of Columbia); plus

"(ii) any direct current expenditures by the State for operation of such agencies; divided by

"(B) the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding year.

"(3) The term 'child' means any person within the age limits for which the applicable State provides free public education.

"(4) The term 'community-based organization' means a private nonprofit organization that—

"(A) is representative of a community or significant segments of a community; and

"(B) provides educational or related services to individuals in the community.

"(5) The term 'consolidated State application' means an application submitted by a State educational agency pursuant to section 9302 of this Act.

"(6) The term 'county' means one of those divisions of a State used by the Secretary of Commerce in compiling and reporting data regarding counties.

"(7) The term 'covered program' means each of the programs authorized by—

"(A) part A of title I of this Act;

"(B) part C of title I of this Act;

"(C) part A of title II of this Act; and

"(D) part A of title IV of this Act except section 4104.

"(8) The term 'current expenditures' means expenditures for free public education—

"(A) including expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities; but

"(B) not including expenditures for community services, capital outlay, and debt service, or any expenditures made from funds received under title I and part A of title II of this Act.

"(9) The term 'Department' means the Department of Education.

"(10) The term 'educational service agency' means regional public multiservice agencies authorized by State statute to develop, manage, and provide services and programs to local educational agencies.

"(11) The term 'elementary school' means a nonprofit day or residential school that provides elementary education, as determined under State law.

"(12) The term 'free public education' means education that is provided—

"(A) at public expense, under public supervision and direction, and without tuition charge; and

"(B) as elementary or secondary school education as determined under applicable State law, except that such term does not include any education provided beyond grade 12.

"(13) The term 'institution of higher education' has the meaning given that term in section 1201(a) of the Higher Education Act of 1965.

"(14)(A) The term 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or for such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools.

"(B) The term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

"(15) The term 'mentoring' means a program in which an adult works with a child or youth on a 1-to-1 basis, establishing a supportive relationship, providing academic assistance, and exposing the child or youth to new experiences that enhance the child or youth's ability to excel in school and become a responsible citizen.

"(16) The term 'other staff' means pupil services personnel, librarians, career guidance and counseling personnel, education aides, and other instructional and administrative personnel.

"(17) The term 'outlying area' means the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and Palau (until the effective date of the Compact of Free Association with the Government of Palau).

"(18) The term 'parent' includes a legal guardian or other person standing in loco parentis.

"(19) The terms 'pupil-services personnel' and 'pupil services' mean, respectively—

"(A) school counselors, school social workers, school psychologists, and other qualified professional personnel involved in providing assessment, diagnosis, counseling, educational, therapeutic, and other necessary services as part of a comprehensive program to meet student needs; and

"(B) the services provided by such individuals.

"(20) The term 'secondary school' means a nonprofit day or residential school that provides secondary education, as determined under State law, except that it does not include any education beyond grade 12.

"(21) The term 'Secretary' means the Secretary of Education.

"(22) The term 'State' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and each of the outlying areas.

"(23) The term 'State educational agency' means the agency primarily responsible for the State supervision of public elementary and secondary schools.

"SEC. 9102. APPLICABILITY OF THIS TITLE.

"Parts B through F of this title do not apply to title VIII of this Act.

"SEC. 9103. REFERENCES IN OTHER ACTS.

"References to section 1471 of this Act, as it existed prior to the enactment of the Improving America's Schools Act of 1994, shall be deemed to refer to this section.

"PART B—FLEXIBILITY IN THE USE OF ADMINISTRATIVE AND OTHER FUNDS

"SEC. 9201. CONSOLIDATION OF STATE ADMINISTRATIVE FUNDS FOR ELEMENTARY AND SECONDARY EDUCATION PROGRAMS.

"(a) CONSOLIDATION OF ADMINISTRATIVE FUNDS.—(1) A State educational agency may consolidate the amounts specifically made available to it for State administration under one or more of the programs specified under paragraph (2) if such State educational agency can demonstrate that the majority of such agency's resources come from non-Federal sources.

"(2) This section applies to title I of this Act and the covered programs specified in sections 9101(7)(C) and (D).

"(b) USE OF FUNDS.—(1) A State educational agency shall use the amount available under this section for the administration of the programs included in the consolidation under subsection (a).

"(2) A State educational agency may also use funds available under this section for administrative activities designed to enhance the effective and coordinated use of funds under such programs, such as—

"(A) the coordination of programs specified in subsection (a)(2) with other Federal and non-Federal programs;

"(B) the establishment and operation of peer-review mechanisms under this Act;

"(C) the administration of this title;

"(D) the dissemination of information regarding model programs and practices; and

"(E) technical assistance under programs specified in subsection (a)(2).

"(c) RECORDS.—A State educational agency that consolidates administrative funds under this section shall not be required to keep separate records, by individual program, to account for costs relating to the administration of programs included in the consolidation under subsection (a).

"(d) REVIEW.—To determine the effectiveness of State administration under this section, the Secretary may periodically review the performance of State educational agencies in using consolidated administrative funds under this section and take such steps as the Secretary finds appropriate to ensure the effectiveness of such administration.

"(e) UNUSED ADMINISTRATIVE FUNDS.—If a State educational agency does not use all of the funds available to it under this section for administration, it may use such funds during the applicable period of availability as funds available under one or more programs included in the consolidation under subsection (a).

"SEC. 9202. SINGLE LOCAL EDUCATIONAL AGENCY STATES.

"A State educational agency that also serves as a local educational agency shall, in its applications or State plans under this Act, describe how it will eliminate duplication in the conduct of administrative functions.

"SEC. 9203. CONSOLIDATION OF FUNDS FOR LOCAL ADMINISTRATION.

"(a) GENERAL AUTHORITY.—In accordance with regulations of the Secretary, a local educational agency, with the approval of its State educational agency, may consolidate and use for the administration of one or more covered programs for any fiscal year not more than the percentage, established in each covered program, of the total amount available to that local educational agency under those covered programs.

"(b) STATE PROCEDURES.—Within one year from the date of enactment of the Improving America's Schools Act of 1994, a State educational agency shall, in collaboration with local educational agencies in the State, establish procedures for responding to requests from local educational agencies to consolidate administrative funds under subsection (a) and for establishing limitations on the amount of funds under covered programs that may be used for administration on a consolidated basis.

"(c) CONDITIONS.—A local educational agency that consolidates administrative funds under this section for any fiscal year shall not use any other funds under the programs included in the consolidation for administration for that fiscal year.

"(d) USES OF ADMINISTRATIVE FUNDS.—A local educational agency that consolidates administrative funds under this section may use

these consolidated funds for the administration of covered programs and for the purposes described in section 9201(b)(2).

"(e) RECORDS.—A local educational agency that consolidates administrative funds under this section shall not be required to keep separate records, by individual covered program, to account for costs relating to the administration of covered programs included in the consolidation.

"SEC. 9204. ADMINISTRATIVE FUNDS STUDY.

"(a) STUDY.—(1) The Secretary shall conduct a study of the use of funds under this Act for the administration, by State and local educational agencies, of covered programs, including the percentage of grant funds used for such purpose in covered programs.

"(2) Based on the results of such study, the Secretary shall develop a definition of what types of activities constitute the administration of programs under this Act by State and local educational agencies.

"(3) Based on the results of such study, the Secretary may publish regulations or guidelines regarding the use of funds for administration under those programs, including the use of such funds on a consolidated basis and limitations on the amount of such funds that may be used for administration where such limitation is not otherwise specified in law.

"(b) REPORT.—The Secretary shall submit to the President and the appropriate committees of the Congress a report regarding the study conducted under this section within 30 days of its completion.

"SEC. 9205. CONSOLIDATED SET-ASIDE FOR DEPARTMENT OF THE INTERIOR FUNDS.

"(a) GENERAL AUTHORITY.—(1) The Secretary shall transfer to the Department of the Interior, as a consolidated amount for covered programs, the Indian education programs under part A of title VI of this Act, and the education for homeless children and youth program under subtitle B of title VII of the Stewart B. McKinney Homeless Assistance Act, the amounts allotted to the Department of the Interior under those programs.

"(2)(A) The Secretary and the Secretary of the Interior shall enter into an agreement, consistent with the requirements of the programs specified in paragraph (1), for the distribution and use of those funds under terms that the Secretary determines best meet the purposes of those programs.

"(B) The agreement shall—

"(i) set forth the plans of the Secretary of the Interior for the use of the amount transferred, the steps to be taken to achieve the National Education Goals, and performance measures to assess program effectiveness, including measurable goals and objectives; and

"(ii) be developed in consultation with Indian tribes.

"(b) ADMINISTRATION.—The Department of the Interior may use up to 1.5 percent of the funds consolidated under this section for its costs related to the administration of the funds transferred under this section.

"SEC. 9206. AVAILABILITY OF UNNEEDED PROGRAM FUNDS.

"(a) UNNEEDED PROGRAM FUNDS.—With the approval of its State educational agency, a local educational agency that determines for any fiscal year that funds under a covered program other than part A of title I of this Act are not needed for the purpose of that covered program may use such funds, not to exceed five percent of the total amount of its funds under that covered program, for the purpose of another covered program.

"(b) COORDINATION OF SERVICES.—A local educational agency, individual school, or consortium of schools may use a total of up to 5 percent of the funds it receives under this Act for the establishment and implementation of a coordinated services project consistent with the requirements of Title X of this Act.".

"PART C—COORDINATION OF PROGRAMS; CONSOLIDATED STATE AND LOCAL APPLICATIONS

"SEC. 9301. PURPOSE.

"It is the purpose of this part to improve teaching and learning by encouraging greater cross-program coordination, planning, and service delivery under this Act and enhanced integration of programs under this Act with educational activities carried out with State and local funds.

"SEC. 9302. OPTIONAL CONSOLIDATED STATE APPLICATION.

"(a) GENERAL AUTHORITY.—(1) In order to simplify application requirements and reduce burden for State educational agencies under this Act, the Secretary shall, in accordance with subsection (b), establish procedures and criteria under which a State educational agency may submit a consolidated State application meeting the requirements of this section for each of the covered programs in which the State participates.

"(2) A State educational agency may also include in its consolidated application—

"(A) the Even Start program under part B of title I of this Act;

"(B) the education of neglected and delinquent youth program under part D of title I of this Act;

"(C) part A of title II of the Carl D. Perkins Vocational and Applied Technology Education Act;

"(D) Goals 2000: Educate America Act;

"(E) School-to-Work Opportunities Act; and

"(F) such other programs as the Secretary may designate.

"(3) A State educational agency that submits a consolidated State application under this section shall not be required to submit separate State plans or applications under any of the programs to which its consolidated application under this section applies.

"(b) COLLABORATION.—(1) In establishing criteria and procedures under this section, the Secretary shall collaborate with State educational agencies and, as appropriate, with other State agencies, local educational agencies, public and private nonprofit agencies, organizations, and institutions, private schools, and representatives of parents, students, and teachers.

"(2) Through the collaboration process described in subsection (b), the Secretary shall establish, for each program under the Act to which this section applies, the descriptions, information, assurances, and other material required to be included in a consolidated State application.

"(3) The Secretary shall require only descriptions, information, assurances, and other materials that are absolutely necessary for the consideration of the State application.

"SEC. 9303. GENERAL APPLICABILITY OF STATE EDUCATIONAL AGENCY ASSURANCES.

"(a) ASSURANCES.—A State educational agency that submits a State plan or application under this Act, whether separately or under section 9302, shall have on file with the Secretary a single set of assurances, applicable to each program for which a plan or application is submitted, that provides that—

"(1) each such program will be administered in accordance with all applicable statutes, regulations, program plans, and applications;

"(2)(A) the control of funds provided under each such program and title to property acquired with program funds will be in a public agency, in a nonprofit private agency, institution, or organization, or in an Indian tribe if the statute authorizing the program provides for assistance to such entities; and

"(B) the public agency, nonprofit private agency, institution, or organization, or Indian tribe will administer such funds and property to the extent required by the authorizing statutes;

"(3) the State will adopt and use proper methods of administering each such program, including—

"(A) the enforcement of any obligations imposed by law on agencies, institutions, organizations and other recipients responsible for carrying out each program;

"(B) the correction of deficiencies in program operations that are identified through audits, monitoring, or evaluation; and

"(C) the adoption of written procedures for the receipt and resolution of complaints alleging violations of law in the administration of such programs;

"(4) the State will cooperate in carrying out any evaluation of each such program conducted by or for the Secretary or other Federal officials;

"(5) the State will use such fiscal control and fund accounting procedures as will ensure proper disbursement of, and accounting for, Federal funds paid to the State under each such program;

"(6) the State will—

"(A) make reports to the Secretary as may be necessary to enable the Secretary to perform the Secretary's duties under each such program; and

"(B) maintain such records, provide such information to the Secretary, and afford access to the records as the Secretary may find necessary to carry out the Secretary's duties; and

"(7) before the application was submitted to the Secretary, the State has afforded a reasonable opportunity for public comment on the application and has considered such comment.

"(b) GEPA PROVISION.—Section 440 of the General Education Provisions Act does not apply to programs under this Act.

"SEC. 9304. CONSOLIDATED LOCAL APPLICATIONS.

"(a) GENERAL AUTHORITY.—A local educational agency receiving funds under more than one covered program may submit applications to the State educational agency under such programs on a consolidated basis.

"(b) REQUIRED CONSOLIDATED APPLICATIONS.—A State educational agency that has submitted and had approved a consolidated State application under section 9302 may require local educational agencies in the State receiving funds under more than one program included in the consolidated State application to submit consolidated local applications under such programs.

"(c) COLLABORATION.—A State educational agency shall collaborate with local educational agencies in the State in establishing procedures for the submission of the consolidated applications under this section.

"(d) The State educational agency shall require only descriptions, information, assurances, and other material that are absolutely necessary for the consideration of the application of the local educational agency.

"SEC. 9305. OTHER GENERAL ASSURANCES.

"(a) ASSURANCES.—Any applicant other than a State educational agency that submits an application under this Act, whether separately or pursuant to section 9304, shall have on file with the State educational agency a single set of assurances, applicable to each program for which an application is submitted, that provides that—

"(1) each such program will be administered in accordance with all applicable statutes, regulations, program plans, and applications;

"(2)(A) the control of funds provided under each such program and title to property acquired with program funds will be in a public

agency or in a nonprofit private agency, institution, organization, or Indian tribe, if the statute authorizing the program provides for assistance to such entities; and

"(B) the public agency, nonprofit private agency, institution, or organization, or Indian tribe will administer such funds and property to the extent required by the authorizing statutes;

"(3) the applicant will adopt and use proper methods of administering each such program, including—

"(A) the enforcement of any obligations imposed by law on agencies, institutions, organizations, and other recipients responsible for carrying out each program; and

"(B) the correction of deficiencies in program operations that are identified through audits, monitoring, or evaluation;

"(4) the applicant will cooperate in carrying out any evaluation of each such program conducted by or for the State educational agency or the Secretary or other Federal officials;

"(5) the applicant will use such fiscal control and fund accounting procedures as will ensure proper disbursement of, and accounting for, Federal funds paid to such applicant under each such program;

"(6) the applicant will—

"(A) make reports to the State educational agency and the Secretary as may be necessary to enable such agency and the Secretary to perform their duties under each such program; and

"(B) maintain such records, provide such information, and afford access to the records as the State educational agency or the Secretary may find necessary to carry out the State educational agency's or the Secretary's duties; and

"(7) before the application was submitted, the applicant afforded a reasonable opportunity for public comment on the application and has considered such comment.

"(b) GEPA PROVISION.—Section 442 of the General Education Provisions Act does not apply to programs under this Act.

"PART D—WAIVERS

"SEC. 9401. WAIVERS OF STATUTORY AND REGULATORY REQUIREMENTS.

"(a) GENERAL.—Except as provided in subsection (c), the Secretary may waive any requirement of this Act or of the General Education Provisions Act, or of the regulations issued under such Acts, for a State educational agency, Indian tribe, or other agency, organization, or institution that receives funds under a program authorized by this Act from the Department and that requests such a waiver if—

"(1) the Secretary determines that such requirement impedes the ability of the State educational agency or other recipient to achieve more effectively the purposes of this Act; and

"(2) in the case of a waiver proposal submitted by a State educational agency, the State educational agency—

"(A) provides all interested local educational agencies in the State with notice and an opportunity to comment on the proposal; and

"(B) submits the comments to the Secretary; and

"(3) in the case of a waiver proposal submitted by a local educational agency or other agency, institution, or organization that receives funds under this Act from the State educational agency, such request has been reviewed by the State educational agency and is accompanied by the comments, if any, of such agency.

"(b) WAIVER PERIOD.—(1) A waiver under this section shall be for a period not to exceed three years.

"(2) The Secretary may extend such period if the Secretary determines that—

"(A) the waiver has been effective in enabling the State or affected recipients to carry out the activities for which it was requested and has contributed to improved performance; and

"(B) such extension is in the public interest.

"(c) WAIVERS NOT AUTHORIZED.—The Secretary may not waive, under this section, any statutory or regulatory requirement relating to—

"(1) comparability of services;

"(2) maintenance of effort;

"(3) the equitable participation of students attending private schools;

"(4) parental participation and involvement;

"(5) the distribution of funds to States or to local educational agencies or other recipients of funds under this Act;

"(6) maintenance of records;

"(7) applicable civil rights requirements;

"(8) the requirements of sections 444 and 445 of the General Education Provisions Act; or

"(9) the requirements related to the element of a charter school described in paragraph (1) of section 3407 of this Act.

"(d) TERMINATION OF WAIVERS.—The Secretary shall terminate a waiver under this section if the Secretary determines that the performance of the State or other recipient affected by the waiver has been inadequate to justify a continuation of the waiver or if it is no longer necessary to achieve its original purposes.

"PART E—UNIFORM PROVISIONS

"SEC. 9501. MAINTENANCE OF EFFORT.

"(a) GENERAL.—A local educational agency may receive funds under a covered program for any fiscal year only if the State educational agency finds that either the combined fiscal effort per student or the aggregate expenditures of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

"(b) REDUCTION IN CASE OF FAILURE TO MEET.—(1) The State educational agency shall reduce the amount of the allocation of funds under a covered program in any fiscal year in the exact proportion to which a local educational agency fails to meet the requirement of subsection (a) by falling below 90 percent of both the combined fiscal effort per student and aggregate expenditures (using the measure most favorable to such local agency).

"(2) No such lesser amount shall be used for computing the effort required under subsection (a) for subsequent years.

"(c) WAIVER.—The Secretary may waive the requirements of this section if the Secretary determines that such a waiver would be equitable due to—

"(1) exceptional or uncontrollable circumstances such as a natural disaster; or

"(2) a precipitous decline in the financial resources of the local educational agency.

"SEC. 9502. PROHIBITION REGARDING STATE AID.

"No State may take into consideration payments under this Act (other than under title VIII) in determining the eligibility of any local educational agency in that State for State aid, or the amount of State aid, with respect to free public education of children.

"SEC. 9503. PARTICIPATION BY PRIVATE SCHOOL CHILDREN AND TEACHERS.

"(a) GENERAL REQUIREMENT.—(1) Except as otherwise provided in this Act, to the extent consistent with the number of eligible children in a State educational agency, local educational agency, or intermediate educational agency or consortium receiving financial assistance under a program specified in subsection (b), who are enrolled in private elementary and secondary schools in such agency or consortium, such agency or consortium shall, after timely and meaningful consultation with appropriate private school officials, provide such children and their teachers or other educational personnel, on an equitable basis, special educational services or other benefits under such program.

"(2) Educational services or other benefits, including materials and equipment, provided under this section, must be secular, neutral, and nonideological.

"(3) Educational services and other benefits provided under this section for such private school children, teachers, and other educational personnel shall be equitable in comparison to services and other benefits for public school children, teachers, and other educational personnel participating in such program.

"(4) Expenditures for educational services and other benefits provided under this section to eligible private school children, their teachers, and other educational personnel serving them shall be equal, taking into account the number and educational needs of the children to be served, to the expenditures for participating public school children.

"(5) Such agency or consortium may provide such services directly or through contracts with public and private agencies, organizations, and institutions.

"(b) APPLICABILITY.—(1) This section applies to—

"(A) each covered program; and

"(B) programs under title VII of this Act.

"(2) For the purposes of this section, the term 'eligible children' mean children eligible for services under a program described in paragraph (1).

"(c) PUBLIC CONTROL OF FUNDS.—(1) The control of funds used to provide services under this section, and title to materials, equipment, and property purchased with these funds, shall be in a public agency for the uses and purposes provided in this Act, and a public agency shall administer such funds and property.

"(2)(A) The provision of services under this section shall be provided—

"(i) by employees of a public agency; or

"(ii) through contract by such public agency with an individual, association, agency, or organization.

"(B) In the provision of such services, such employee, person, association, agency, or organization shall be independent of such private school and of any religious organization, and such employment or contract shall be under the control and supervision of such public agency.

"(C) Funds used to provide services under this section shall not be commingled with non-Federal funds.

"SEC. 9504. STANDARDS FOR BY-PASS.

"If, by reason of any provision of law, a State, local, or intermediate educational agency or consortium is prohibited from providing for the participation in programs of children enrolled in, or teachers or other educational personnel from, private elementary and secondary schools, on an equitable basis, or if the Secretary determines that such agency or consortium has substantially failed or is unwilling to provide for such participation, as required by section 9503, the Secretary shall—

"(1) waive the requirements of that section for such agency or consortium; and

"(2) arrange for the provision of equitable services to such children, teachers, or other educational personnel through arrangements that shall be subject to the requirements of this section and of sections 9503, 9505, and 9506.

"SEC. 9505. COMPLAINT PROCESS FOR PARTICIPATION OF PRIVATE SCHOOL CHILDREN.

"(a) PROCEDURES FOR COMPLAINTS.—The Secretary shall develop and implement written procedures for receiving, investigating, and resolving complaints from parents, teachers, or other individuals and organizations concerning violations by an agency or consortium of section 9503 of this Act. Such individual or organization

shall submit such complaint to the State educational agency for a written resolution by such agency within a reasonable period of time.

"(b) APPEALS TO THE SECRETARY.—Such resolution may be appealed by an interested party to the Secretary within 30 days after the State educational agency resolves the complaint or fails to resolve the complaint within a reasonable period of time. Such appeal shall be accompanied by a copy of the State educational agency's resolution, and a complete statement of the reasons supporting the appeal. The Secretary shall investigate and resolve each such appeal within 120 days after receipt of the appeal.

"SEC. 9506. BY-PASS DETERMINATION PROCESS.

"(a) REVIEW.—(1)(A) The Secretary shall not take any final action under section 9504 until the agency or consortium affected by such action has had an opportunity, for at least 45 days after receiving written notice thereof, to submit written objections and to appear before the Secretary to show cause why that action should not be taken.

"(B) Pending final resolution of any investigation or complaint that could result in a determination under this section, the Secretary may withhold from the allocation of the affected State or local educational agency the amount estimated by the Secretary to be necessary to pay the cost of those services.

"(2)(A) If such affected agency or consortium is dissatisfied with the Secretary's final action after a proceeding under paragraph (1), it may, within 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action.

"(B) A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary.

"(C) The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary based this action, as provided in section 2112 of title 28, United States Code.

"(3)(A) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence and the Secretary may thereupon make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings.

"(B) Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(4)(A) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part.

"(B) The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(b) DETERMINATION.—Any determination by the Secretary under this section shall continue in effect until the Secretary determines, in consultation with such agency or consortium and representatives of the affected private school children, teachers, or other educational personnel that there will no longer be any failure or inability on the part of such agency or consortium to meet the applicable requirements of section 9503 or any other provision of this Act.

"(c) PAYMENT FROM STATE ALLOTMENT.—When the Secretary arranges for services pursuant to this section, the Secretary shall, after consultation with the appropriate public and private school officials, pay the cost of such services, including the administrative costs of arranging for those services, from the appropriate allocation or allocations under this Act.

"(d) PRIOR DETERMINATION.—Any by-pass determination by the Secretary under this Act as in effect on the day before enactment of the Improving America's Schools Act of 1994 shall remain in effect to the extent the Secretary determines that it is consistent with the purpose of this section.

"SEC. 9507. PROHIBITION AGAINST FUNDS FOR RELIGIOUS WORSHIP OR INSTRUCTION.

"Nothing contained in this Act shall be construed to authorize the making of any payment under this Act for religious worship or instruction.".

"PART F—GUN POSSESSION

"SEC. 9601. POLICY FOR GUN POSSESSION.

"(a) IN GENERAL.—Each local educational agency which receives assistance under this Act shall have a policy that addresses student possession and use of a gun on school property.

"(b) POLICY CONTENT.—The content of such policy may include—

"(1) punishment requirements for possession and use of a gun on school property, including expulsion and suspension;

"(2) alternative placement for an individual who violates the policy;

"(3) educational services for a student expelled from school for violation of the policy; and

"(4) opportunities for a hearing to address expulsion or suspension decisions for violation of the policy.

The CHAIRMAN pro tempore. Are there amendments to title IX?

AMENDMENT OFFERED BY MS. WOOLSEY

Ms. WOOLSEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. WOOLSEY: To Title IX, on p. 763, add a new Part G.

After line 3 add "Part G—Sense of the Congress to Increase the Total Share of Federal Spending on Education".

The Congress finds that—

(1) in order to increase our Nation's standard of living and to increase the number of good jobs, the United States must increase its productivity and ability to compete in the international marketplace by improving the educational level of our workforce;

(2) although efforts are being made to establish higher educational standards and goals, there is a substantial shortage of resources to meet such standards and goals;

(3) States and local communities are finding it increasingly difficult to meet even higher educational standards and goals, and States will not be able to fund needed changes without Federal help to reach such standards and goals;

(4) the Federal Government has established many education programs but failed to provide adequate funding for such programs, for example one such program provides education to our Nation's disabled students and was established with a promise of 40 percent Federal funding but currently receives only 8 percent Federal funding;

(5) the annual shortfall in Federal education programs is approximately half of the promised funding:

(6) many needed education improvements will not need Federal funds, however, other suggested changes such as lengthened school years, better pay, after-school activities, mentoring for students at risk, programs for gifted students, and replacing substandard buildings will require substantial Federal assistance; and

(7) the Federal contribution to education is less than 2 percent of the total Federal budget, and in order to make education a national priority, the total percentage of Federal education funding should be increased by 1 percent each year over the next 8 years to reach 10 percent of the total Federal budget.

(b) It is the sense of the Congress that the total share of the Federal spending on education should increase by at least 1 percent each year until such share reaches 10 percent of the total Federal budget.

Ms. WOOLSEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

Ms. WOOLSEY. Mr. Chairman, my amendment is a sense of the Congress resolution to increase the total share of Federal spending on education by 1 percent of spending each year until total education spending equals 10 percent of the Federal budget.

Ten years ago, the National Commission on Excellence in Education published a landmark report on education in America titled, "A Nation at Risk." That report said, "Our Nation is at Risk." And, that our educational performance is "being eroded by a rising tide of mediocrity that threatens our very future as a Nation, and, a people."

That report was right, Mr. Chairman. In a 1992 study conducted by the Department of Education, eighth grade students in the United States ranked 13th out of 14 nations in mathematics proficiency, and 12th out of 14 in science proficiency.

Today, the education budget makes up 2 percent of total Federal spending. If we are truly committed to our children's future—this country's future—we must do better by backing up that commitment with increased Federal funding.

How would we spend these funds? We have heard alot of talk about unfunded Federal mandates while debating this bill. The increase I am proposing would fully fund all currently existing Federal education mandates: We could extend successful education programs to all eligible students; we could increase participation in Head Start and Chapter I programs; we could ensure that every eligible student received his or her full Pell grant; we could support violence and drug prevention programs, adult literacy programs, and repair unsafe school buildings.

And you know what? By increasing our investment in education, we will save money in the long run, because more Americans will be trained for the jobs of the future; health care costs will be reduced; there will be less dependence on welfare; and decreased crime and violence.

As a member of the House Budget Committee, I am particularly aware of the need for more funds for education. Along with other members of the Budget Committee, I spent the last week fighting to make funds for education a higher budget priority.

This sense of the Congress resolution will give needed support to members of both the Budget and the Appropriations Committees who want to increase the share of Federal funds that go to education. It also sends a clear message that this Congress values education.

Mr. Chairman, this sense of the Congress resolution has already been passed by the other body, and I ask my colleagues to join with our colleagues in the other body to unite Congress in a commitment to improving education in America.

□ 1810

Mr. MILLER of Florida. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, I realize this is just a sense-of-the-Congress amendment and not a mandate, but it really does not make a lot of sense to try to create false expectations that we are going to spend a lot more money out of our Federal budget on education. We just do not have the money.

I recognize that education is very important, so important because it is the cause of violence, crime, health care problems, teen pregnancy, and it means so much. But the problem is we only have so much money.

Last week we spent 2 days debating the balanced budget amendment, which unfortunately was defeated. We had a majority of the House that supported it. We want to get serious.

I am on the Committee on the Budget and the Committee on Education and Labor, and I recognize the need for the money in education. But if you do not have the money, you do not have the money.

We are talking about $150 billion if we use today's budget. We are spending approximately $30 billion now. To go to $150 billion under pay-go, how do you get to that number?

The other assumption that is made is that throwing money at education on the Federal level solves the problem. Education, in my opinion, belongs to the family, the State and local levels; it is not a Federal money issue. We just cannot throw money. Let us not try to create a false impression that we are going to come up with another $100 billion-some when the money is not there. And we cannot get it under the pay-go rule, and where do we cut to get that money?

I oppose the sense-of-Congress amendment.

The CHAIRMAN pro tempore (Mr. DARDEN). The question is on the amendment offered by the gentlewoman from California [Ms. WOOLSEY].

The amendment was agreed to.

The CHAIRMAN pro tempore. Are there further amendments to title IX?

AMENDMENT OFFERED BY MR. SAM JOHNSON OF TEXAS

Mr. SAM JOHNSON of Texas. Mr. Chairman, I offer an amendment. This amendment was printed on page 2776 of the CONGRESSIONAL RECORD of February 23, by the gentleman from Tennessee [Mr. DUNCAN].

The Clerk read as follows:

Amendment offered by Mr. SAM JOHNSON of Texas: Page 762, after line 8, insert the following:

"SEC. 9508. PROHIBITION AGAINST FUNDS FOR PROTECTED PRAYER.

"Notwithstanding any provision of law, no funds made available through the Department of Education under this Act, or any other Act, shall be available to any State or local educational agency which has a policy of denying or which effectively prevents participation in, constitutionally protected prayer in public schools by individuals on a voluntary basis. Neither the United States nor any State nor any local educational agency shall require any person to participate in prayer or influence the form or content of any constitutionally protected prayer in such public schools.".

Mr. SAM JOHNSON of Texas. Mr. Chairman, this amendment would allow students and teachers in public schools across the Nation to voluntarily pray. My amendment is identical to the language offered February 23 by the gentleman from Tennessee [Mr. DUNCAN]. In fact, it is Mr. DUNCAN's language which was overwhelmingly supported by the Members of this body by a margin of 367 to 55.

As you will remember, the House voted to instruct conferees on Goals 2000 to accept a Senate amendment of the same language which I am offering now. The other body passed this same language by a steadfast 75-to-22 vote. Judging by these margins, this Congress supports protecting the constitutional right of children to pray.

Let me just tell you a couple of stories. One, which is out of St. Louis, where kids were in school and one of them, a 10-year-old boy, was praying before eating his lunch on three separate occasions. Finally, he was disciplined with detention during recreation periods for 1 week.

The boy's mother was told that it was against the law to pray in school and that the decision to punish her son would not be overturned. That is not America. That is not what this country was built on. This country is one Nation under God, and prayer is part of our legal right.

The Congress, this Congress, will not tolerate abridgement of this right, nor discrimination against those who would seek to exercise it. There is no better time than today on this bill for Congress to take action to protect the constitutional right to freely practice one's religion.

When I was in school, participation in religious programs, the Pledge of Allegiance, pregame prayers, were every day occurrences. In fact, the Ten Commandments were posted on the walls.

I think even today right here in Washington, DC, we see that coming back when Marion Barry, who used to be the mayor and is currently a councilman, said, "With all the violence and other problems, we need to get back to trying to allow those who want to pray to do it." Barry said, referring to shootings and beatings in the schools, "It may set a moral tone at the schools." That is out of the paper. You all read it. I think you realize, and so does the rest of the country, finally, realizing that it is time to get prayer back to school.

When I took my oath of office, I pledged to uphold the Constitution just like every Member of this body, and that is what we would do today by passing this amendment.

The courts have affirmed that students in public schools do not shed their constitutional right to freedom of speech or expression at the school gatehouse. That is from Wallace versus Jeffrey.

The court concluded that there is no constitutional barrier to a State protecting every student's right to engage in voluntary prayer.

It does not require State education agencies or local education agencies to do anything except uphold our Constitution. An abiding belief in and a love of God were the building blocks of our Founding Fathers. That laid the foundation for this wonderful Nation. This Nation's heritage is rooted in religious faith.

I believe those same values have helped to maintain its strength.

Over 200 years ago, George Washington affirmed this belief when he stated, "Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports." And I believe that the omission of voluntary prayer in school removes from children the very values on which this great Nation was founded.

The right to voluntary prayer is vital to the future of our children and this Nation. I think we need to put this amendment on this bill just to uphold that right.

By voting for this amendment today, you would be casting a vote to uphold the U.S. Constitution; you are fighting discrimination against voluntary prayer, but above all you are allowing our children, who are the future of our Nation, the freedom to pray.

□ 1820

Mr. KILDEE. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Texas [Mr. SAM JOHNSON].

Mr. Chairman, I probably prayed every day of my life since I was 3 years old, which goes back about 60 years, and I commend it to everyone. I think it is very good, and I know that there are sometimes some overzealous teachers or some overzealous administrators who are uninformed and really interfere with private prayer. When I taught in public school, that was not the case then, and in most public schools it is

not the case now, but there are some occasions where there is interference.

In a school cafeteria when I was on cafeteria duty, Mr. Chairman, I would see students sometimes bowing their heads before they began to eat, or making the sign of the cross, giving some religious indication, privately before they began to eat, and I certainly feel that is protected prayer. That is their own voluntary prayer.

I looked at the language. I think the gentleman from Montana [Mr. WILLIAMS] has some language that might be acceptable to the gentleman that is probably a little briefer but still achieves the same purpose, so I would ask us to take a look at the amendment to the gentleman's amendment which Mr. WILLIAMS may offer.

But I certainly agree, Mr. Chairman, that there are instances where people are interfered with in their constitutional right of privately praying.

AMENDMENT OFFERED BY MR. WILLIAMS TO THE AMENDMENT OFFERED BY MR. SAM JOHNSON OF TEXAS

Mr. WILLIAMS. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. WILLIAMS to the amendment offered by Mr. SAM JOHNSON of Texas: In section 9508, as proposed to be added by the amendment—

(1) in the heading, strike "**PROHIBITION AGAINST**"; and

(2) in the text, strike "Notwithstanding" and all that follows through "in such", and insert the following:

"No funds authorized to be appropriated under this Act may be used by any State or local educational agency to adopt policies that prevent voluntary prayer and medication in".

Mr. WILLIAMS. Mr. Chairman, I want to draw my colleagues' attention to the fact that the gentleman from Texas offers a serious amendment about which he and many people in this Chamber and around this country have considered for many years now, and that is the appropriate and proper way to allow America's school children a moment of contemplation in which they might pray in school, if they so choose and do so in a way that does not violate the Constitution of the United States. I thank my gentleman friend for raising this issue before the House.

I do hold, however, that my colleague's amendment, although it does not intend to, would, in fact, unfairly punish schools with a drastic penalty; that is, the loss of every dime of their Elementary and Secondary Education Act money, and it would penalize them simply if a school official guessed wrong about what prayer is constitutionally acceptable and what prayer is not.

Now we all understand that this is an exceedingly complex and unsettled area of law. It is far from clear, both to the Members of this body, as well, of course, to all school officials in the land, as to what is constitutionally protected prayer. The law in this area continues to evolve, and there are flatly contradictory opinions and decisions from the Federal courts about voluntary prayer in the public schools, and yet the amendment offered by my friend from Texas would ask people who are trained as teachers to make these difficult, complex constitutional decisions, and, if they decided wrong in the opinion of an all-powerful and omnipotent Federal Government, then every child under their charge, every child in that school district, would lose every dime of money envisioned in this bill.

So, Mr. Chairman, I am simply trying to perfect what I think is an alarmingly flawed amendment offered by the gentleman from Texas [Mr. SAM JOHNSON]. My perfecting amendment does not take us down the path I have described. What my amendment does is, I think, very simple. It does protect two important principles. First, it upholds our time-honored tradition of local control of schools; and, second, it supports voluntary prayer.

By the way, Mr. Chairman, it keeps the Federal Government out of the business of telling local schools what they must do and how they must do it while making it clear that no Federal funds, and this is the heart of my amendment, no Federal funds may be used to prevent voluntary prayer and meditation in our public schools. So, my amendment says, "You simply can't use any Federal funds under this act to prevent school prayer," but it does not threaten students with the elimination of every dime of Federal money. It just says, "You can't use Federal funds to deny someone the chance to engage in voluntary prayer and meditation."

Mr. Chairman, let me spend another minute or so talking to my colleagues about what I think the unintended consequences are of the Johnson-Duncan amendment. First, as it is now drafted, Mr. Chairman, the amendment places significant Federal control over some fundamental local school matters. Does this Chamber really want to empower Federal officials to review local school decisionmaking concerning the disposition of State and local education dollars?

Equally disturbing, Mr. Chairman, is that these Federal officials would be authorized under the gentleman's amendment to pronounce upon issues of constitutional law and to terminate all support, financial support, to a school district if the Federal officials disagree with the local decision that the local administrators have made. I ask, "Isn't that the reverse of what my friends on the other side of the aisle say they are for?" They want the Federal Government out of it, and here they are going to empower the Federal Government to come in and tell a local official they were wrong and, not only they were wrong, but we have now stripped every dime of the money in this act from every child in that school district.

Mr. Chairman, that is an arrogant use of Federal authority over the local decisionmaking power of the schools. Why would our colleagues on the other side of the aisle want to empower Federal officials?

The CHAIRMAN pro tempore (Mr. DARDEN). The time of the gentleman from Montana [Mr. WILLIAMS] has expired.

Mr. WILLIAMS. Mr. Chairman, I ask unanimous consent for an additional 3 minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Montana?

Mr. SAM JOHNSON of Texas. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

Mr. SAM JOHNSON of Texas. Mr. Chairman, let me just withdraw my objection. I would like to listen to the gentleman, but I would just like to be able to ask him some questions before he is done.

The CHAIRMAN pro tempore. The gentleman from Texas [Mr. SAM JOHNSON] withdraws his objection.

The Chair recognizes the gentleman from Montana [Mr. WILLIAMS] for 3 additional minutes.

Mr. WILLIAMS. Mr. Chairman, I appreciate the gentleman from Texas [Mr. SAM JOHNSON] withdrawing his objection.

Mr. Chairman, the point is that the gentleman's amendment, as I understand it, is trying to help local school children, but what he is really doing is empowering Federal officials to walk into our school districts, decide whether or not our local officials are correct when they make a decision over a child's personal decision regarding prayer. Federal officials can come in and decide whether that local official's decision about that personal time that a child may or may not want to spend with his or her God is the right decision, and, if a Federal official decides it is not right, they can strip that school of all their money.

Finally, Mr. Chairman, I ask my colleagues in a thoughtful way to consider this:

Wouldn't this amendment, as offered by my friend from Texas, risk dividing communities and encouraging costly litigation?

□ 1830

You are a Federal school official. You wake up in the morning and what you really want to do is go administer the schools, or maybe even teach a couple of classes. But what you are faced with is a memo from the American Center for Law and Justice taking one side of the school prayer issue, and another memo on your desk from the American

Civil Liberties Union or the National Education Association taking another side of the complex evolving school prayer issue.

All you want to do is teach the children. But because the Johnson-Duncan amendment passed the Congress a few months earlier, you must now make a decision in this terribly complex and personal area as to how the children can best pray according to the Constitution.

As soon as you make that decision, are you not going to divide the community of parents and children within that district? And are you not going to invite litigation? Absolutely, and every Member of this Chamber knows it.

Let us not put that burden on our local school officials. Let us not put that burden on our teachers. Let us simply say to them, school officials, teachers, you cannot use a dime of this money in this bill to deny constitutionally protected prayer by your students in your schools. That is what my amendment would do.

Mr. Chairman, now I yield to my friend the gentleman from Texas [Mr. SAM JOHNSON].

Mr. SAM JOHNSON of Texas. Mr. Chairman, I just want to tell Members that the Supreme Court, first of all, says it is unconstitutional to deny a student the right to pray. According to the gentleman from Montana [Mr. WILLIAMS], the gentleman wants to not have the Federal Government get involved because he says it is not unconstitutional for a student to pray.

I say the gentleman is wrong. I cannot believe that the gentleman would try to say, it is kind of humorous at best, that allowing a child to pray on his own accord is a Federal mandate. The Johnson-Duncan amendment does not do anything that requires a school to do anything. All it says is they must not prevent a constitutional right to pray.

The CHAIRMAN pro tempore. The time of the gentleman from Montana [Mr. WILLIAMS] has expired.

Mr. SAM JOHNSON of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think what you have got to look at is the language in the amendment. The language in the amendment strikes the whole Duncan-Johnson amendment, the whole thing. It strikes the words prohibition against protected prayer. It strikes constitutionally protected prayer in public schools voluntarily. Nothing is left that protects prayer in school.

I think it is also interesting to note that in 1989 the gentleman from Montana [Mr. WILLIAMS] voted against a school prayer amendment passed by a margin of 269 to 135. Clearly the gentleman has created for himself a problem of conflicting votes on the issue of voluntary prayer in school, trying to raise just another issue, that of Federal mandates.

To begin with, this whole bill is a Federal mandate of pretty large degree. I think since we understand now that it does not perfect the amendment, it guts the entire language, it is creating a giant loophole for schools to violate the Constitution, not uphold it. I still say it is our constitutional right in this Congress to protect the Constitution as written, and this language in our bill will do it, not the amendment that is on hand. I suggest Members vote against it.

Mr. ROHRABACHER. Mr. Chairman, will the gentleman yield?

Mr. SAM JOHNSON of Texas. I yield to the gentleman from California.

Mr. ROHRABACHER. Mr. Chairman, the gentleman is saying the Federal Government should have a role in protecting the constitutional rights of freedom of religion of the students of this country?

Mr. SAM JOHNSON of Texas. I say we should, and I think the gentleman trying to amend our amendment is taking that constitutional authority away from the Congress.

Mr. ROHRABACHER. Mr. Chairman, if the gentleman will yield further, your position is basically that the Federal Government, by coming in to the local schools to protect students' right to pray, is something that the Federal Government should be responsible for, protecting the constitutional rights of peoples' rights to the freedom to pray and the freedom of religion.

Mr. SAM JOHNSON of Texas. Exactly.

Mr. ROHRABACHER. The gentleman is saying our friend's amendment actually guts your intention of having the Federal Government protect this constitutional right and make that one of its responsibilities?

Mr. SAM JOHNSON of Texas. Precisely.

Mr. MANZULLO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to pose a question to the author of the amendment, the gentleman from Montana [Mr. WILLIAMS], if he is so inclined to answer the question.

Mr. Chairman, is it my understanding the gentleman from Montana's intent is to place the educational system in a situation where it does not have to pass judgment upon whether a particular activity is constitutional or not?

Mr. WILLIAMS. Mr. Chairman, if the gentleman will yield, it is impossible to craft a law that would remove that dilemma from officials. It seems to me that every official that attempts to find their way through the Constitution to allow voluntary prayer is in a briar patch, and I do not know how to craft a law to prevent that dilemma.

What I am trying to do is stop Federal officials from forcing that dilemma.

Mr. MANZULLO. Mr. Chairman, reclaiming my time, is that inconsistent with the vote of the gentleman from Montana when he voted for Mr. DUNCAN's language in February on Goals 2000?

Mr. WILLIAMS. If the gentleman would remind me what the vote was?

Mr. MANZULLO. That is on the amendment that is present now, the Johnson-Duncan amendment that is present now.

Mr. WILLIAMS. The gentleman from Montana was incorrect and cast a bad vote.

Mr. MANZULLO. I would like to ask another question.

Mr. WILLIAMS. As did, unfortunately, a majority of the House and Senate.

Mr. MANZULLO. We all make mistakes.

Mr. Chairman, my understanding, again, is that the amendment offered by the gentleman from Montana [Mr. WILLIAMS] is saying the schools should now be placed in a position of determining what is or what is not constitutional with regard to the activities of children, is that correct?

Mr. WILLIAMS. If the gentleman will yield further, I could teach that one round or flat, I guess.

Mr. MANZULLO. Mr. Chairman, I did not hear the answer, I am sorry.

Mr. WILLIAMS. Will the gentleman rephrase his question?

Mr. MANZULLO. Mr. Chairman, my understanding is that the reason for the amendment offered by the gentleman from Montana [Mr. WILLIAMS] is that the gentleman does not feel that school authorities, including teachers, should be placed in the position of determining whether or not a certain activity is constitutional. Is that the purpose of the gentleman's amendment?

Mr. WILLIAMS. Mr. Chairman, if the gentleman will yield further, the purpose of my amendment is to deny any school official from using the money in this act to deny constitutionally permitted voluntary prayer.

Mr. MANZULLO. Mr. Chairman, that did not answer the question of this speaker here. Let me rephrase that.

Do schools have to make decisions from time to time as to whether or not a particular conduct is permissible, either under the general, at that time, statutory law, or under the Constitution?

Mr. WILLIAMS. They do.

Mr. MANZULLO. And my understanding of the amendment that is offered by the gentleman from Texas [Mr. SAM JOHNSON] and the gentleman from Tennessee [Mr. DUNCAN] is the schools would have a ready forum in the event a question arises, so instead of being barraged by letters from both sides, they could have a quick forum in the Federal courts.

Mr. WILLIAMS. Mr. Chairman, if I may, let me answer the question by asking the gentleman a question. What

if the schools guess wrong? The gentleman is asking whether or not the schools have to guess. I am saying, yes, they have to guess. What if they guessed wrong under the gentleman's amendment?

□ 1840

If they are going to be litigated against, they are going to be sued. The community is going to be divided. If they guessed wrong, the Federal Government is going to deny every dime of money under this act. Does the gentleman support that?

Mr. MANZULLO. Mr. Chairman, this gentleman is opposed to Federal restrictions on schools that place schools and all local government entities in that particular position.

Mr. WILLIAMS. Mr. Chairman, the gentleman did not answer my question.

Mr. MANZULLO. Mr. Chairman, the issue here is very simple. As I understand the Johnson-Duncan amendment, it simply says that if a school receives Federal funds that it should, as part of its tutorial role, ensure that students have the full range of constitutional rights. There are all kinds of issues that come up, for example, dress codes, the manner in which students can publish newspapers, that went to the Supreme Court. And teachers and schools deal on a day-to-day basis with the rights of students.

My understanding of the Johnson-Duncan law is, all it says is that students are entitled to constitutional rights and, to the extent that schools are receiving Federal funding, they should be guarding the constitutional rights of those children.

Mr. EMERSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today in support of an amendment offered by the gentleman from Texas and in opposition to the amendment of the gentleman from Montana. This amendment incorporates the same language passed last week by the House as a motion to instruct conferees on Goals 2000 legislation that I offered along with Congressman DUNCAN from Tennessee. In addition, it is similar to the one recently passed by the Senate concerning school prayer. The amendment offered by Senator HELMS overwhelmingly passed the Senate by a vote of 77–23. I think it is important to note that an almost identical amendment to this one was passed by the House of Representatives in 1989 by a vote of 269 to 135—almost a 2-to-1 margin.

First, let me spell out what this language does do and then make it clear what it doesn't do. This language will prevent any school district which has a policy of prohibiting voluntary student-initiated prayer in the schools from receiving any Federal funds authorized by this act or any other act. In other words, it simply forbids school districts from setting up official policies or procedures with the intent and purpose of prohibiting individuals from voluntarily saying prayers at school.

This language does not mandate school prayer or require schools to write any particular prayer. Under this language, a school is not required to do anything in favor of voluntary prayer. It simply must refrain from instituting policies prohibiting voluntary student prayer.

The Founding Fathers intended religion to provide a moral anchor for our democracy. Wouldn't they be puzzled to return to modern-day America and find, among elite circles in academia and the media, a scorn for the public expression of religious values.

One of the many liberties our forefathers founded this great Nation upon was freedom of religion; a freedom to pray to the God we want, when we want, and where we want. Unfortunately, this freedom has been eroded by the Supreme Court over the last few decades. I firmly believe that no one should be forced to pray, especially if a certain prayer is contrary to an individual's beliefs. But, there can be no question that every American citizen has the right to pray voluntarily whenever and wherever he or she chooses, and that includes children in public schools. This is protected under the first amendment; "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." It is that second part that I ask you to pay special attention to today.

As President Reagan so eloquently stated in 1982, "the first amendment of the Constitution was not written to protect the people of this country from religious values; it was written to protect religious values from government tyranny." I urge you to vote for the Johnson amendment.

Mr. NADLER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Montana. Let us understand what we are not voting on today. We are not voting on the right of students to pray in school.

That right is protected by our Constitution and is respected in our schools. Any child who wants to say a prayer before the day begins or recite a blessing before a meal at school or seek divine intervention before an exam is free to do so.

The Williams substitute would ensure that that right will remain protected. It will ensure that no Federal funds can be used to prohibit constitutionally permitted voluntary school prayer.

Moreover, there is no reported case in our courts in the history of the Republic involving school officials refusing to allow private voluntary prayers by individual students. And this practice goes on all the time.

As William Safire, the noted advisor to President Nixon once observed, so long as there are math tests, there will be prayer in schools.

The gentleman's amendment would protect the taxpayers in our school districts from defending nuisance lawsuits and from the threat of losing all federal education aid.

What does the amendment offered by the gentleman from Texas really do? It would, by applying Draconian penalties to only one side of the church-state debate, effectively encourage schools and schools boards to violate the rights of all students to be free from the coercive effects of government-sponsored religious practices. It would make school boards feel vulnerable to the threats of lawsuits from the most unreasonable person in the community.

It would give to some Federal bureaucrat in the local office of the Department of Education the right to decide in his or her own volition that the policy of the local school board is inadequate and all the Federal aid ought to be cut off, and then the school board would have to go sue in Federal court to restore the Federal aid. What a one-sided threat that is.

What the proponents of officially sponsored prayer, and make no mistake about it, that is what the amendment offered by the gentleman from Texas would lead to, officially sponsored prayer, ignore is that the establishment clause exists to protect religious liberty. It is difficult to understand why some of the same Members who do not trust the machinery of state to regulate railroad tariffs nonetheless seem perfectly at ease with the possibility that local bureaucrats would be involved in school prayer decisions.

For religion to be truly free, it must flow from individual faith, not from government coercion.

The Williams substitute will protect that most precious of our liberties without threatening to bankrupt our local schools or permit the enemies of religious freedom to use the courts and the schools to coerce the religious practices of our children.

The gentleman from Montana [Mr. WILLIAMS] is in the tradition of Roger Williams.

I urge adoption of the Williams substitute.

Mr. ROHRABACHER. Mr. Chairman, will the gentleman yield?

Mr. NADLER. I yield to the gentleman from California.

Mr. ROHRABACHER. Mr. Chairman, what is it that leaves the gentleman, the gentleman said that this proposal is leading to officially, an official prayer, something, officially-sanctioned prayer, what leads the gentleman to the conclusion that someone who has stated over and over again that what

he is really concerned about is protecting the rights of students to exercise their own right of voluntary prayer, that that leads to officially-sanctioned prayer, protecting people's right to pray as they so choose?

Mr. NADLER. Mr. Chairman, I note two things in answer to the question. Number one, the right of voluntary school prayer is not threatened. There is no case on record in the courts of this country that has ever stopped voluntary school prayer, number one, so there is no threat there.

And I note, secondly, that the amendment of the gentleman from Texas would threaten a local school district, would give the power to a local bureaucrat to determine in his opinion that the policy of a local school district is not sufficiently protective of his opinion of the constitutional right, let that bureaucrat cut off the Federal aid, and that would be a heck of an incentive to local school districts to lean over backward in favor of officially sponsored prayer.

□ 1850

Mr. STEARNS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, before I start to present my support of the amendment offered by the gentleman from Texas [Mr. JOHNSON] and the gentleman from Tennessee [Mr. DUNCAN], I would like to compliment the gentleman from Montana [Mr. WILLIAMS], who candidly admitted he thought he had made a mistake on this vote. We rarely hear that kind of candor here on the House floor, so I wanted to compliment the gentleman, and also have him think carefully about his amendment today, that he might perhaps be wrong again.

Mr. Chairman, the language of the Johnson amendment has been accepted overwhelmingly by both the House and the Senate with regards to constitutionally protected school prayer. As recently as February 23, this House voted 367 to 55 in favor of identical language for the Education legislation.

Apparently, for the opponents of the Johnson amendment, constitutionally-protected prayer ranks low on the list of constitutional freedoms, and local schools should have broad discretion to limit the exercise of that right. The only protection they would like to place against local school systems infringing on that right is that schools cannot use funds provided in this bill to do so.

What I am concerned about is that the small constitutional protection that has been carved out for our children must be protected by all persons who are concerned with the protection of civil liberties. The violation of these rights should not be responded to with a slap on the wrist. We should bring the full force of the law to see that these protections are maintained.

The Supreme Court has been very strict in drawing a line between voluntary and involuntary prayer. And, once again, let me say this amendment affects only constitutionally protected prayer—only the right to say grace before a meal, a silent prayer in the morning or a voluntary student-led invocation at graduation.

This House has stood firmly for that principle in the past and again this year. We should not dilute that message with the Williams amendment.

I ask my colleagues to vote no on the Williams amendment and yes on the amendment offered by my good friend, Mr. JOHNSON of Texas, and Mr. DUNCAN of Tennessee.

Mr. EDWARDS of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Texas [Mr. JOHNSON] and the gentleman from Tennessee [Mr. DUNCAN]. Back in 1963 when the Supreme Court outlawed compulsory religious services, that is what we are talking about, in the public schools, there was a lot of compulsory religious services all over this Nation.

The Supreme Court found that terribly sad things were happening, children of different religions were going through horrible experiences in portions of the country, well, we will say in Mormon country, where most of the children happen to be Mormons and the prayers always followed that religion, and in Baptist country, and in Catholic areas, and so forth. So the children who were not of that denomination, who did not believe that, children were hurt and humiliated by the fact that prayers were being held in religions other than theirs and which they might have strongly disagreed with.

Really, it was a very controversial decision of the Supreme Court based on the First Amendment that says that the Government is supposed to stay out of religion. It must stay out. It cannot support, it cannot demand, it cannot countenance compulsory religious services in schools.

Mr. Chairman, there is no doubt, absolutely, no doubt, that freedom of prayer is protected in schools. A child in a public school can pray, can read the Bible, all in his or her free time. They cannot interrupt classes and things to do that.

Behind this, behind this amendment, too, is a campaign being waged by the radical right, the born again, to some extent conservative religious people who are determined to get public schools with compulsory religious services, religious prayer. That is what is behind this.

Mr. Chairman, there is one case out there that sort of triggered it. In the first place, in 1992 it infuriated these people that the Supreme Court would not allow or outlawed as unconstitutional a prayer at a graduation. They were right, it was compulsory, because it was done by majority vote, we will say by the students, but majority vote is not necessarily constitutional. The purpose of the Constitution is generally to protect the minority, the person who is to be destroyed or humiliated by the majority, the minority.

Then there was a case in one circuit, one court, that held that where the students got together and voluntarily, absolutely with no adult or church supervision, wanted to have a prayer, that that was all right. That is the only case there is. The Supreme Court has never countenanced anything like this, and I do not think they will.

This is what they have grasped. They want to get the camel's nose under the tent, because what they want and what a lot of my colleagues that I respect want is compulsory school prayer. They want, as President Reagan used to say over and over again, "What about our little children? They are not allowed to pray in schools," and so forth.

Let me tell my colleagues, children can pray in public schools any time they want to. Nobody is threatening the right of children to pray. What we cannot countenance, though, is to have compulsory prayer, and that is really what they are talking about.

Mr. DELAY. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Chairman, what about just last year in Corpus Christi, students at various high schools and junior highs were offered by school officials in Corpus Christi, TX, to disperse, and were advised that they would receive disciplinary action for gathering before school to pray around a flag pole?

What about in Dallas, where students at Skyline High School were threatened by their principal that if they continued to read audibly from their Bible and pray on the school lawn before school, they would receive disciplinary action?

We could give case by case by case, maybe not legal cases, because these people cannot afford to go through the gentleman's system, but with the Johnson amendment they would be protected from this kind of abuse by school officials.

The CHAIRMAN pro tempore. The time of the gentleman from California [Mr. EDWARDS] has expired.

(By unanimous consent, Mr. EDWARDS of California was allowed to proceed for 1 additional minute.)

Mr. EDWARDS of California. Mr. Chairman, I do not think they would be protected. What the gentleman wants is compulsory. The gentleman wants there to be compulsory prayer in schools. Is that not correct? I would ask the gentleman, is that what he really wants?

Mr. DELAY. Will the gentleman yield further?

Mr. EDWARDS of California. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Chairman, that is not correct. We do not want to discourage those who want to practice religions on school grounds from doing so.

Mr. EDWARDS of California. They can practice it anytime they want.

Mr. DELAY. It has nothing to do with compulsory religion.

Mr. EDWARDS of California. Mr. Chairman, advocates for school prayer want us to believe that without the Johnson-Duncan amendment children would be denied the opportunity to pray in school. This is simply not true and that kind of inflammatory rhetoric should be rejected by the Members of this body. Before casting a vote on this issue, everyone should know what is really happening in our schools.

The Johnson-Duncan amendment appears to support voluntary, constitutionally permissible school prayer. If that is all proponents of this amendment want, they should be aware that truly voluntary prayer is permissible under current law. Students may read the Bible during their free time, as well as pray voluntarily and silently anytime they desire. No school system has tried to deny a student this right. Therefore, if voluntary prayer is permissible, what do proponents of this amendment really want? I believe the real motivation behind this amendment is the reinstatement of compulsory prayer in the public schools. We simply cannot allow that to happen.

The problems currently plaguing schools have been constant and deeply troubling. Armed with misrepresentations of the law and one lower court case, the religious right has sent out self-described SWAT teams to put prayer back in the schools. Letters were sent to public school officials around the country advising them on ways to circumvent a 1992 Supreme Court ruling banning school-sponsored graduation prayers. One fundamentalist leader has suggested that teachers "get [their] Christian students, get them to speak out" during class. In Jackson, MS, 490 students—a bare 54 percent—voted for prayer and the school principal allowed the student body president to read a prayer over the loudspeaker. Ironically, all of this has been done in the name of voluntary prayer. If this amendment passes, these problems will only increase.

The Johnson-Duncan amendment would only serve to confuse public school administrators and subject public schools to the threat of being sued or losing their Federal funds. The bottom line is that the Federal courts are split—a minority of one favors student-led and initiated prayer—and the Supreme Court has not spoken. Yet this amendment would force school administrators to determine what constitutes voluntary prayer and where and when it is permissible during the school day. We simply cannot put school principals in that precarious position, particularly since the funds used to educate our children are at risk.

I urge Members to vote against the Johnson-Duncan amendment as it is currently written and support the Williams amendment.

Mr. GUNDERSON. Mr. Chairman, I move to strike the requisite number of words. Mr. Chairman, I think the motives and intent of my colleague, the gentleman from Montana [Mr. WILLIAMS], are honorable, but I am not sure, frankly, that it is necessary. If I read and understand the Johnson amendment correctly, I think it is an amendment which we, frankly, can support.

Those who know my record here know that I am not one who believes in the mixture of church and state, but I would like the Members to listen to both the amendment and then to the American Law Division's definition of what is constitutionally protected prayer in the schools.

First of all, Mr. Chairman, the amendment offered by the gentleman from Texas [Mr. JOHNSON] says that no funds shall be available to any State or local education agency which has a policy of denying or effectively preventing participation. That tells me that we are not going to have quite the concerns that the gentleman from Montana [Mr. WILLIAMS] raises; that, very frankly, you have to have on the books as a State education agency or local education agency an effective policy and procedure saying, "If you do this or this, we are not going to allow it in this particular school."

There is not a school in this country that does not have a policies and procedures book, so I think we are going to know up front exactly what we are talking about in this area.

Let me read from what the American Law Division has to say about constitutionally protected prayer, because I think that is the issue that many of us have struggled with. They suggest, and now I am quoting,

The Supreme Court has held in a number of decisions that government sponsorship of devotional activities in the public schools violates the establishment of religion clause of the First Amendment. With respect to prayer in the public schools, it has held the constitutional prohibition of government sponsorship and promotion to apply (1) regardless of whether the prayer is composed by the State, is taken from religious literature, or is composed by a teacher or student; (2) regardless of whether students can be excused from participating; and (3) to both regular devotional activities during the school day and to prayers at such singular events as graduation exercises. The proscription has even been held to extend to moments of silence in the public schools where the State has prescribed that the moments are to be used for prayer.

None of these prayer activities, in other words, are constitutionally protected; and SEA or LEA policies or actions to prevent students and teachers from engaging in such activities, thus, would not, or should not, trigger the cutoff of funds under the Helms-Lott amendment.

But while the Court has been clear in holding government to be barred by the establishment clause from sponsoring or promoting prayer in the public schools, it has had less occasion to address the converse issue of what prayer activities must be allowed in the public schools, i.e., what prayer activities might be considered to be "constitutionally protected." In general the Court has affirmed that students in public schools do not "shed their constitutional rights to freedom of speech or expression at the schoolhouse gate"; but it has also made clear that the "First Amendment rights of students in the public schools 'are not automatically coextensive with the rights of adults in other settings' and must be 'applied in light of the special characteristics of the school environment.'" Yet specific rulings illuminating the parameters of those generalities and, consequently, the scope of the standard articulated in the Helms-Lott amendment are few. One can surmise, for instance, that it would violate both the free speech and free exercise clauses of the First Amendment for a SEA or LEA to forbid a student from praying silently during the school day or, perhaps, even from praying aloud, at least so long as the prayer activity was not disruptive of the school environment and did not connote school endorsement. But our research has found no case directly on point.

Other areas involving prayer in the public schools have more decisional authority, but the parameters of what is constitutionally protected or mandated or permissible have not been fully defined. For instance, the Court has indicated in *dicta* that it would be constitutionally permissible for a State to provide for a moment of silence in the public schools that could be used by students, *inter alia*, for voluntary prayer. But in the one case in which it considered the issue, it struck down the specific silent prayer or meditation statute that was before it on the grounds the State adopted the statute to promote prayer; and it has so far chosen not to address the issue again. The one subsequent lower Federal court decision also struck down a particular moment of silence statute. Thus, although it seems possible for a constitutional policy relating to moments of silence to be articulated, the courts have not as yet provided certain guidance.

Some degree of uncertainty about what is constitutionally protected also attends the issue of commencement prayer. In *Lee* v. *Weisman*, *supra*, the Supreme Court held school-initiated and clergy-delivered prayer at a public secondary school's commencement ceremony to be unconstitutional. Subsequently, however, the U.S. Court of Appeals for the Fifth Circuit, as well as a Federal district court in Idaho, differentiated student-initiated and student-delivered prayer at a public secondary school's commencement ceremony and held that kind of commencement prayer to be constitutional. The Supreme Court chose not to review the Fifth Circuit's decision, despite the fact that analogous decisions involving school prayer suggested it might not be correct. Thus, student-initiated prayer at commencement ceremonies might for now be considered to be constitutionally protected in the jurisdiction of the Fifth Circuit and in Idaho, but its status elsewhere, as well as its ultimate constitutional status in the Fifth Circuit and Idaho, remains uncertain.

□ 1900

The CHAIRMAN pro tempore (Mr. DARDEN). The time of the gentleman from Wisconsin [Mr. GUNDERSON] has expired.

(By unanimous consent, Mr. GUNDERSON was allowed to proceed for 3 additional minutes.)

Mr. GUNDERSON. Mr. Chairman, I read this into the RECORD because I think it is important in this dialog

that we have some understanding of what we mean by constitutionally protected school prayer, and I think it is important that we do so, that we do understand that we are within the limits as defined by the American Law Division and within the amendment, as I understand, within the Johnson amendment to require a specific policy prohibiting such.

I do not think we are entering the legal quagmire some Members would suggest. I think this amendment does promote a better effort to refine what we mean by constitutionally protected school prayer, and frankly I encourage its adoption.

Mr. FINGERHUT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I just want to respond briefly, if I may, to some of the arguments that have been made here today. This is a troubling issue, and quite frankly, I thank the gentleman from Texas [Mr. JOHNSON] for pressing us on this matter, because by his repeated raising of this issue it will undoubtedly force us to grapple with the issue and sooner or later to arrive at the appropriate policy.

I find myself in opposition though today to his amendment and in support of the amendment offered by the gentleman from Montana [Mr. WILLIAMS]. Let me make a few remarks in response to some of the points that have been raised.

The gentleman from Texas [Mr. DELAY] previously talked about some cases, very disturbing cases indeed, to every Member of this body, which have occurred in school districts, I assume, in cases in which he has some personal knowledge or familiarity. And with regard to those cases, he said that some of these have been litigated and some have not been litigated because the fact is that some people have access to lawyers and some people do not. But he said for those people who do not, the Johnson amendment would protect them. But I fail to see how that is so, because in any case, whether it is the current sanctions of the court which are responsible for enforcing the Constitution, or whether it would be the added action that would be provided by the amendment of a court withdrawing funding under this important act, nevertheless there would be litigation and lawyers and courts required in order to effectuate the amendment.

A second argument that has been made here today that I think requires a response is that those of us who supported the instruction to the conferees on the Education 2000 bill must necessarily support this amendment because it is crafted in identical language, and indeed it is. And let me say first that the statement by the gentleman from Montana about that vote being incorrect I think is only a partially correct statement, because the stakes in this issue are very much higher and the subject of the Education 2000 bill we were creating a new and very voluntary program into which some school districts might wish to participate if they chose to try and involve themselves in the process of education and goals, and the Johnson language, new to this body at that time, gave us some thought about how we might wish to enforce this constitutional issue of voluntary prayer in that context.

But in this case, the stakes are much higher. In this case, the Johnson amendment seeks to ban the use of Federal funds from the most broadly used Federal funding program for education, education that is used by virtually every school district in the country, certainly by every school district in my congressional district. And what it says to each and every one of those school districts is that they are at risk, if they make an error, or even if any member of their constituency seeks to take them to court believing they have made an error, they are at risk of losing the most significant source of Federal funds that exists.

Now Mr. Chairman, I respect, as I say, the issue that the gentleman from Texas [Mr. JOHNSON] is trying to bring before us, and I hope that over the course of these many times of debate that we will reach an appropriate policy. But I believe very strongly that if we are here to protect taxpayer dollars, if we are here to protect the local autonomy of our school districts, which is the backbone of education in this country, the local decisionmaking, then we must reject this amendment at this time, and we must ask that we go back and craft language that does not make our school districts constantly at risk of litigation, constantly at risk of losing this vital source of Federal funds.

Students who are aggrieved have access to the courts today. The Constitution protects them and the courts protect them. To put our school districts at risk of losing all of the funds that are provided under this because of the threat of this kind of litigation is wrong at this stage and at this time, given the state of the law. This is an important issue. There are many people in my district and many of my constituents who care deeply about it and want to see us protect this constitutional right. I want to see us protect this constitutional right. But if we read the language of this amendment and we think about the impact of this very important, significant source of Federal funding, I strongly recommend that the House reject today the Johnson formula. Let us accept the responsible compromise by the gentleman from Montana [Mr. WILLIAMS], and let us continue to debate and discuss and work with our local school officials, who after all are the ones who are on the line here in finding the appropriate language to accomplish what it is the gentleman from Texas [Mr. JOHNSON] seeks to accomplish.

Mr. Chairman, I urge that for today we reject this amendment and accept the Williams amendment.

□ 1910

Mr. DUNCAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the amendment offered by my good friend, the gentleman from Texas [Mr. SAM JOHNSON], and I oppose the Williams amendment.

As was mentioned earlier, this amendment is exactly the same language that the House voted on last month when I offered a motion to instruct conferees on the Goals 2000 bill. That motion to instruct passed the House by an overwhelming vote of 367 to 55, and the other body has also approved this same language by an overwhelming vote of 75 to 22.

Contrary to the statement by the gentleman from California [Mr. EDWARDS] a few minutes ago, this amendment does not make any type of prayer compulsory. It simply allows voluntary student-initiated, nondenominational prayer in our public schools.

Most of the arguments, both pro and con, have already been made on this issue, Mr. Chairman, but I would like to read something that was in the Washington Times this past Friday, and I quote from this story on the front page of the Washington Times:

> Attorney General Janet Reno yesterday said she sees calls to permit school prayer as a symptom of violence-plagued communities trying to instill in young people "a sense of self-respect, a sense of regard for others." In an interview with the Washington bureau of Hearst newspapers, Ms. Reno said a renewed interest in school prayer reflects efforts to rehabilitate communities plagued by street shootings and family disintegration, and while Ms. Reno did not endorse repeal of the Supreme Court decision outlawing school prayer, she did go on to say this,

Or the story says this,

> but she said school prayer advocacy, especially in inner cities, is a symptom of people trying to figure every way possible, every way they can to reinforce people's ability to work together, to live together in families, to have a sense of purpose, a sense of self-respect, a sense of regard for others and how we get along with each other.

What a great argument in favor of school prayer are those words by our Attorney General, Janet Reno.

Mr. Chairman, let me add this: William Raspberry, the great syndicated columnist, has written several very fine columns in the last few months about governmental policy toward religion. Mr. Raspberry said in one recent column, "It is a species of intolerance to require the religious to make a secret of their beliefs." In a Christmas column, he wrote this:

> Unfortunately the ACLU also opposes the moment-of-silence substitute for school

prayer. Why? After all, the constitutional requirement is that government not establish religion, not that it root out religion, or to put it another way, our Founding Fathers came here in large part to get freedom of religion, not freedom from religion.

In my home county this past spring, they would not even allow nondenominational prayers at high school graduation, the very same kind of prayers that we hear every day when our sessions are opened here in this House and also over in the Senate.

In a column printed around the country a few months ago, Mr. Raspberry quoted Kevin Hanson, the founder of the Beckett Fund, as saying this about the men who wrote the first amendment:

They would not have dreamed they were banning Christmas trees or the ability of people to pray in legislatures or to offer simple invocations in high school graduations.

And then Mr. Raspberry asked this pointed question:

Is it not just possible that antireligious bias masquerading as religious neutrality is costing more than we have been willing to acknowledge?

We need Government neutrality toward religion, not Government hostility toward religion. We need to defeat the watered-down Williams amendment and pass, instead, the amendment offered by my good friend, the gentleman from Texas [Mr. SAM JOHNSON]. It is well meaning. It is well intentioned. It would not lead to a quagmire in the courts, because it is clear, Mr. Chairman, and it is more specific, Mr. Chairman, than is the amendment offered by the gentleman from Montana.

I urge passage of the amendment offered by the gentleman from Texas [Mr. SAM JOHNSON], which is a version of an amendment that I offered earlier.

Mr. DE LA GARZA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, when I first came to this institution several years back, along with the distinguished Senator from Illinois, Everett Dirksen, I would introduce the prayer in public buildings, or prayer in school amendment, and have done so from time to time, relying on the Founding Fathers' intentions that there be no mandatory imposition of religion upon the citizens of the newly named colonies, upon their separation from England, and that is a very simple process. They never denied; they implored the Almighty in all of their deliberations, in everything that they did. They implored the blessings even in the separation itself.

Therefore, I am concerned and disturbed this evening that we are somehow arguing about the how to do it or how to protect it, and deviating from what we need to do, which is to bring prayer back into the families, into the communities, into the schools, into the public meetings, as we do daily when we meet here.

I do not know the intricacies of the amendments. I hear the arguments on both sides, but what we should be doing is that we be given some guidance to the courts that have not given us finite definitions of what is prohibited, what is sanctioned. All that I know is that if we are going to attack crime, if we are going to attack the dissolution of families, if we are going to attack all of the evils that are eating into the heart of our institutions and our country, we need to bring prayer back into the system.

How to do it is probably a very intricate question, but this evening I am disturbed as I hear the amendments pro and con, and I probably would support either one of the amendments, but I think that one of the prior speakers said that we will work it out later. That is not the answer this evening, that we would work it out later. What we need to do is a very simple "yea" or "nay" whether you take the money away or whether you give money to entice. I do not know that that would be a final resolution.

All that we need to do is say that a prayer or prayers can be made or offered in public buildings or in the schools without interfering at all with the prohibition of State-imposed, or the guarantee of, that you have a right, and I may not have added much to the debate here this evening except to add that we need to bring prayer back into the hearts of the American people and into our institutions and everywhere where we need to implore the Almighty as was done by those that founded this great country of ours.

Mr. DELAY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to compliment the chairman on his very heartfelt words, and you did add to this debate, because I think you said it very well.

I think Members really ought to get past the buzzwords and inflammatory phrases like "risk of losing funds," "officially sanctioned religion," "compulsory religion." That is not what we are talking about here.

What we are talking about is allowing students or teachers, for that matter, to do the things that the Supreme Court and other courts said that they can do on school campuses. That is all we are talking about.

We are taking two approaches to it. It is amazing to me, and I think the Williams amendment is a giant loophole that allows principals or school boards to use to continue the practices that I outlined earlier where students are discouraged from practicing their own religion, discouraged from holding Bible readings before school, discouraged from praying even before school, and they will not get sanctions against them at all.

I will explain in a moment.

But it is amazing to me, as the chairman of the Committee on Agriculture, the gentleman from Texas, has so eloquently pointed out, that we would be debating discouraging constitutionally protected prayer, and that is what we are talking about here, discouraging it.

In light of where we are today, and I quote our distinguished Republican whip when he so often says we have a nation now that has 12-year-olds having children, 15-year-olds being shot, 17-year-olds dying of AIDS, and 18-year-olds graduating with diplomas that they cannot read, and we have gangs proliferating in our schools.

Even here in Washington, DC, they are starting to reassess their school systems and understanding that one of the problems we have in our schools and in our families and in our society is the lack of values, the lack of understanding that the work ethic is important, that stealing is wrong, that having sex outside of marriage is wrong, that doing these kinds of things that we are sanctioning our children to do is wrong, and it is tearing at the very fabric of our society.

□ 1920

All the Johnson amendment says is that you cannot use any funds, you cannot use any funds, Federal funds, if you deny or have a policy that denies constitutionally protected prayer. That is all it says.

Now, the loophole that the gentleman from Montana [Mr. WILLIAMS] provides is that you cannot use money for setting unconstitutional prayer policy. Now, how much money did it cost or did it cost anything in Corpus Christi, TX, to stop students from praying around a flagpole before school? No money at all. How much money did it take in Dallas, where the students at Skyline High School were threatened by their principal if they continued to read audibly from their bible and pray on the school lawn before school? No money at all.

Mr. FINGERHUT. Mr. Chairman, will the gentleman yield?

Mr. DELAY. I yield to the gentleman from Ohio.

Mr. FINGERHUT. I thank the gentleman for yielding.

Mr. Chairman, the gentleman began his statement by saying we should not rely on buzzwords and then he listed a variety of them. He said, "Including the risk of losing Federal funds." The gentleman just stated that the precise sanction in this amendment, which is what concerns this Member so much, is that the punishment, if a school district makes a mistake, is a withdrawal of the Federal funds, whether or not the action of the school district is wrong. The courts can do that, but this amendment punishes them for that. It is not a buzz word, it is an actual punishment. The debate is not whether or not the action of the school district is wrong, the courts can do that. The debate is whether we are punishing them by removing the Federal funds.

Mr. DELAY. Reclaiming my time, I will answer the gentleman. It is a real message. The gentleman says, "Well, these students at Skyline High School can go to court and sue for damages." But let me tell you, if we pass this into law, that is a very real message to Skyline High School that you will support constitutionally protected prayer. Skyline High School can decide whether they want Federal funds or not. If they are going to discourage children from practicing their religion freely under constitutionally protected mandates, that is just simply the fact.

I want to continue to explain the loophole the gentleman from Montana [Mr. WILLIAMS] provides in his amendment.

The loophole is you only get sanctioned if you use money to set these policies. We know setting these policies costs no money. You talk about creating lawsuits; I say to the gentleman from Ohio it will create lawsuits all over the place when a principal threatens children from praying or reading their bibles before school. You will have to take that principal to court. Rather, the principal, getting a directive from the U.S. Congress and the Federal Government that you will not use funds, he will not do that.

So I urge my colleagues to really take a look at these two amendments. The Williams amendment is trying to discourage.

Mr. BARTON of Texas. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Johnson amendment.

Mr. Chairman, I yield at this time to the gentleman from Texas [Mr. DELAY] if he wants to wrap up.

Mr. DELAY. I thank the gentleman for yielding.

Mr. Chairman, I just want to say that the Williams amendment is a loophole and totally guts the idea of not discouraging children from practicing their religion, and I urge my colleagues to vote "no" on the Williams amendment and vote "yes" on the Johnson/Duncan amendment.

Mr. BARTON of Texas. Mr. Chairman, I have been following this debate on the Johnson amendment with some interest from my television set in my office. I had not intended to participate. But it reminds me of the conversation that I observed when I was a White House Fellow in the Department of Energy in the early 1980's. I had the honor to attend a staff meeting involving assistant secretaries. We had—obviously the Secretary of Energy was chairing the meeting.

At the end of the meeting, the Secretary of Energy said, "Gentlemen, I just heard a nonintersecting conversation." That is what we have been hearing on this debate on this particular amendment this afternoon. The opponents of the Johnson amendment would have us believe that if it passes, there is the danger that bible-toting missionaries are going to be turned loose in the public classrooms, perhaps even federally funded.

Actually, all the Johnson amendment does is codify that you can have a moment of silent meditation at the beginning of school and, heaven forbid, maybe even having vocal prayer at public events like graduations, if it is student-led and totally voluntary.

Some of the opponents talked about the possible abridgement of civil rights because the student might actually have to hear some sort of a prayer that he or she did not want to listen to or perhaps even observe somebody silently bowing their head in the classroom.

While we have been worrying about these kinds of abridgements of civil rights, we had a student shot to death here in the public schools in Washington, DC, not too long ago. Many parents are afraid to even send their children to school because of dangers about physical safety. We have metal detectors, we have searches, we have dogs looking for drugs. We are worried about some of these issues that have been listened to today.

I think it is very interesting that last week the school board here in Washington, DC, voted to at least investigate the possibility of public prayer in the public schools here. The mayor of Washington said that she was supportive of this idea. I think it is time for a reality check.

I think we ought to pass the Johnson amendment, we ought to defeat the Williams amendment to the amendment offered by the gentleman from Texas [Mr. JOHNSON] and try to give our local school boards the opportunity to exercise a little common sense.

My grandmother and great-aunt were teachers in a two-room schoolhouse at Spring Creek, TX, in Bosque County at the turn of this century. They allowed voluntary prayer at the beginning of each day. There were no guard dogs in that classroom—there were dogs, but they were dogs that came to school with the children. If they wanted to be converted, they went across the creek, literally, to the Baptist Church that also served as the Methodist Church on alternating Sundays. To my knowledge, no one who attended that school at that time period went to prison, but almost everybody became good citizens and served their country well in whatever capacity.

I support the Johnson amendment.

Mr. ARMEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to begin by thanking my good friend, Congressman JOHNSON, from the great Long Star State of Texas, for offering this amendment and opening up this debate.

Ladies and gentleman, we are all so very, very concerned these days about our children. So, hopefully, when we send our youngsters away to school, they will be in a healthy environment and that good things will happen.

There are so many things going on in our schools today that are worrisome and controversial.

One of my favorite controversies that I unfortunately get involved in with people all too often is this concern about sexual behavior among adolescents. It bothers me a great deal that some people are so insensitive in America today that they think only that if a child does not contract some horrible disease or get pregnant, that the child has had safe sex. And because they reason children are going to do it anyway, there is no need to talk to them about alternative behaviors but to hand out condoms in schools at public expense. Surrender to the most dangerous possible impulse a child may have, and accommodate to that by handing out condoms in the school.

But they have standards, ladies and gentleman; the condom distributors must be properly trained in the distribution of condoms.

What bothers me more than this is the insensitivity of it. Do those people who believe safe sex is not contracting a horrible disease or not getting pregnant, are they so insensitive, Mr. Chairman, that they do not understand about the emotional, the psychological trauma that children go through? Do they not understand the risks that go beyond the physical in this business?

And yet they accommodate to that. Where and when did we as a nation of adults decide that it was the only course of action, to accommodate the most dangerous impulses that we find in our children?

Now, there are other threats that our children face. Congressman BARTON just referred to a child who was murdered on the school grounds with a weapon. Many of us think that the second amendment is as precious as any of the amendment in the Bill of Rights.

□ 1930

However, Mr. Chairman, the gentleman from California [Mr. MILLER] because he perceives this threat, this very real threat to children, is offering a rigorous sanction against the carrying of weapons to schools. I voted for it in committee, and I will vote for it on the floor, because the children must be kept safe, and, if that makes some modest compromise in the second amendment rights of those in the school that will bring things to a school that are inappropriate, then we should address that.

Let us talk then about children. I am told that so long as there are math tests there will be prayer in school and there is nothing we can do about it. Is it possible, my colleagues, that there are some among our school children that have a healthy impulse, a rev-

erend impulse, an impulse to demonstrate their religious convictions even on the school grounds where all the danger is afoot? And, my colleagues, might not we see it in our interests, as adults in this world, to surrender to that impulse with equal fervor and with equal enthusiasm as we surrender to the impulse for children to engage in sexual activity during these childhood years? I do not think that so much. I do not think we put the Bill of Rights at risk if we surrender to the impulse of school children to express their religious belief privately and publicly on school grounds so long as it is voluntarily and freely come to. Can we not surrender, my colleagues, to the impulse to pay respect to their religious beliefs as we have so eagerly rushed forward to pay our respect to their impulse and surrender to their impulse to have childhood sexual activities? Certainly, if we can afford the risk of handing out condoms to children, Mr. Chairman, we can afford the risk that some of them may carry a Bible to school. Can that be such a horrible danger facing our school children? I think not.

So, in that regard, Mr. Chairman, I would ask my colleagues to differentiate between that which is real and that which is not, that which respects the impulse of children and that which does not. Vote against the amendment offered by the gentleman from Montana [Mr. WILLIAMS] and vote for the amendment offered by the gentleman from Texas [Mr. SAM JOHNSON].

Mrs. UNSOELD. Mr. Chairman, I move to strike the requisite number of words.

Mr. WILLIAMS. Mr. Chairman, will the gentlewoman yield?

Mrs. UNSOELD. I yield to the gentleman from Montana.

Mr. WILLIAMS. Mr. Chairman, I thank the gentlewoman from Washington [Mrs. UNSOELD] for yielding to me, and maybe we can come near to concluding what has been an important debate about a very important subject.

Let me first say that I and everyone in this Chamber I know has a deep and abiding respect for the zealous beliefs of individual Americans. I want to do nothing with my amendment, nor do I do a single thing with my amendment, to discourage voluntary constitutional prayer in school. In fact my amendment says:

> No funds authorized to be appropriated under this act may be used by any State or local education agency to adopt policies to prevent voluntary prayer and meditation.

Mr. Chairman, like all of my colleagues, I went to school, and I will bet, like all of my colleagues, I prayed in school, particularly every time there was a Spanish test or an algebra test. So, all of us have a deep respect for morality, religion, ethical behavior, and I refuse to allow my colleagues on either side of the aisle, particularly those on the far right, to claim some corner or monopoly over morality and ethical behavior. We believe in it, too. That is not at stake here. That is not what this amendment, either my amendment or the other amendment which I seek to displace this with, is about.

Here, my colleagues, is what I believe is going on:

The amendment offered by the gentleman from Texas [Mr. SAM JOHNSON] would say that all money from the Department of Education will be denied any school district, and, by the way, it says not just the money in this act, but school-to-work money, welfare money, all money administered by the Department of Education, will be denied a school district unless they have appropriately dealt with this school prayer issue.

Now that is a hammer, and let me tell my colleagues who the hammer is going to be used by. The hammer is the denial of all Federal money from the Department of Education.

Here is a recent memo to school administrators from a group called the American Center for Law and Justice who commends this very amendment, commends this very amendment which they say was offered by Senator JESSE HELMS in the Senate, and they commended it, and then a few days later they sent out another release which says:

> We will soon release details of employing legal swat teams around the country to file lawsuits against offending school districts.

That is then followed by a letter from the ACLU which warns the same school administrators that we are prepared to challenge school districts that disregard their constitutional obligation.

So, Mr. Chairman, the gentleman's amendment would set up the wall. It would divide the communities. It would place teachers and administrators into the briar patch. It would foster the inevitable entanglement between church and state. That is what the gentleman's amendment would do.

My amendment is simple. It simply says that no funds in this act can be used to deny voluntary prayer, meditation, in the schools.

I urge my colleagues to vote yes on the Williams voluntary prayer amendment.

Mrs. UNSOELD. Mr. Chairman, I support the amendment offered by the gentleman from Montana [Mr. WILLIAMS] and urge its passage.

Mr. WALKER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, there is one problem with the language the gentleman from Montana [Mr. WILLIAMS] would offer us here. It is weaker than present law. The fact is that under present law, in the appropriations bills that have been passed every year since 1978, there is specific language that says none of the funds appropriated under this act may deny participation in voluntary school prayer. This gentleman's amendment today weakens the language which is already a part of law, and so what he is asking us to do is not only to turn down the Duncan-Johnson amendment, but he is asking us to go a step further and weaken what is already present law as it applies to voluntary school prayer.

Now I think the House wants to think twice about that, Mr. Chairman, because we have for a period now of about 16 years had a policy very similar to what the gentleman from Montana [Mr. WILLIAMS] offers us here this evening, except stronger. And now the gentleman from Montana, I guess knowingly, has come to the floor and suggested he wants to set aside that policy and instead go with this new weaker policy.

I would suggest that the gentleman from Texas [Mr. SAM JOHNSON] and the gentleman from Tennessee [Mr. DUNCAN] have, in fact, moved us in the direction, if we want to have stronger language; and all across American I believe that middle-class Americans have decided that we need to have a stronger something to say about school prayer; but all they are suggesting is that schools ought to make certain that constitutionally protected prayer is allowed to take place in those schools and that they have a program for ensuring that it take place. That is all it says.

Now that is stronger than what present law is; I happen to think appropriately so, but the gentleman from Montana wants to weaken even present law.

□ 1940

So I would suggest to the House that what you want to look at here as you consider this amendment is do you want to go with what the gentleman from Montana is suggesting and weaken what is already in present law, or do you want to strengthen our commitment to volunteer school prayer by voting for the Johnson-Duncan amendment.

I would hope that we would turn down the Williams substitute, turn down weakening present law, and instead endorse the Johnson-Duncan amendment, which allows us to have voluntary school prayer for real.

Mr. TRAFICANT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let me see if I can understand this debate. We have assault in school, we have no prayer. We have theft in school, we have no prayer. We have drugs in school, we have no prayer. We have condoms in school, we have no prayer. We have all kinds of crime in school, but there is no prayer. There is racism in our schools, there is no prayer. There is hate in our schools,

there is no prayer. It is evident from assault to theft to guns to drugs to condoms, there is no God at all, and I think Congress has something to do with that.

The Constitution may have separated church and state from one specific religion, but the Constitution never intended to separate God and the American people. This debate should not be occurring here. Congress is responsible for the schools of our country in their sad shape.

I want to commend the authors of this amendment on the Republican side. I am going to vote with you, and I am going to oppose the Democrat amendment. It is a sad day, Congress, when the only time you hear God mentioned in our public schools is when God's name is taken in vain. Congress has a responsibility for what is happening in this country, and we have split hairs to the point of constitutional debates over whether or not the Constitution would recognize God or in fact prohibit God from our schools.

I think we have gone too far. I think it is time that Congress look in the mirror and Congress take a look at the public school system of America, and pat itself on the back for doing exactly what should not be done.

I am proud to join and support the gentleman from Texas [Mr. SAM JOHNSON] and the gentleman from Tennessee [Mr. DUNCAN] and I wish the Congress would also.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Montana [Mr. WILLIAMS] to the amendment offered by the gentleman from Texas [Mr. SAM JOHNSON].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SAM JOHNSON of Texas. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 2(c) of rule XXIII, the Chair may reduce to not less than 5 minutes the time for anv recorded vote that may be ordered on the Johnson of Texas amendment without intervening business or debate.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 171, noes 239, not voting 28, as follows:

[Roll No. 74]

AYES—171

Abercrombie
Andrews (ME)
Andrews (NJ)
Barca
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bishop
Blackwell
Boehlert
Bonior
Borski
Brooks
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Cantwell
Cardin
Carr
Clayton
Clyburn
Coleman
Collins (IL)
Collins (MI)
Coppersmith
Coyne
de Lugo (VI)
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Durbin
Edwards (CA)
Engel
English
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Green
Gutierrez
Hamburg
Harman
Hilliard
Hinchey
Hoagland
Hochbrueckner
Hughes
Inslee
Jefferson
Johnson (CT)
Johnson (SD)
Kennelly
Kildee
Kleczka
Klein
Kopetski
Kreidler
LaFalce
Lambert
Lantos
LaRocco
Laughlin
Leach
Levin
Lewis (GA)
Lowey
Maloney
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
McDermott
McKinney
Meehan
Menendez
Meyers
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Moran
Murtha
Nadler
Neal (MA)
Norton (DC)
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Pomeroy
Porter
Price (NC)
Rahall
Rangel
Reed
Reynolds
Richardson
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shays
Shepherd
Sisisky
Skaggs
Slaughter
Smith (IA)
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Tucker
Unsoeld
Velazquez
Vento
Visclosky
Waters
Watt
Waxman
Williams
Woolsey
Wyden
Yates

NOES—239

Allard
Andrews (TX)
Applegate
Archer
Armey
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehner
Bonilla
Boucher
Brewster
Browder
Bunning
Burton
Callahan
Calvert
Camp
Canady
Castle
Chapman
Clement
Clinger
Coble
Collins (GA)
Combest
Condit
Conyers
Cooper
Costello
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards (TX)
Ehlers
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fish
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gekas
Geren
Gilchrest
Gingrich
Goodlatte
Goodling
Gordon
Goss
Grams
Greenwood
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hayes
Hefley
Hefner
Herger
Hobson
Hoekstra
Holden
Horn
Houghton
Huffington
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Istook
Jacobs
Johnson (GA)
Johnson, Sam
Kanjorski
Kaptur
Kasich
Kennedy
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
Kyl
Lancaster
Lazio
Lehman
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Machtley
Mann
Manzullo
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McHale
McHugh
McInnis
McKeon
McMillan
McNulty
Mica
Michel
Miller (FL)
Molinari
Mollohan
Montgomery
Moorhead
Morella
Myers
Neal (NC)
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Portman
Poshard
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Rowland
Royce
Sangmeister
Sarpalius
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Torkildsen
Traficant
Upton
Valentine
Volkmer
Vucanovich
Walker
Walsh
Weldon
Whitten
Wilson
Wise
Wolf
Wynn
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—28

Ackerman
Bacchus (FL)
Buyer
Byrne
Clay
Cox
Deutsch
Faleomavaega (AS)
Gallo
Gillmor
Grandy
Hastings
Hoke
Hoyer
Johnson, E. B.
Johnston
Meek
Murphy
Natcher
Pickle
Ridge
Romero-Barcelo (PR)
Rostenkowski
Santorum
Slattery
Underwood (GU)
Washington
Wheat

□ 2003

Messrs. McCLOSKEY, PETERSON of Florida, McCANDLESS, and MOLLOHAN, and Mrs. MORELLA changed their vote from "aye" to "no."

Mr. SWIFT and Mr. STUPAK changed their vote from "no" to "aye."

So the amendment to the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. DARDEN). The question is on the amendment offered by the gentleman from Texas [Mr. JOHNSON].

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. JOHNSON of Texas. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN pro tempore. The Chair announces that this is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 345, noes 64, not voting 29, as follows:

[Roll No. 75]

AYES—345

Allard
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Boehner
Bonilla
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant

Bunning
Burton
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Carr
Castle
Chapman
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Combest
Condit
Cooper
Costello
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
de Lugo (VI)
Deal
DeFazio
DeLauro
DeLay
Derrick
Diaz-Balart
Dickey
Dicks
Dixon
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (TX)
Ehlers
Emerson
English
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Fish
Flake
Foglietta
Ford (TN)
Fowler
Franks (CT)
Franks (NJ)
Frost
Gallegly
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gilman
Gingrich
Glickman
Goodlatte
Goodling
Gordon
Goss
Grams
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hayes
Hefley
Hefner
Herger
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Holden
Horn
Houghton
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, Sam
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Manzullo
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McHale
McHugh
McInnis
McKeon
McMillan
McNulty
Menendez
Meyers
Mfume
Mica
Michel
Miller (FL)
Minge
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Neal (MA)
Neal (NC)
Norton (DC)
Obey
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (VA)
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Rangel
Ravenel
Regula
Richardson
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Rowland
Royce
Sanders
Sangmeister
Sarpalius
Sawyer
Saxton
Schaefer
Schiff
Schroeder
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stearns
Stenholm
Stokes
Strickland
Studds
Stump
Stupak
Sundquist
Swett
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torricelli
Traficant
Tucker
Upton
Valentine
Volkmer
Vucanovich
Walker
Walsh
Weldon
Whitten
Wilson
Wise
Wolf
Wyden
Wynn
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—64

Abercrombie
Andrews (ME)
Becerra
Beilenson
Berman
Bonior
Cardin
Collins (IL)
Collins (MI)
Conyers
Coppersmith
Coyne
Dellums
Dingell
Edwards (CA)
Engel
Eshoo
Filner
Fingerhut
Ford (MI)
Frank (MA)
Furse
Gonzalez
Hamburg
Harman
Kopetski
Lewis (GA)
Margolies-Mezvinsky
Markey
McKinney
Meehan
Miller (CA)
Mineta
Mink
Nadler
Oberstar
Olver
Owens
Payne (NJ)
Pelosi
Reed
Reynolds
Roybal-Allard
Rush
Sabo
Schenk
Scott
Serrano
Skaggs
Stark
Swift
Synar
Torres
Towns
Unsoeld
Velazquez
Vento
Visclosky
Waters
Watt
Waxman
Williams
Woolsey
Yates

NOT VOTING—29

Ackerman
Bacchus (FL)
Bachus (AL)
Buyer
Clay
Cox
Deutsch
Faleomavaega (AS)
Gallo
Gillmor
Grandy
Hastings
Hoke
Hoyer
Johnson, E. B.
Johnston
Meek
Murphy
Natcher
Nussle
Pickle
Ridge
Romero-Barcelo (PR)
Rostenkowski
Santorum
Slattery
Underwood (GU)
Washington
Wheat

□ 2013

Mr. COYNE, Mr. MARKEY, Ms. MCKINNEY, and Mr. RUSH changed their vote from "aye" to "no."

Mrs. THURMAN changed her vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. KILDEE. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. PETERSON of Florida) having assumed the chair, Mr. DARDEN, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6) to extend for 6 years the authorizations of appropriations for the programs under the Elementary and Secondary Education Act of 1965, and for certain other purposes, had come to no resolution thereon.

PERSONAL EXPLANATION

Mr. GEJDENSON. Mr. Speaker, I wish to go on record that during the consideration of H.R. 6, I mistakenly voted for the Johnson amendment on rollcall No. 75. My intent was to vote no. I erred because I believed that the perfecting Williams amendment to the Johnson amendment had passed. I deeply regret this error, and hope that an opportunity will arise prior to final passage of H.R. 6 for the House to amend this portion of the bill.

PERSONAL EXPLANATION

Mr. GUTIERREZ. Mr. Speaker, at the end of the afternoon I was unavoidably absent because I was on my way back from El Salvador, where I had the privilege to participate in the U.S. Citizens Observer Mission monitoring the El Salvador election, the first election held in this country since the peace accords were signed in 1992. I therefore missed one rollcall vote on H.R. 6, Improving America's Schools Act. More specifically, I missed rollcall vote No. 73, to strike the title of the bill that reauthorizes bilingual education programs, on which I would have voted "no."

PERSONAL EXPLANATION

Mr. NUSSLE. Mr. Speaker, I cast my vote in favor of the Johnson amendment to H.R. 6—rollcall vote No. 75. However, my vote was not recorded. I would like to take this opportunity to express my support for the Johnson amendment to H.R. 6, and had my vote been recorded, it would have been recorded as "aye."

PERSONAL EXPLANATION

Mr. BECERRA. Mr. Speaker, I unavoidably missed rollcall vote No. 73, to strike the title of the bill that reauthorizes bilingual education programs within H.R. 6, "The Improving America's Schools Act."

I strongly opposed Congressman ROTH'S amendment to eliminate bilingual education, and would have voted "no" on rollcall vote No. 73. When one out of every seven children nationally comes to school speaking a language other than English, we need to expand bilingual education programs not eliminate them. These programs teach limited English proficient students English, and give them the opportunity to learn other subjects, like math and science, as they transition into English instruction.

My partial day absence was due to the fact that I was on my way back, along with the President's official observer delegation, from Central America where I was observing and monitoring El Salvador's election as part of the United States Citizens Observer Mission.

PERSONAL EXPLANATION

Mr. COX. Mr. Speaker, I was unavoidably detained in California and was not able to return to Washington, DC, in time to record my vote on three amendments to H.R. 6.

Had I been present, I would have voted "yes" on the Roth amendment, rollcall No. 73; "no" on the Williams amendment, rollcall No. 74; and "yes" on the Johnson amendment, rollcall No. 75.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 1804, GOALS 2000: EDUCATE AMERICA ACT

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103-447) on the resolution (H. Res. 393) waiving points of order against the conference report to ac-

company the bill (H.R. 1804) to improve learning and teaching by providing a national framework for education reform; to promote the research, consensus building, and systemic changes needed to ensure equitable educational opportunities and high levels of educational achievement for all students; to provide a framework for reauthorization of all Federal education programs; to promote the development and adoption of a voluntary national system of skill standards and certifications; and for other purposes, which was referred to the House Calendar and ordered to be printed.

IMPROVING AMERICA'S SCHOOL ACT OF 1994

The SPEAKER pro tempore. Pursuant to House Resolution 366 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 6.

□ 2016

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 6) to extend for 6 years the authorizations of appropriations for the programs under the Elementary and Secondary Education Act of 1965, and for certain other purposes, with Mr. DARDEN, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole House rose earlier today, the amendment offered by the gentleman from Texas [Mr. JOHNSON] had been disposed of.

Are there further amendments to title IX?

AMENDMENT OFFERED BY MR. CONDIT

Mr. CONDIT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CONDIT: Page 762, after line 8, insert the following new section (and redesignate accordingly):

"SEC. 9508. PROVISIONS TO BE TREATED AS VOLUNTARY UNTIL FULLY FUNDED.

"Notwithstanding any other provision of this Act, the provisions relating to opportunity-to-learn standards that impose requirements on States and local educational agencies (whether the development of opportunity-to-learn standards or actions taken to meet such standards) shall be treated as recommendations to the States and local educational agencies and compliance with such provisions shall be voluntary on the part of the State and local educational agencies until the costs of implementing such provisions are fully funded by the Federal Government."

Mr. CONDIT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. CONDIT. Mr. Chairman, my amendment focuses on the opportunity-to-learn standards contained in title I. My amendment will make the development and submission as well as the implementation of the standard voluntary unless the Federal resources are provided to pay the cost incurred in developing the standards.

So it is a simple, straightforward amendment and I would ask for an aye vote.

AMENDMENT OFFERED BY MR. ROBERTS TO THE AMENDMENT OFFERED BY MR. CONDIT

Mr. ROBERTS. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. ROBERTS to the amendment offered by Mr. CONDIT: Page 762, after line 8, insert the following:

"SEC. 9508. VOLUNTARY COMPLIANCE.

"Notwithstanding any other provision of this Act, any requirements relating to reporting, planning, and data collection established under this Act that were not required prior to the enactment of the Improving America's Schools Act of 1994, shall not be required until funds for the cost of implementing such requirements are provided in appropriation acts.

Mr. ROBERTS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. KILDEE. Mr. Chairman, I reserve a point of order on the Roberts amendment to the Condit amendment.

The CHAIRMAN pro tempore. The gentleman from Michigan [Mr. KILDEE] reserves a point of order on the amendment.

Mr. ROBERTS. Mr. Chairman, I am offering an amendment to the Condit proposal to ensure that all of the additional spending programs that are required in this legislation will be funded by the Federal Government or be considered voluntary for State and local governments until such funding is provided.

For the past several weeks the House has been debating all sorts of aspects of this legislation. they have focused on special State programs, individual programs, learning standards and other new reporting requirements to be placed on State education programs. As this debate has developed, it has become obvious to many of my colleagues that there are considerable new spending and reporting requirements that are contained in this bill, Federal mandates that may or may not be funded in future years. The Congressional Research Service has just now completed an analysis of this bill and found 23, 23 additional requirements that require reporting to all of the titles.

□ 2020

Now, many of us here may disagree on whether this or that new program or requirement should be enacted, and many of my colleagues would agree that all new requirements should be voluntary unless some Federal funds are provided to pay for these new mandates.

I recognize the concerns of the chairman, the gentleman from Michigan [Mr. FORD], and the gentleman from Michigan [Mr. KILDEE] and the gentleman from Pennsylvania [Mr. GOODLING] in regard to their view on the need for this legislation and their position that this is an appropriations issue, not an authorizing issue. But unfortunately, Mr. Chairman, unless action is taken at this time during the authorizing process, the mandates will remain mandatory. Unless this language is included at this time to make all mandates voluntary until the Federal funding is provided, States and local governments will possibly be left funding millions of dollars in new reporting requirements.

As a member of the Congressional Caucus on Unfunded Mandates, the gentleman from California [Mr. CONDIT] and I share a concern over the additional cost being shifted on State and local governments, and for that reason I urge adoption of both the Roberts amendment and the Condit amendment.

Now, after visiting with the gentleman from Michigan [Mr. FORD] and the gentleman from Michigan [Mr. KILDEE], I recognize that my amendment is not in order under the rule, and the amendment can and will be denied consideration.

But I urge my colleagues to recognize the need to include a universal exception to all unfunded mandates contained with this bill. If not my amendment, I at least urge adoption of the Condit amendment.

While many of us here may disagree on whether this or that new program or requirement should be enacted at the Federal level, many of my colleagues would agree that all new requirements should be voluntary unless Federal funds are provided to pay for the new mandates.

I recognize the concerns of Chairman FORD and Congressman KILDEE regarding their view on the need for this legislation and their position that this is an appropriations issue—not an authorizing issue. Unfortunately, unless action is taken at this time, during the authorizing process, the mandates will remain mandatory whether accompanied or not with the necessary Federal funding from the Appropriations Committee. Unless this language is included at this time to make all mandates voluntary until Federal funding is provided, States and local governments will possibly be left funding millions of dollars in new Federal programs.

As members of the Congressional Caucus on Unfunded Mandates, Congressman CONDIT and I share a concern over the additional

costs being shifted on State and local governments. For that reason, I urge adoption of both the Roberts amendment and the Condit amendment.

After visiting with Mr. FORD and Mr. KILDEE, I recognize that my amendment is not in order under the rule—and the amendment can and will be denied consideration.

I urge my colleagues to recognize the need to include a universal exception to all unfunded mandates contained within this bill. If not my amendment, I at least urge adoption of the Condit amendment.

CONGRESSIONAL RESEARCH SERVICE,
LIBRARY OF CONGRESS,
Washington, DC, February 23, 1994.

Subject: "New" Report Requirements in H.R. 6, the Improving America's Schools Act of 1994.

This memorandum was prepared in response to your request for a listing of "new" requirements in H.R. 6, the Improving America's Schools Act (IASA), as reported by the House Committee on Education and Labor. As you requested, this list is limited to requirements that are "new"—i.e., essentially different from any current requirements associated with programs that would be amended and extended by H.R. 6—and that apply to State or local educational agencies (SEAs, LEAs). Requirements that SEAs or LEAs make specific reports to the U.S. Department of Education (ED), or other Federal agencies, as well as to each other (i.e., LEAs to SEA), or to the public are included, as are new requirements for SEA or LEA plans if they are significantly different from current application requirements. It should be noted that current report requirements that would be terminated by H.R. 6, if any, are not included. Further, report requirements in H.R. 6 that involve only ED or other Federal agencies, including required evaluations or reports to Congress, are not included.

Finally, this is referred to below as a "selected" list because we are unable to assure that we have found all such provisions, due primarily to the limited time available to complete this request before House floor action on H.R. 6.

"NEW" STATE OR LOCAL REPORTING REQUIREMENTS IN H.R. 6, AS REPORTED BY THE HOUSE COMMITTEE ON EDUCATION AND LABOR—A SELECTED LIST

TITLE I—IMPROVED EDUCATION FOR DISADVANTAGED CHILDREN

1. Sec. 1111—State plans[2] to be submitted to Ed, including State content, pupil performance, and opportunity to learn standards, and reports to be disseminated within the State on the extent to which participating schools and LEAs meet the State's opportunity to learn standards.

2. Sec. 1112—LEA plans (to be submitted to the State).

3. Sec. 1115(c)(2)—Targeted assistance school plans.

4. Sec. 1116(a)—LEAs required to disseminate throughout their communities annual performance profiles for participating schools.

5. Sec. 1118(c)—Parental involvement plans for participating schools.

6. Sec. 1118(e)—School-parent compacts.

7. Sec. 1306—Comprehensive needs assessment and service delivery plan for State agency migrant program.

8. Sec. 1404—State plan for services to delinquent youth and youth at risk of dropping out of school.

Footnotes at end of article.

TITLE II, PART A—DWIGHT D. EISENHOWER PROFESSIONAL DEVELOPMENT PROGRAM[3]

1. State plan to improve teaching and learning to be submitted as part of SEA application to Secretary; such plan is to include an assessment of State and local needs for professional development.

2. Participating States must submit report to Secretary every 3 years on progress toward performance indicators.

3. Local plan to be submitted as part of LEA application to SEA; LEA application is to include a professional development needs assessment.

4. Participating LEAs must report every 3 years to State on progress toward performance indicators.

TITLE II, PART B—TECHNOLOGY EDUCATION ASSISTANCE ACT OF 1994

1. SEAs must file a 5-year educational technology plan with Secretary of Education.

2. LEAs must receive State approval of a technology use plan.

3. Sec. 2207(d) appears to require State agencies for higher education to report annually to SEA on progress of higher education programs.

4. Sec. 2208(d) appears to require library administrative agencies to report annually to SEA on progress of library and literacy programs.

TITLE II, PART C—LIBRARY MEDIA PROGRAM

State must have a plan for school library media.

TITLE II, PART D—SUPPORT AND ASSISTANCE

1. Sec. 2343 requires each comprehensive assistance center to publish and disseminate widely an annual report of services and accomplishments; and requires the Secretary to collect information about the availability and quality of services provided by the centers.

2. Sec. 2347 requires the National Diffusion Network State facilitators to disseminate information about school reform and promising practices and to facilitate communications among educators.

TITLE II, PART E—EDUCATION PROGRAM STRATEGIES

Sec. 2444 requires LEAs using funds for community learning centers to provide information to SEAs describing activities and projects funded under this part.

TITLE III, PART C—PUBLIC CHARTER SCHOOLS

Applicant must provide annually to Secretary such information required to determine if charter school is making satisfactory progress toward school's objectives.

H.R. 6, TITLE II—GENERAL EDUCATION PROVISIONS ACT

Sec. 424 of the General Education Provisions Act (GEPA), as amended, requires each State educational agency to submit a biennial report to the Secretary regarding uses of Federal funds.[4]

H.R. 6, TITLE III, PART B—HOMELESS CHILDREN AND YOUTH

Sec. 722 of the Stewart B. McKinney Homeless Assistance Act (McKinney Act), as amended, requires each State Office of Coordination of Education of Homeless Children and Youth to estimate the number of homeless children and youth served under this program, collect information on the educational problems such children and youth, and report every third year to the Secretary.

FOOTNOTES

[1] Note: Title, part, and section references are to the Elementary and Secondary Education Act (ESEA) as it would be amended by H.R. 6, not to H.R. 6, itself.

[2] While SEAs and LEAs are currently required to submit applications for Title I (Chapter 1) assistance that contain some of the same elements as the plans required in H.R. 6, State and local plans, as such, are not currently required, nor are the current application requirements as extensive as the H.R. 6 plan requirements.

[3] Currently, the Eisenhower Mathematics and Science Education Act requires SEAs to submit a 3-year application which is referred to as a "plan"; State applications must have a projection of teacher supply and demand, and an assessment of curriculum needs in math and science; SEAs have to assess effects of their pros and submit results and summaries of local assessments to the Secretary; LEAs have to assess effects of their programs and report results to the SEA.

[4] This is a modification of a current requirement.

POINT OF ORDER

Mr. KILDEE. Mr. Chairman, I raise a point of order on the amendment offered by the gentleman from Kansas [Mr. ROBERTS] in that it is not germane.

The amendment offered by the gentleman from Kansas [Mr. ROBERTS] is more general in scope than the amendment of the gentleman from California [Mr. CONDIT], and, therefore, is not germane.

The CHAIRMAN pro tempore (Mr. DARDEN). Does the gentleman from Kansas [Mr. ROBERTS] desire to be heard on the point of order raised by the gentleman from Michigan?

Mr. ROBERTS. Yes, Mr. Chairman.

I realize the amendment is not germane under the rule considered. I realize the gentleman's point is well taken under the rule of the House, and my amendment is not germane under the rules of the House to this particular bill.

But it sure as heck is germane to each school district that is going to have to pay for 23 reporting requirements in regards to unfunded mandates.

The CHAIRMAN pro tempore. For the reasons stated by the gentleman from Michigan and agreed to by the gentleman from Kansas, the point of order is sustained.

Mr. KILDEE. Mr. Chairman, I move to strike the last word and say this: That the amendment offered by the gentleman from California [Mr. CONDIT] is well intentioned and certainly put before the House with good intentions. But I think it is no longer necessary inasmuch as the Goodling-Kildee amendment was adopted, which takes care of the very problem which the gentleman from California [Mr. CONDIT] wished to address.

So I think in light of the fact that the Goodling-Kildee amendment has been adopted, this amendment is not necessary.

Mr. CONDIT. Mr. Chairman, based on the compromise with the gentleman from Pennsylvania [Mr. GOODLING] and the gentleman from Michigan [Mr. KILDEE], I ask unanimous consent that I be permitted to withdraw my amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. FORD of Michigan. Mr. Chairman, H.R. 6 is the eighth reauthorization of the Elementary and Secondary Education Act of 1965 [ESEA]. With the possible exception of the 1978 House consideration of ESEA, the number of amendments offered on the House floor to that act during consideration of past reauthorizations were far fewer than the number that have been offered to H.R. 6.

In general, the types of House floor amendments to ESEA reauthorizations in the past have been concerned with the title I/chapter 1 formula, impact aid, eliminating programs, amending specific program provisions, and, in the early 1970's, school busing for desegregation purposes.

Generally, the House floor amendments to H.R. 6 have been concerned with eliminating programs or creating new programs, and with social issues such as illegal aliens, school prayer, homosexuality, and sex education. Well over 100 amendments were in order to be offered to H.R. 6.

A more detailed analysis of past House consideration of ESEA legislation follows.

1965

With the original consideration of the Elementary and Secondary Education Act, an amendment in the nature of a substitute was adopted, along with an amendment limiting the Commissioner of Education to appointing one advisory council with 10 members.

Among the 11 amendments that were rejected, one sought to strike funding for school libraries and textbooks, another limited funding to areas serving large numbers of educationally and economically disadvantaged children, and one substituted the title "Commissar" for "Commissioner" wherever that title appeared in the bill.

1966

The next House consideration of ESEA occurred in 1966. During that consideration, 3 amendments were agreed to and 17 were rejected. The amendments which were agreed to dealt with school busing to correct racial imbalance; the Commissioner's compliance with the Civil Rights Act of 1964 regarding the withholding of funds; and allowing State educational agencies to research the first three grades of education. Most of the amendments that were rejected concerned the title I formula.

1967

During the 1967 House consideration of ESEA, a substitute and six amendments were agreed to; seven amendments were rejected. Among the amendments agreed to were several concerning desegregation and measures to strengthen State educational agencies. The House rejected amendments to block several grant programs, to provide additional funds for children of migratory children; and a teacher-intern program at universities.

1969

In 1969, a substitute amendment and an amendment which prohibited the National Advisory Council on Education from hiring its own staff were adopted; another substitute, along with four other amendments, were defeated. The House rejected amendments that prohibited Federal funds to be used in the busing of students and several impact aid amendments.

1974

The 1974 consideration of ESEA saw 11 amendments agreed to and 19 amendments defeated. The House adopted amendments which concerned involvement of private schools in Federal education programs; the title I set-aside for the territories; the prohibition of Federal funds to be used for busing; the protection of pupil and parent rights; and the requiring of the Commissioner to evaluate programs under the act. The House defeated several amendments to the title I formula, an amendment to phase out the title I program over 4 years, several impact aid amendments, two amendments concerning teacher unions and school district participation in programs, and amendments that sought to change the length of time for which the programs in ESEA were authorized.

1978

In 1978, the House agreed to 38 amendments and rejected 19. Among the amendments agreed to were amendments that addressed title I comparability; the noninstructional duties of school personnel paid with title I funds; the small State minimum for title I concentration grant funds; a new program for early childhood, family, and parenthood education; and Federal assistance to school districts with high incidents of crime to combat vandalism and crime. The House also adopted several bilingual education amendments and several amendments concerning school district compliance with Federal requirements. The House rejected amendments to terminate the followthrough and bilingual education programs; to change the threshold on title I concentration grants; and impact aid.

1981

Because the ESEA reauthorization was done as part of the Omnibus Budget Reconciliation Act, there were no floor amendments to ESEA.

1988

In 1988, the House adopted a substitute amendment and seven additional amendments; one amendment was rejected; and three amendments were offered and withdrawn. Among the amendments adopted by the house were amendments to provide grants for the improvement and expansion of critical foreign language study; to require States to include in their application for Federal assistance an assessment of the impact that the programs will have on the family; a study of the impact of the chapter 1 allocation method on States; and encouragement of school districts to recognize the contribution of teachers to the education of students; and two Indian education amendments. The House rejected an amendment to prohibit the use of funds to conduct special projects for the development or operation of programs related to youth suicide prevention or death education before the completion of a study by the Secretary to determine the effects of such curricula on students.

Mr. HOCHBRUECKNER. Mr. Chairman, I rise in strong support for H.R. 6, the Improving America's Schools Act, and specifically, title III, part F of the bill which funds the important "We the People" civic education program.

"We the People" is an outstanding program of instruction and competition in the basic principles of the U.S. Constitution. Every year, close to 1 million students in classrooms across our Nation spend months studying our Constitution and the Bill of Rights. Students work together to learn about the development and the basic principles of constitutional democracy.

After gaining a core understanding of the principles of our Government and the rights and responsibilities of citizens, classmates then compete together in the annual "We the People" National Bicentennial Competition on the Constitution and the Bill of Rights. The program culminates in a national final competition in Washington.

Importantly, the "We the People" Program is extremely cost effective. For a relatively minor investment, we are educating and empowering close to 1 million students every year to be informed citizens who are willing and able to make a positive contribution to addressing the critical issues of our Nation.

Mr. Chairman, the "We the People" Program has been a huge success in my congressional district on Long Island. I have been enormously impressed by the knowledge and enthusiasm of students participating in the program. I am pleased that the Education and Labor Committee is reauthorizing this important program.

Mr. KILDEE. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. PETERSON of Florida) having assumed the chair, Mr. DARDEN, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6) to extend for 6 years the authorizations of appropriations for the programs under the Elementary and Secondary Education Act of 1965, and for certain other purposes, had come to no resolution thereon.

EDUCATION AND SHARING DAY, U.S.A.

Ms. NORTON. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 329) designating March 23, 1994, as "Education and Sharing Day, U.S.A.," and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from the District of Columbia?

Mr. GILMAN. Mr. Speaker, reserving the right to object, and I do not object, but I simply wish to inform the House the minority has no objection to the legislation now being considered.

Mr. Speaker, further reserving the right to object, I am pleased to rise in strong support of House Joint Resolution 329 designating March 23, 1994, as "Education and Sharing Day, U.S.A.,"

and I commend my colleagues, our distinguished minority whip, Mr. GINGRICH, and our distinguished majority leader, Mr. GEPHARDT, for introducing this measure.

Mr. Speaker, the future of our Nation, our very way of life, and our democratic system of government is dependent on a highly educated citizenry that must be fully equipped to compete with other nations of the world. We must nurture our desire for learning and to motivate students and teachers to assure that we maintain leadership to continue our American democracy.

The quality of education is essential to our American heritage of cultural and political freedom. Our schools are instrumental in providing our scientific and technical competence. Education holds the key to the future. By designating March 23, 1994, as "Education Day, U.S.A." we call the attention of the American people to the necessity of improving our educational system, by promoting good morals and ethics.

House Joint Resolution 329 also calls attention to the Lubavitch movement, which promotes many of our ethical values and principles upon which the educational system of our great Nation was founded.

Accordingly, Mr. Speaker, I urge my colleagues to join in supporting this resolution.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from the District of Columbia?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 329

Whereas the Congress recognizes that ethical teachings and values have played a prominent role in the foundation of civilization and in the history of our great Nation;

Whereas President William J. Clinton has indicated that ethical considerations should inform the decisions of Society;

Whereas ethical teachings and values have formed the cornerstone of society since the dawn of civilization and found expression in the Seven Noahide Laws;

Whereas sharing and education represent 2 pillars of these laws and ethical conduct;

Whereas Rabbi Menachem Mendel Schneerson, the leader of the Lubavitch movement, is revered worldwide for the contributions he has made to education and sharing;

Whereas the over 2,000 educational, social, and rehabilitative centers administered by the Lubavitch movement advance these ideals for the millions of people whom they serve each year;

Whereas Rabbi Menachem Mendel Schneerson has interpreted, in the miraculous events of our times, the increasing vitality of these ideals for the furtherance of human understanding and betterment;

Whereas the extraordinary life and work of Rabbi Menachem Mendel Schneerson have long been acknowledged by the Congress through the enactment of joint resolutions designating his birthday in each of the last 16 years as "Education and Sharing Day, U.S.C.";

Whereas the Lubavitcher Rebbe's 92nd birthday falls on March 23, 1994;

Whereas in tribute to this esteemed spiritual leader, the Lubavitcher Rebbe's birthday will be designated as "Education and Sharing Day, U.S.A.; and

Whereas such designation will signal a renewal of our Nation's commitment to greater acts of charity, to an enriched emphasis on education, and to the furtherance of ethical teachings and values in the affairs of government and in the lives of our citizens: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 23, 1994, the 92nd birthday of the Rabbi Menachem Mendel Schneerson, leader of the worldwide Lubavitch movement, is designated as "Education and Sharing Day, U.S.A.". The President is requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

SMALL FAMILY FARM WEEK

Ms. NORTON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate joint resolution (S.J. Res. 171) to designate March 20 through March 26, 1994, as "Small Family Farm Week," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from the District of Columbia?

Mr. GILMAN. Mr. Speaker, reserving the right to object, I would like to note the minority has no objections to the measure offered by the gentlewoman from North Carolina [Mrs. CLAYTON] and, further reserving the right to object, I yield to the gentlewoman from North Carolina [Mrs. CLAYTON], who is the sponsor of this resolution.

Mrs. CLAYTON. Mr. Speaker, I thank the gentleman for yielding to me.

I also want to thank my colleagues who signed on to the resolution recognizing the week of March 20 through March 26 as Small Family Farm Week.

It is a recognition that we are giving because, in fact, we are losing small family farms. We are losing the opportunity and way of life that many people have found of value, and I think those of us who are not affected by that do not know what that would mean to our society.

□ 2030

We need to be supportive of small family farms. I certainly commend my colleagues who have joined with me in supporting this resolution. And I thank the gentleman for yielding.

Mr. GILMAN. Mr. Speaker, further reserving the right to object, I commend the gentlewoman for sponsoring the bringing to the floor this resolution at this time, a resolution that I am pleased to cosponsor.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. PETERSON of Florida). Is there objection to the request of the gentlewoman from the District of Columbia?

There was no objection.

The Clerk read the Senate joint resolution 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.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Ms. NORTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the two joint resolutions just considered and passed.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from the District of Columbia?

There was no objection.

WOMEN OFTEN MISDIAGNOSED

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, I want to bring to my colleagues' attention an article in the March 1994 edition of Lear's magazine entitled "The Most Common Misdiagnoses."

As the article points out, doctors too often misdiagnose female patients because they do not take their complaints seriously or because they don't think a disease affects women.

As the magazine points out, some of the ailments most commonly misdiagnosed in women are endometriosis,

cardiovascular disease, thyroid dysfunction, interstitial cystitis, ovarian cancer, clinical depression, and lupus.

All this is no surprise to women, who historically have been slighted when it comes to health care research and treatment. Recently, we learned that the National Surgical Adjuvant Breast and Bowel Project used falsified data in critical breast cancer studies. What is worse, 3 years have passed without a published reevaluation of these findings.

Recently, women's confidence in the science behind their doctors' recommendations was shaken again when the National Cancer Institute retreated from its national mammography screening guidelines for women in their forties.

And we know in the past women were not included in Government-sponsored clinical trials or drug studies, which prompted the Congressional Caucus for Women's Issues to introduce the Women's Health Equity Act.

This blase attitude toward women's lives must change. I would like to take this opportunity to insert the Lear's article in the CONGRESSIONAL RECORD as a reminder to my colleagues that when the health care reform train leaves the station, women expect to be on it in numbers equal to men.

[From Lear's, March 1994]

THE MOST COMMON MISDIAGNOSIS

(By Peg Byron)

All too often, doctors make the wrong call on female patients. Early signs of a heart attack are written off as stress; lupus is mistaken for Lyme disease. Women need to be vigilant about these and other overlooked ailments.

Women's health is attracting some overdue attention these days, resulting in welcome policy changes. The Food and Drug Administration, as of this October, will require all mammogram providers to be certified. Last year the Centers for Disease Control expanded the definition of AIDS to include symptoms that occur only in women; this may free up public funds to help HIV-positive women. And the National Institutes of Health, after acknowledging that virtually all information about major diseases derives from studies of men, has taken steps to ensure gender equity in future research.

Nonetheless, problems persist between women and their doctors. Some physicians are still too quick to attribute women's complaints to stress or emotional disorders. "Doctors are much more willing to write off real symptoms in women as hysteria," says Marianne J. Legato, a New York internist. And certain diseases are erroneously perceived—by doctors and patients alike—as primarily affecting men, which means that women may not be tested for some obvious culprits. Below are some commonly missed ailments, most of which affect women disproportionately.

ENDOMETRIOSIS

Endometriosis, which affects more than 5 million women, is a painful, chronic disease that occurs when tissue similar to the lining in the uterus (endometrium) grows where it shouldn't—usually in the pelvic area, sometimes in the abdomen or on old surgery scars. It is now known why this happens. Until recently, the discomfort caused by endometriosis was usually attributed, incorrectly, to menstrual distress. Mary Lou Ballweg of Milwaukee founded the Endometriosis Association in 1980 after doctors could not identify the source of her pelvic-area pain. "They put me on birth control pills," she says. "Then they told me I needed a vacation." It wasn't until she did her own research that she discovered what was wrong. Endometriosis can cause infertility, ectopic pregnancy, ruptured ovarian cysts, adhesions, and general debilitation.

Symptoms: painful and heavy periods; discomfort with intercourse; fatigue; painful bowel movements. Diagnosis: Laparoscopy is needed to confirm diagnosis, though some endometrial growth can be felt with a pelvic exam. Treatment: Endometriosis is often not curable, but painful symptoms can be lessened by drug therapy or surgery. Mild cases may simply be monitored, and pregnancy may bring temporary relief of symptoms. Endometriosis usually goes away after menopause. For more information: the Endometriosis Association, 800-992-3636.

CARDIOVASCULAR DISEASE

The number one killer of women is coronary artery disease—in which plaque deposits build up on the walls of major arteries and disrupt blood flow to the heart. Stroke—in which blood flow to the brain is impaired—is number two. Together they kill nearly 350,000 women per year. But studies have shown that men are more likely than women to get proper attention in the emergency room at the first sign of trouble.

Symptoms: for heart attacks: pain for more than a couple of minutes and a tightening in the chest; shortness of breath; nausea; sweating; lightheadedness or faintness; severe pain in the jaw, neck, shoulder, or arm; severe indigestion not alleviated with an antacid. For strokes: sudden numbness; sudden dimness or loss of vision; loss of speech or trouble understanding speech; sudden severe headaches; dizziness. Diagnosis: exercise stress tests and thallium stress tests, though they are less reliable in women than in men; echocardiograms; angiograms; various imaging techniques, such as CT scans or MRIs. Treatment: coronary artery bypass surgery; angioplasty (whereby a tiny balloon is threaded through the artery and expanded to compress plaque against artery walls); drug therapy; diet changes; exercise. There are some indications that estrogen-replacement therapy reduces heart attack risk in women, but researchers have yet to prove this conclusively. For more information: local chapters of the American Heart Association; the Women's Health Information Service at the National Women's Health Network, 202-347-1140. Women with heart disease may want to enroll in the NIH's first major clinical trial to determine the effectiveness of estrogen supplements in preventing heart disease: 800-54-WOMEN.

THYROID DYSFUNCTION

The thyroid gland, located just below the larynx, regulates hormones that control digestion, heart rate, body temperature, sweat gland sends out the wrong amount of hormones, resulting in any number of different symptoms. Many of these are often blamed on stress, menopause, or even the aging process. But thyroid disease, which affects up to 11 million people, can wreak havoc on the body, eventually leading to serious or even fatal outcomes.

Symptoms: Hypothyroidism (an underactive thyroid) is characterized by chronic fatigue, muscle aches, cold intolerance, constipation, heavy periods, brittle nails, thinning hair, and elevated cholesterol. Hyperthyroidism (an overactive thyroid)can cause insomnia, lighter periods, hand tremors, rapid pulse, heat intolerance, and protruding eyes. Diagnosis: a simple blood test. Treatment: Drugs (such as radioactive iodine) and careful monitoring can, in many cases, cure all symptoms. Surgery is an option for people with enlarged thyroids. For more information: the Thyroid Foundation of America Inc., 800-832-8321; the American Thyroid Association, 800-542-6687.

INTERSTITIAL CYSTITIS

A poorly understood bladder disease that affects some 450,000 women, interstitial cystitis is an inflammation of the bladder wall. It may be caused by infection, a defect in the bladder's lining, or an autoimmune reaction. Until 1986, however, Campbell's Urology, the standard urology textbook, referred to this painful disorder as "a pathway for the discharge of unconscious hatreds." When orthopedist Vicki Ratner, in her third year of medical school, encountered the textbook description for the first time, she knew it was bunk. Suffering from what felt like a nonstop urinary tract infection, she consulted 14 doctors, who tested her for everything they could think of; some then suggested that she quit medical school and get married. After doing her own research, she diagnosed the condition. She then went on to found the Interstitial Cystitis Association.

Symptoms: pain in bladder and urethra; lower-abdominal and often vaginal pain; pain during intercourse; urgent need to urinate many times a day. Diagnosis: After ruling out infections, cancer, and other problems, the physician will perform a cystoscopy, in which a tiny scope is threaded into the bladder to view hemorrhages on the bladder wall. Treatment: There is no cure, though symptoms may be reduced with diet therapy, painkillers, anti-inflammatory drugs, and such drugs as DMSO and Elmiron. Cystoscopy, which stretches the bladder, may also being relief. Surgical removal of the bladder is only for the worst cases. For more information: the Interstitial Cystitis Association, P.O. Box 1553, Madison Square Station, New York, NY 10159.

CLINICAL DEPRESSION

Even though the crushing symptoms of clinical depression can be treated, doctors often assume "the blues" are simply part of every woman's life. "They may just write if off, and that's a tragedy," says Leah Dickstein, a professor of psychiatry at the University of Louisville in Kentucky and a past president of the American Medical Women's Association. In fact, researchers are finding that the disease is due to abnormal brain function rather than psychosocial issues. Depression affects about 11.5 million people and occurs about twice as often among women as men. Despite this, says Susan Blumenthal, an NIH psychiatrist and cofounder of the Society for the Advancement of Women's Health Research, most antidepressant drugs have been tested on men.

Symptoms: According to the National Institute of Mental Health, at least five of the following symptoms must be apparent nearly every day for at least two weeks: a depressed mood; suicidal thoughts; changes in sleep, appetite, or energy; decreased interest in sex; slowed speech; feelings of worthlessness; diminished ability to concentrate. Diagnosis: evaluation by a psychiatrist. Treatment: Most clinical depression can be effectively treated with therapy and drugs. For more in-

formation: the National Institute of Mental Health, 800-421-4211; the National Foundation for Depressive Illness, 800-248-4344.

OVARIAN CANCER

While cancer of the ovaries is relatively rare, it is often deadly, simply because early detection is so difficult. Nearly 22,000 women get the disease each year; more than 13,300 die of it annually. And like comic Gilda Radner, many women waste precious time before a doctor thinks to look for ovarian cancer. Often the disease is mistaken for an ulcer or a gallbladder problem. The earlier treatment begins, the better the chance for survival.

Symptoms: prolonged abdominal pain or bloating; the sensation that clothes are too tight. Diagnosis: Three tests—a pelvic exam, a sonogram, and the CA-125 blood test—have yet to prove effective at identifying ovarian cancer. Surgical biopsy (laparoscopic) is the only way to confirm diagnosis. Treatment: surgery to remove ovaries and any tumors; chemotherapy (including, sometimes, taxol); radiation. For more information: the Society of Gynecologic Oncologists, 401 North Michigan Avenue, Chicago, IL 60611, provides referrals to doctors and clinical trials. Women with a family history of this disease should see a genetic counselor and may want to enroll in clinical trials conducted at major medical centers to gauge the effectiveness of the above-mentioned tests.

LUPUS

Systemic lupus erythematous, commonly known as lupus, is an autoimmune disorder of unknown origin that afflicts nearly half a million women. Characterized by flare-ups and remissions, it mimics other ailments. Patients occasionally suffer extreme mood swings, and are inappropriately referred to a psychiatrist. An unusual facial rash might be misdiagnosed as rosacea. Joint pain can be mistaken for signs of Lyme disease. And persistent fatigue could erroneously suggest chronic-fatigue syndrome. If left untreated, lupus can attack major organs, especially the kidneys. It tends to appear before age 45 and is more common in African American and Hispanic women than in other groups.

Symptoms: low-grade fever, swelling and aching joints and muscles; digestive problems; easy bruising; extreme reaction to cold; pain with deep breaths; anemia; chronic fatigue; mood swings; butterfly-shaped facial rash; mouth ulcers; hair loss; occasionally, even seizures. Diagnosis: an array of blood and urine tests. Treatment: There is no cure. Drugs, regular rest, and sunscreens to prevent rashes can keep the disease in check indefinitely. Early diagnosis can improve response to treatment. For more information: the Lupus Foundation, 800-558-0121.

THE NAZI DEATH CAMPS, AND "SCHINDLER'S LIST"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN], is recognized for 5 minutes.

Mr. DORNAN. Mr. Speaker, and my colleagues, I want to speak tonight briefly about an incredible motion picture, "Schindler's List." But before I do, I will ask unanimous consent to put in the RECORD an article from this week's USA Weekend. This has a multimillion circulation. It is an article by a gentleman who I think is the best movie critic in the United States, Michael Medved. He is as much a philosopher as he is a critic of films.

Michael Medved writes an article entitled, "It Is Safe To Go Back Into the Dark,"meaning the darkness of movie theaters. He said that Monday's Oscars, which start in about 24 minutes, will "showcase a welcome change at the movies, but there is a long way to go, a controversial critic argues." By Michael Medved.

Now, of course, USA Weekend calls him controversial only because I guess he believes in the Mosaic law and the ethics upon which this country was built—Jewish/Christian ethics. He goes to a synagogue and he has respect for the Christian tenets that grew out of Judaism. He is a hero to me.

I want to put this into the CONGRESSIONAL RECORD, his great article.

The article follows:

[From the USA Weekend, Mar. 18-20, 1994]

IT'S SAFE TO GO BACK IN THE DARK

(By Michael Medved)

This year on Oscar night, at all the glamorous parties around town, Hollywood really will have cause to celebrate. The major nominees for Academy Awards represent the most distinguished crop of contenders in recent memory and 1993 box-office figures reflect rekindled public enthusiasm for the American film industry. After three consecutive years of steadily shrinking attendance, the number of moviegoers increased sharply.

In part, this unmistakable improvement in the public's response to Hollywood stemmed from an industry-wide shift in the direction of family entertainment. Those millions of movie fans who'd been yearning for wholesome alternatives discovered a startling wealth of new titles that parents and children could enjoy together.

Future historians may, in fact, point to 1993 as a decisive turning point for popular culture, with significant changes in network television as well as motion pictures. The year just passed could well be remembered as the year that Hollywood finally got the message, and started to make a serious effort to reconnect with the values of ordinary Americans.

The readers of this magazine should know that they played a part in this historic process. Two years ago, USA Weekend ran early excerpts from my controversial book Hollywood vs. America as a cover story under the title "One angry critic." The editors invited readers to call in to register their agreement or disagreement with my statement: "Hollywood no longer reflects—or even respects—the values of most American families."

The volume shattered all records from the magazine's previous six years: 54,453 callers managed to get through on the jammed phone lines to register their agreement; 21,221 callers said they disagreed. The actual number of "yes" votes would have been many times higher had the lines been able to handle them all: Phone company computers registered 400,000 unsuccessful attempts to call the "yes" line.

This overwhelming reaction attracted a great deal of attention in the entertainment industry, because it corresponded so closely to accompanying evidence that people meant what they said when they expressed a preference for family-friendly material.

For a long time, the conventional wisdom in Tinseltown dictated that a movie had to include harsh language, explicit sex and vivid violence to rake in big bucks. But I proved in Hollywood vs. America that this notion had no factual basis. Comprehensive computer analysis showed that, when it came to average receipts at the box office, G- and PG-rated movies aimed at families outperformed "hard-edged" R-rated movies more than 2-to-1. Moreover, this pattern of higher average returns on movies with softer ratings repeated itself 10 years in a row, even as Hollywood steadily—and self-destructively—increased the overall percentage of R-rated material. In other words, an objective examination of the commercial track record showed that the growing obsession with sleaze and gore represented not only bad citizenship, but also bad business.

A few weeks after the release of my book, the press reported another major study that reached the same conclusions. Paul Kagan Associates, one of the industry's most respected consulting firms, declared: "Ironically, while R-rated films are less likely to score big at the box office and are less profitable than films with other ratings . . . the percentage of R-raters in the mix has increased from 50.3 percent in 1989 to 58.2 percent in 1991." In other words, the movie industry might not be evil—as many parents had come to believe—but it most certainly could be described as dysfunctional.

Before long, industry leaders began to face up to their long, awkward record of ignoring the public. On Dec. 13, 1992, The Los Angeles Times ran an article headlined "At the box office, R doesn't rate as high as PG" saying that "Hollywood is taking note of two recent studies . . . point out that PG-13 and lower ratings are more likely to turn a profit than those rated R." The story went on to note that even Eddie Murphy had agreed to restrain his penchant for salty dialogue in the upcoming Beverly Hills Cop III—which means that the irreverent young star might have to master a whole new vocabulary.

Prestige journals started reporting a sea change in Hollywood's thinking. The New York Times ran an analysis, "Hollywood testing the financial value of family values," listing an impressive array of new projects the writer called a "feel-good flood." A few months later (March 22, 1993), a Los Angeles Times story headlined "A startling new concept: family films" quoted Bruce Berman, head of worldwide distribution at Warner Bros., saying: "This resurgence of family pictures is no coincidence. We've begun to realize there's a big audience out there."

Many of his colleagues from the executive suites began making similar pronouncements. On March 9, 1993, a year after USA WEEKEND's "One angry critic" piece and the accompanying call-in, Sony/Columbia Pictures chairman Mark Canton told the leading convention of movie exhibitors: "Together . . . we can make the needed changes. If we don't, this decade will be noted in the history books as the embarrassing legacy of what began as a great art form. We will be labeled 'the decline of the empire.' . . . Any smart business person can see what we must do: make more PG-rated films."

Even Jack Valenti, an unfailingly eloquent apologist for Hollywood as head of the Motion Picture Association of America, took up the new theme. Delivering his annual "State of the Industry" address to the same gathering Canton addressed, he conceded: "We have to increase the theater audience. We just have to do it." He acknowledged that the best way to achieve that purpose would be to "start pictures with less violence, less sensuality and less raunchy language." Less than a year before, Valenti had attacked me

in a magazine interview as a "singularly uninformed individual who leaps from soggy premises to stupid conclusions." Apparently, a few months' sober reflection made my premises and conclusions look a good bit less soggy and stupid, as he unmistakably echoed arguments that I had been making for a long time.

As these Hollywood honchos' statements make clear, the industry's newfound enthusiasm for family entertainment in no way represents an abrupt attack of conscience. But it does reflect a spasm of enlightened self-interest and common sense.

Pioneer movie mogul Samuel Goldwyn phrased the same common sense in memorably concise terms some 50 years ago. "It's always better to sell four tickets than two!" he repeatedly reminded his underlings—suggesting that to lure Mom, Dad and their two kids together is preferable to forcing the parents to pay a baby sitter so they can go alone.

Fortunately, this logic provided its irrefutable force at the box office in 1993. The three top money makers released last year—Jurassic Park, The Fugitive and Mrs. Doubtfire—all happened to be PG–13 movies with powerful appeal to kids as well as their parents. Although may observers thought Jurassic Park's rampaging dinosaurs were too menacing for small kids, Steven Spielberg at least deserves credit for toning down the gore and horror in the original book by Michael Crichton. By the same token, had The Fugitive appeared a few years ago, it might well have been an R-rated bloodbath full of dismemberment and crude macho language; as it was, director Andrew Davis kept faith with his broader PG–13 audience by crafting a marvelously old-fashioned thriller that kept you at the edge of your seat without trying to turn your stomach.

At the same time, some of the most serious, brilliant (and Oscar-contending) films were rated PG, including The Remains of the Day, Shadowlands and The Age of Innocence. That last title is an especially important milestone, because it is the work of Martin Scorsese, Hollywood's most acclaimed director. When this moody genius turns from Mean Streets to Clean Streets, following up the lurid Last Temptation of Christ, Goodfellas and Cape Fear with a stately, elegant adaptation of an Edith Wharton novel, you can be sure powerful changes are at work within the creative community.

Scorsese's shift illustrates one of the most positive aspects of Hollywood's new directions, which involve slight but significant changes in overall aesthetic standards, not just a commercially motivated fad for "kiddie" flicks. In the recent past, the most influential film commentators saved their most lavish praise for dark, disturbing, "cutting-edge" productions, as if we had abandoned traditional ideas of beauty and worth, accepting the ability to shock as a substitute for the old ability to uplift or inspire. This year, the movies that won the most prestigious Oscar nominations reflect a far healthier diversity—beginning with the likely winner for best picture.

The last two best picture winners, The Silence of the Lambs (1991) and Unforgiven (1992), were technically brilliant, superbly acted but spiritually empty explorations of the depths of depravity, demonstrating the seductive power of evil. Schindler's List, on the contrary, describes the seductive power of goodness. It focuses on the convincing transformation of a Nazi opportunist (Liam Neeson) into a most unlikely savior who risks everything for others. Though set in one of history's most tormented moments, it stirs the soul with hope and gratitude.

Some of the nominated female actors show an even more surprising and welcome development in this turning-point year: a new willingness to look seriously, even sympathetically, at religious faith. No issue has more clearly demonstrated the entertainment industry's unnecessary alienation of a huge segment of its potential audience than the contemptuous attitude toward traditional believers in a long series of recent (invariably money-losing) films. This year, however, Debra Winger won a nomination for best actress for her role in the exquisite Shadowlands, in which the faith of both main characters, the famed Christian scholar C.S. Lewis (Anthony Hopkins) and his late-in-life wife, Joy Gresham (Winger), is presented with tenderness and respect. And Rosie Perez is a frontrunner for the best supporting actress award for her role in the haunting Fearless, which probes questions of faith and fate with intensity and integrity.

The crowd-pleasing Rudy, the inspiring story of an undersized football wannabe who nurses impossible dreams of playing for Notre Dame, features the most affectionate characterization of a priest (played by Robert Proskey) since Bing Crosby's death. At the same time, TV's L.A. Law welcomed a "born-again" Christian character who, as played by Alexandra Powers, amazed most observers by turning out to be a beautiful, brilliant, capable idealist.

The recent changes are encouraging for many reasons, but they hardly signify the start of a messianic age. Last year helped to ease, but did not solve, Hollywood's ongoing crisis in values. In spite of all the positive developments, the industry still creates scores of exploitative, gratuitously violent films, with far too many R releases (61.2 percent of '93's total, according to MPAA figures) for an intelligent or effective mix. Even worse are the out-of-place elements that turn up even in family-oriented features, rudely shocking moviegoers. Why include a sequence showing attempted date rape in the charming Beethoven's 2nd? Why insert a scene into the handsomely crafted Iron Will (one of '94's best family films so far) in which the 17-year-old hero solves a crucial problem by threatening a rival with a gun?

These are minor quibbles, of course, but they remind us that the situation in the movie business is always fluid and unpredictable, and that the current new directions will continue only with encouragement from the public and critics.

Hollywood's recent renewal shows an aroused, engaged public can have a profound impact on the direction of show business. Two years ago, I ended my USA Weekend story by expressing my "hope that this appalling but amazing industry will regain its bearings and once again merit the affection of its audience." We all can feel gratified that recent developments have moved us closer to realizing that hope.

Mr. DORNAN. It shows the difference in 2 years, it shows the picture of the great English actor Anthony Hopkins, who has been made a peer of the realm, a lord, and it shows Lord Hopkins in March 1992, "The Silence of the Lambs." Hannibal Lector Cannibal. It shows him in his Academy-nominated performance tonight, March 1994, "Shadowlands." the story of C.S. Lewis, Christian scholar.

Mr. Speaker, I went to see "Schindler's List" about 2 weeks ago. The theater was almost empty. It was in a multiplex group of theaters.

I asked the manager why there was not a very big crowd. He said the theater had filled the first week, but that people who had an interest in the Holocaust were the ones who filled the theater. I believe it will win the Academy Award as the Best Picture tonight. That will help a little bit.

But he said he heard some people who came in to see other films say they did not want to go through the experience.

Now, you cannot make a film about the Holocaust without shocking people, without stabbing their conscience, without making them think about the history of our times. As I heard Phil Donahue say on his show the other day, he was alive while this was all going on; so was I and so were you, Mr. Speaker. It is hard to believe that these nightmares took place in the 1940's following the great world's fair in New York in 1939 and 1940.

But the reason that this brilliant—and he is still very young—director-producer, Stephen Spielberg put it in black and white was to tone down some of the blood and the horror and also to capture the starkness of World War II, which we recall in our memories as a black-and-white war because of most of the newsreels.

I would say that someone cannot lay claim to being, not an intellectual but an educated person alive today without seeing this film. It is not a movie, it is an experience, an historical experience like spending 3 hours and 15 minutes at the Holocaust Museum or as a tourist, for example, going to a beautiful Bavaria in Germany, visiting the pubs, the beer cellars in Munich, and then taking the time to go less than an hour outside of Munich to the first of all the concentration camps, Dachau, when it was run by Hess.

I took my younger son Mark—he is not so young, he is in his thirties—a few years ago to a horrible experience but a deeply moving one. We visited in Poland all of the extermination death camps; drove 40 minutes north of Warsaw to Treblinka, to Sobibor, spent the night, then went to Belzec, to Mydanyck, and then we took a short detour to a work camp called Placow. Little did I know that that would be the principal camp in "Schindler's List."

Then we went to Auschwitz, the satellite camp Birkenau, and completed the six camps designed just to exterminate millions of people up at Chelmo. It was night, the third day had gone by, and my son sat across the hood of the car and said, "Dad, look at all the stars in the sky and imagine each one of them as each one of the 6 million souls of the Jewish people whom Hitler managed to exterminate until he ran out of time." I reminded my son it was 12 mil-

lion who died in the concentration camps.

I would beg anybody, I repeat, who wants to engage in serious conversation about the hate crimes arising over the world, even in our own country; you cannot discuss skinheads, the Aryan nation, Farrakhan, you cannot probably understand the whole crisis in the Middle East, the up and off and on again peace process, unless you take the time to visit the Holocaust Museum, as close to us as the Lincoln, closer than the Lincoln Memorial, right next to the Washington Monument.

□ 2040

And I would suggest that my colleagues, yes, subject themselves to the intellectual exercise of sitting there and watching "Schindler's List." Spielberg is a remarkable young man. He already has the Irving Thalberg Award for his life's work, and I will finish on this, Mr. Speaker:

He is nominated for three awards for "Jurassic Park," plain old popular, populist film. He will win two of those. He is nominated 12 times for "Schindler's List." I predict he will win 9 of those, maybe 10. To take 12, 11, even 10, but 15 nominations is incredible. See the work of this fabulous young artist, and, even if he thinks the sixties were the generation of greed, it made him a multimillionaire. So, we do not agree on politics, but I certainly agree this young man is a remarkable historian.

I say to my colleagues, "Schindler's List"; see it, and you'll be glad you did.

TAIWAN SHOULD BE ADMITTED TO THE UNITED NATIONS

The SPEAKER pro tempore (Mr. PETERSON of Florida). Under a previous order of the House, the gentleman from Ohio [Mr. BROWN] is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, as a member of the Asia and Pacific Subcommittee, I would like to offer my perspective on an issue of particular importance to the Asian Continent: U.N. membership for Taiwan.

Mr. Speaker, it makes little sense to continue to exclude Taiwan from the United Nations.

Whatever logic and whatever political rationale that formerly existed for treating Taiwan as a subset of China or as a government in exile has long since faded.

In the post-cold-war era, we must take a realistic view of the world.

We must realize that the U.N. membership includes 184 nations, and excludes only a handful of very small countries and one large one, Taiwan.

Taiwan has 21 million people, a population greater than the great majority of U.N. members. Yet we deny Taiwan membership.

Taiwan has taken a number of steps in recent years toward democracy and political reform. Indeed, in many respects we should celebrate the success story in Taiwan—particularly when we consider the difficulty in convincing the People's Republic of China of the importance of behaving as a responsible member of the world community. We simply do not have that problem with Taiwan.

There has been no martial law for 7 years, and the most recent elections were the most free in modern Taiwanese history. Yet we do not reward progress. Instead we deny them their own seat.

Taiwan is America's 6th largest trading partner; it is the 14th largest trading nation in the world.

Its foreign currency holdings are the largest in the world.

Taiwan has the 20th largest gross domestic product in the world.

Taiwan already has been admitted to GATT and APEC.

Taiwan is truly one of the strongest of the little tigers of Asia. Its economic future appears very bright.

Mr. Speaker, it simply does not make sense to exclude Taiwan from the United Nations—especially if our foreign policy is going to be increasingly interlinked with economic policy.

The United Nations, for all its faults, remains the preeminent multilateral international organization. Excluding Taiwan certainly conveys the wrong message to the world community.

I believe we should no longer deny an important global economic force representation in the most important of world forums.

We treat Taiwan as an international pariah for outdated reasons.

The geopolitical and ideological basis for our policy toward Taiwan no longer serves any useful purpose.

The reality is that Taiwan is a strong player in the world community.

That fact is indisputable.

Taiwan is an increasingly significant member of the Pacific rim community.

The 21 million residents of free and independent Taiwan must be allowed their own seat in the United Nations.

MY ADVICE TO THE PRIVILEGED ORDERS

The Speaker pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, last week Federal Reserve Chairman Alan Greenspan met with President Clinton. This is neither unusual, controversial, nor startling. It is a practice that has been common as long as I can remember as a member of the Committee on Banking, Finance and Urban Affairs for 32 years. It is proper because the American people have elected the President, and he, in turn, has chosen and selected members of the Federal Board, and it would be proper for them to review the country's economic health and financial policies. But under the secrecy role of the Fed, the newspaper, the Washington Post, as of Saturday, March 19, reports White House talk sinks bond prices, Clinton-Greenspan meeting starts rumors. Now this, of course, is also a part of what should be the oversight jurisdiction of the Committee on Banking, Finance and Urban Affairs and the reporting requirements for monetary policy legislated in the Humphrey-Hawkins Act of 1978.

The Federal Open Market Committee [FOMC], the powerful 12-member committee of the Federal Reserve that determines the Nation's monetary policy, should recognize this need for accountability to the Congress and the American public. The FOMC meets tomorrow. One of the topics committee members will reportedly discuss is how to reply to my request that the FOMC make public complete minutes of its eight annual meetings and how it should promptly disclose any decisions to raise or lower interest rates.

These reforms, contained in my legislation, H.R. 28, the Federal Reserve System Accountability Act of 1993, are not an attempt to influence or micromanage the Fed. The Fed would continue to remain independent of short-term political pressures. These reforms would simply establish individual accountability for the members of the FOMC because the Nation has the right to know what each individual member of the FOMC thinks about monetary policy. This is a basic requirement of decisionmakers in a government bureaucracy in a democracy. Supreme Court Justices publicly state their opinions—and justice is better served.

Not so the Fed. Far from making its opinions public, in 1976 the FOMC stopped releasing complete minutes of its meetings. The then Chairman of the Federal Reserve, Arthur Burns, went as far as to testify that no detailed minutes would be taken after this time. This testimony was intended to block Freedom of Information Act [FOIA] and other requests from the Congress, press and public for detailed accountability for FOMC discussions. I found out on October 26, 1993, that this statement was untrue. The Federal Reserve, in fact, has maintained a 17-year treasure trove of transcripts of its FOMC meetings.

It was not easy to elicit this admission from Federal Reserve officials. I had asked specifically in my letter of invitation that each of the Federal Reserve Bank presidents and Governors slated to appear before my committee on October 19, 1993, independently disclose what they knew about the records being kept of FOMC meetings.

My colleagues, on October 15, 4 days before they were to testify before the committee, the FOMC held one of two

conference phone calls where they discussed their strategy for this upcoming hearing. On January 13, 1994, after long negotiations, my staff listened to a tape and read the transcript from this call.

During this call many of the FOMC members found out perhaps for the first time, that the Federal Reserve has maintained 17 years of transcripts dating back to 1976, the year the FOMC erroneously claimed it had stopped taking minutes of its meetings. During the conference call, participants indicated they were worried how this embarrassing information would look when seen in the harsh light of day.

The Federal Reserve staff tried to calm their fears, with one staff member indicating that the Fed planned to try to hide the existence of the 17 years of transcripts from the Banking Committee. He announced in the conference call that the "[Fed] Chairman [Alan Greenspan] is not highlighting these transcripts * * *. We're not waving red flags." Chairman Greenspan then read his prepared testimony which conveniently left out any mention of 17 years of FOMC transcripts.

During the call, some of the Fed officials despaired that they would not be able to hide the existence of the transcripts for long, and that Chairman Greenspan should offer to release them in 5 years but settle for 3 years. The general counsel of the Federal Reserve warned that in the event of FOIA requests he saw the chances of the Fed holding on to these FOMC transcripts for longer than 3 years as not good.

I urge the Federal Reserve not to stonewall and to make the full transcript of the conference call public. There is no sensitive material involved. No monetary policy was discussed, rather the discussion is centered around a plan to mislead the Congress when Federal Reserve witnesses were to appear before the Banking Committee 4 days later. As Dallas Federal Reserve Bank President Robert D. McTeer, Jr. said during the call, the Fed "had better quit stonewalling." Federal Reserve Congressional Liaison Don Winn said, "I don't have any sense that they [the Banking Committee] have any knowledge whatever of what we've been talking about."

The plan to conceal the existence of these 17 years of FOMC transcripts was actively carried out when all 16 Fed witnesses failed to reveal to the Banking Committee at the October 19, 1993, hearing that they knew about the transcripts. When asked about a permanent record of FOMC meetings by Congressman MAURICE HINCHEY of New York, Chairman Greenspan testified:

There is no permanent electronic record, that is correct. We obviously have rough notes.

But these are verbatim transcripts, not rough notes. Chairman Greenspan deliberately shaded the truth. I pursued my inquiry and on October 26, 1993, Chairman Greenspan admitted that there were 17 years of complete FOMC transcripts. The FOMC agreed to edit them at a snail's pace and to make them public with a 5-year lag, which means we will have to wait 5 years before we can read the transcript of this week's FOMC meeting. This is wholly unacceptable. The Fed surely won't be harmed by letting the light shine in, so we can all know what it is doing, and why.

I think it is long past time for the FOMC members to change their version of accountability to one that is compatible with full accountability of government officials in a democracy. I therefore urge the Fed to comply with my requests to give the Banking Committee the FOMC transcripts, to continue the practice begun on February 4, 1994, of promptly announcing monetary policy changes, and to make the transcripts of FOMC meetings available on a timely schedule. Full accountability will enhance the credibility and stature of the Federal Reserve. It cannot afford to do less and still earn any trust from the American people whom it serves.

[From the Washington Post, Mar. 19, 1994]

WHITE HOUSE TALK SINKS BOND PRICES—CLINTON-GREENSPAN MEETING STARTS RUMORS

(By Clay Chandler)

A hastily convened meeting yesterday between President Clinton and Federal Reserve Chairman Alan Greenspan at the White House sent a shudder through the bond market and generated broad expectation that the central bank will raise short-term interest rates at a key policy meeting next week.

Clinton aides insisted there was nothing unusual about yesterday's meeting. But the fact that Greenspan canceled a long-standing speaking engagement in Houston for yesterday's one-hour audience with the president kicked Wall Street's rumor mill into overdrive.

Many market observers speculated that Clinton summoned Greenspan to the White House in a last-ditch effort to stop him from raising short-term interest rates at Tuesday's meeting of the Federal Open Market Committee, the central bank's main policy board.

Others guessed that Greenspan had initiated the meeting to warn Clinton that he planned a substantial rate increase at the FOMC meeting.

Both theories gave markets the willies. At the end of trading yesterday, the Treasury's 30-year bond had dropped 27/32 point, or $8.44 per $1,000 in face value, driving up long-term interest rates to 6.90 percent from 6.82 percent. Stocks recoiled as well early in the day, before closing higher amid heavy volume related to options trading.

The Fed last engineered a rise in short-term rates on Feb. 4, when it boosted the federal funds rate a quarter of a percentage point for the first time in five years.

Yesterday's White House meeting was "a big mistake," said Charles Leiberman, managing director at Chemical Securities Inc. He argued that Greenspan now must raise short-term rates at least a quarter of a percent at next week's FOMC meeting to maintain his credibility in financial markets. Anything less, he said, "will give the impression that Greenspan's arm can be twisted by the administration."

The White House professed surprise at the market's adverse reaction to the meeting. "This was a routine meeting between the president and the chairman," said Gene Sperling, deputy director of National Economic Council.

Clinton and Greenspan "had a wide-ranging discussion on the economy," Sperling said, but there was "no discussion whatsoever about the FOMC meeting and the chairman did not in any way signal or indicate any future Fed policies on interest rates."

Greenspan meets with Clinton every six to eight weeks to talk generally about the economy. As a rule, the White House does not publicize those meetings. Word of yesterday's meeting surfaced because Greenspan was scheduled to give a speech at a conference sponsored by the Federal Reserve Bank of Dallas, but bailed out suddenly to meet with Clinton.

The abrupt change in Greenspan's schedule, combined with the fact that the FOMC meeting is just days away, sparked the firestorm of speculation.

Some White House officials acknowledged yesterday that the timing of the meeting was ill-advised.

But members of Clinton's economic team said they didn't know Greenspan would have to cancel a speaking engagement to see the president.

White House handling of the meeting provoked the ire of many in the market yesterday. "The market is confused by actions of Greenspan and the administration," said Thomas Sowanick, chief fixed-income strategist at Merrill Lynch & Co. "It's not clear to Wall Street that the White House understands the dynamics of how the bond market works."

□ 2050

IMPORTANT ISSUES FACING AMERICA

The SPEAKER pro tempore (Mr. PETERSON). Under the Speaker's announced policy of February 11, 1994, the gentleman from Georgia [Mr. KINGSTON] is recognized for 60 minutes as the designee of the minority leader.

Mr. KINGSTON. Mr. Speaker, I certainly appreciate the opportunity to address the House tonight on a number of important issues that are facing the country today, that of defense, that of health care, that of the family and taxes and crime, and so forth.

I am going to start out by yielding the floor to the gentleman from Utah [Mr. HANSEN].

Mr. HANSEN. I appreciate my friend from Georgia yielding the floor to me.

Mr. Speaker, it has been interesting as we go through the downsizing of the military, we all realize that this is a necessary thing to do. But the question comes down to how far do we go?

We are going through a base closing. We have done a 1991 and 1993. We are looking at a 1995. We are finding out the Pentagon does not have the money to come up with the promises they made as far as defense conversion, as far as cleaning up the toxic wastes, all

of the economies of the area. I do not see that money coming about as we first anticipated it would. We have a big backlog.

Having sat for 6 years on the Restoration Environment Panel of the Committee on Armed Services, I do not think there is enough money in the whole defense budget to take care of the toxic wastes we see in the various bases, but we are looking at those things. We know every time there is a debate on the floor, people stand up and say the cold war is over. Why are we spending all this money on defense?

If I may, Mr. Speaker, I would like to talk for just a moment on the history of what has happened in this country of America where we are all Pollyannas and want to believe the very best. We want to believe that all is well. Peace on Earth, goodwill toward men. No more problems for any of us.

Unfortunately, that is not what history tells us. Those who choose not to learn from history seem to relive it. That has been the case of the United States of America.

During the First World War, my father was in that one. He flew Jennies down in Texas at Kelly Field, that fine old airplane that many of us look back on and those of us who have been pilots enjoyed that very much. I remember my dad talking about how euphoric they were when the war ended, the war to end all wars, bring the doughboys home. It is all done. We have nothing more to worry about.

Then in a few short years, just a little over 20 years, here came the Second World War, and the United States was not ready to get into it, because after the First World War, we went too far too fast. We wanted to believe this Pollyanna thing that all is well. There is nothing more to worry about. Things are OK in the world today. We have brought the boys home. There is nothing more.

In the Second World War, probably one of the bitterest wars ever fought on the face of the Earth, look at all the people we lost, both in the Pacific and in Europe. Look at the terrible things of war that were created. Following that, again, the same euphoria seemed to permeate the people of America, all is well. There is nothing more to worry about.

I still remember my father saying to me, you were too young for the Second World War, you will be too old for the next one. Again we disarmed too far and too fast and found ourselves after winning that one at a point where a man by the name of Kim Sung from North Korea said to a man by the name of Stalin from Moscow that I can push the people off that peninsula in 3 weeks and the United States will not respond.

However, he read that one wrong, as we all know, and we did respond, and the Korean War started. I am a Korean War veteran myself. We got through that one. Then Vietnam, that terribly unpopular war.

After each one of those, what does the United States do? We disarm too far, too fast. And a few little ones like Panama, Grenada, Libya, and then the Persian Gulf, which was probably a textbook war, if there can be such a thing.

Now we find ourselves in the position of doing it again. I have the greatest respect for people like Chairman DELLUMS and Chairman SAM NUNN. But as I look at what we are doing now, we find ourselves, first we were looking at the force structure that Dick Chaney, Colin Powell, and George Bush worked on, which was basically a 25-percent reduction in military. Now under the Clinton administration we are seeing closer to a 40-percent reduction in military, which I personally am worried about, and I feel we find ourselves maybe in the same position.

I know the Director of the CIA, Mr. Jim Woolsey, has made a very interesting statement. He said the Soviet Union was like a great big dragon out in the jungle. And that dragon has now split apart and now we have 50 poisonous snakes.

Think about it. We do not have to be too bright to figure out there are poisonous snakes in various areas. You can read Jane's, the defense magazine, and know what is happening in Libya as far as biological and chemical, know what is happening in Iran and Iraq. We know what is happening in North Korea, and many areas. These 50 slithering poisonous snakes are all over.

Yet, at the same time, we are disarming the military so rapidly that do not we ever learn from history? Didn't we learn what happened? The First World War, the Second World War, Korea, Vietnam, one after another? Are we going to put the people of America in jeopardy again by disarming this Nation too far and too fast?

Will we ever learn from our great first President, George Washington, who made the statement, "The best way to keep the peace is be prepared for war," not overly prepared, but adequately prepared, that we can handle any contingency that may happen.

I submit to the American public that we are not there and we are going too far and we will rue the day we do that, just as we did at the First World War, the Second World War, the Korean War, the Vietnam War, and you name it. Let us be cautious as Members of Congress who are making these policy decisions. Let us be cautious that we do not disarm this military to the point we can't bring it back.

Do you realize how fast we could build P-51's, DC-3's, B-17's, and B-24's. Well, you can't do it now. There is no way we can build like we did during those times. Now we will have just what we have got, and those 50 poisonous snakes worry me, Mr. Speaker, and they should worry the American public. We should be very cautious and very prudent as we start this builddown and not go as fast as we have in the past.

I thank my friend from Georgia for yielding to me.

Mr. KINGSTON. I thank the gentleman from Utah.

I wanted to touch base on two of the things you pointed out. I have read during the course of this year "The Last Line," part II, by William Manchester, which is a biography of Winston Churchill, and the book actually took place from about 1920 to 1939.

During that period of time, of course, Churchill fell from grace in the English Parliament. Really he was one of the most hated men in England during that period of time. What he was hated about was he kept saying we are not preparing, we are disarming too fast and meanwhile, Germany, yes, Germany of all places, is rearming, and they are building, and they are getting prepared for a war. They are going to be a world power.

Nobody believed him. History shows Churchill was ridiculed, laughed at, and scorned. Yet, he stood steadfast, and because of those beliefs, he was able to become Prime Minister and lead England successfully through World War II. But he was out there crying in the wilderness alone.

Mr HANSEN. If the gentleman will yield, it is interesting to me you would bring that up, because that is another classic example in world history. When Chamberlain, the Prime Minister of England, talked to Hitler about whether or not they were going to Czechoslovakia, and Chamberlain came back and told the English people all is well, we have it worked out, he was cheered all over England.

But a voice of reason and understanding, Winston Churchill, stood up and was booed off the House floor, the House of Parliament. And yet in a short time, did Hitler live up to what he said he would do? Surely not. He walked right into Czechoslovakia, and the next thing we knew we were in it up to our ears. That man that had the courage to be the voice of reason when everyone wanted to believe differently, stood up, took the flak that he had to take, and later, as you pointed out so ably, became the Prime Minister of England and was the man who gave the inspiration to all of the world when he talked about we will fight in the streets, we will do all this type of thing.

Churchill was an amazing individual. In fact, in his last talk that he ever gave to Parliament, he stood before them and all he said is never give up. Never, never give up.

I cannot say it the way he would say it, of course, but that is a good thing for all Americans to look at also as we look at the roots that we have from England.

And I am interested in what you said about him, because he was one great leader, and probably someone we should all emulate and should think about it and cautiously think about it as we, here as Members of Congress, who are studying the policies, setting the money for what is going to happen with the defense of America, should never forget those great lessons of history from people such as him.

Mr. KINGSTON. I think the gentleman is correct. I have heard it said many times that while the United States cannot afford to be the policeman of the world, if there is to be one, let it be the United States, because we have always been a peace loving nation and have never used our military power to invade other countries, as history shows many other countries do when they have that advantage.

The gentleman from California is here and has great knowledge and expertise on military topics. If I could yield to him.

□ 2100

Mr. HUNTER. Mr. Speaker, I listened with interest to my friend from Utah, who is one of the leaders on the Armed Services Committee, because what you have said needs to be said at townhalls throughout this Nation. Instead of the news media focusing on some of the juicier aspects of Government and politics, they need to be looking very seriously at what we are doing with our defense apparatus, this dismantlement we are going through, and address it.

Let me take some of the statements that you have made and talk a little bit about some specific things.

First, the threat has changed. I think we all concur in that. The former Soviet Union is now broken down into States. The problem is that the four States of Belarus and Kazakhstan and Ukraine and Russia that came out of the Soviet Union, those four States at least retained nuclear weapons. And it is at times the ownership of the pink slip of those nuclear weapons is somewhat in doubt, and the political leadership is a very fragile political leadership in those four States. I think that those nations are understanding now, I think they have always known instinctively, but they are understanding now that the ownership of those nuclear weapons gives them prestige and gives them leverage.

In looking at the Nunn-Lugar moneys, the moneys that we have appropriated in Congress to dismantle some of those nuclear weapons, we notice that the schedules are dragging and dragging and dragging. We keep asking in Armed Services, when are they going to dismantle the nuclear weapons aimed at us? The answer is, sometime in the future. But we tend to have a few problems with moving this process down the line.

I think the delay is caused by the fact that these nations understand there is a certain prestige attached to these weapons. I think it is going to be a long time before they are dismantled. But beyond the Soviet threat, we have North Korea obtaining nuclear capability. We understand that. We also understand that there is very little we can do about it, according to our experts who say we cannot make a clean scalpel-like attack, surgical strike on the nuclear apparatus, the nuclear development apparatus of North Korea, like the Israelis made on the Iraqi nuclear reactor, because they have underground facilities. It is very complex. It is difficult to tell exactly what is going on and where. And our intelligence apparatus has not penetrated the Korean peninsula well, everyone understands that. And so we have problems with stopping this development.

When you are dealing with the brutal leadership of North Korea, we have discovered that the fine print and the excellent, eloquent statements of our diplomats have little effect on their military machine and on their nuclear development operation.

So you have nuclear weapons being acquired by an instable regime that is dependent on the personalities of a few people.

In the South China Sea, you have Communist China now claiming a great deal of territories, understanding that there is some wealth in the South China Sea, moving into the South China Sea with strength, building warship bases and warplane bases in the Sea.

In the Balkans, of course, we have the situation that most Americans who watch CNN are aware of. The Balkans continue to explode. And in the Middle East we have a continuing, dangerous situation. And overlaying all of these threats around the world, we have now a stampede among the Western nations to proliferate high technology, what is known as dual-use technology. That is machinery and technology that can be used on the domestic side to make plant and equipment for domestic manufacturing operations but also be used on the military side to build the military machines that at some point may meet young Americans on the battlefield and kill them. That is militarily critical technology, and I am reminded that when we found the skull furnaces that had been shipped by the United States to Saddam Hussein before the Iraq conflict, and we looked up the documentation that came out of our Department of Commerce, they had stamped on that documentation for these skull furnaces, which were used by Hussein in his nuclear weapons development program, very critical parts, they had stamped on those documents that they were going to be used by the Iraqi people to make prostheses for amputees.

Of course, our Department of Commerce bought that particular explanation. The point is that even with that illustration, the United States is the most conservative Nation of all the nations in the Western democracies with respect to shipping high technology to our potential adversaries.

We now have a stampede, a flood by Great Britain, by France, Germany, Japan, by many others to sell military critical technology, technology that is equivalent to selling Winchesters to the hostiles, to our adversaries. It is no longer just a thin hemorrhage around the world. It is a flood of technology.

So overlaying all these threats that we have in Korea, with respect to China, with respect to the former Soviet States, with respect to the Middle East, and with respect to what I guess you would call the usual suspects, Libya, Iraq, and others, you have overlaid on this proliferation of killing technology that is currently at flood stage.

We have a very dangerous world. And against this threat, the Clinton administration is reducing national security by $127 billion. This was last year's baseline, $127 billion below what George Bush cut out of defense of $50 billion. So this is $177 billion below what we figured in 1990, we would need for national defense.

We have cut our fighter forces 50 percent. We have cut our bomber forces by 33 percent in just a few months. We are now reducing our 600-ship Navy. It was almost 600 ships a few years ago. It is a little bit above 300, massive reductions taking place right now.

We are cashiering 600 young people a week out of the military, taking the uniform off these people, putting them back in the private sector and praying that the world is going to be stable.

I think, to the gentleman from Utah and my good friend my Georgia, I think we are approaching what George Marshall described, after World War II, when somebody said, what do you think about the demobilization, General? He said, "This is not a demobilization; it is a rout."

Of course, we know that shortly after that rout took place in the most powerful army in the history of the world, the United States military was down to such a level that when we were challenged in Korea, we were unable for many months to meet the challenge.

Mr. KINGSTON. I wanted to relate a old hunting story. We were talking about selling technologies to our suspected enemies.

There is a great and illustrative joke, the story of a hunter who was out hunting when it was cold. He found a frozen snake, and he took the snake home with him. And he heated the snake up by the fireplace and gave him a little water, fed him a mouse. And the snake, sure enough, revived and got alive again.

Then one day the man was moving the snake's water dish and the snake

bit him. And the hunter said, I do not understand this. I took you in. You were fed. You were frozen. I thawed you out. I fed you, gave you water. The snake shrugged and says, you knew I was a snake.

I think that is what we forget in America. Often we think that we can kill our enemies with kindness when, in fact, you cannot reform people who do not want to be your ally. Yet time and time again, we do sell furnaces or other sort of technology to the people who will be after our very own citizens in one form or the other one day.

Mr. HUNTER. I think my friend is right. He has made a wonderful illustration with this story.

My only problem with that story is, I think it is very difficult for me to imagine how a snake shrugs.

Mr. KINGSTON. You people in California do not have very big snakes. We will get you to Georgia sometime.

Mr. HUNTER. You have those broad-shouldered snakes in Georgia.

Let me bring out one other thing that I think is important for us to remember. That is, as Leo Thorsness, who was a POW for many years in North Vietnam and a Medal of Honor winner, said, he said in areas of national defense, if you are going to make a mistake in budgeting, err on the side of strength.

And what I think the American people were so grateful for during Desert Storm was when Colin Powell said, we are going to destroy the Iraqi Army, the fourth largest military in the world, with overwhelming force.

So we met that military with overwhelming force, and we took around 100 casualties, that is KIA, killed in action, 100 casualties.

Somebody was comparing that to the number of people who were killed in drive-by shootings in Washington, DC, during the same period of time. I think there were more people killed by drive-by shootings in the drug wars in Washington, DC, than were killed during Desert Shield and Desert Storm on the battlefield in Iraq.

The reason we were able to prosecute that war and cut off Saddam Hussein before he cut the oil lifeline that the West depends on, the reason we were able to do that was because we had overwhelming strength. This was not an even match.

□ 2110

In technology and in quantity and in quality of systems, we had overwhelming strength.

We are now cutting back to where our analysts are coming in, like those from the General Accounting Office and the Budget Office, who told us the other day in the Committee on Armed Services, "We think we can win these wars on what we are going to have." I asked him, "Did you take into account casualties?" "No, we did not take into account casualties."

I just want to give two situations and ask you to compare them. At Antietam, just a few miles from here, where Robert E. Lee invaded the North during the early part of the Civil War, went across the Potomac and took on McClellan's army at Antietam Creek, the battle forces of the South and the North, considering the geographical proximity or the geographical location that Lee set up in, were fairly, fairly even. There was rough parity. The North had more people but the South had a geographical—because they sat up on a ridge near Antietam Creek, they had the edge in terrain and topography, and they were set up in a fairly strong position when the North struck them.

Because both sides were evenly matched, it was a fierce, grinding struggle. In a matter of about 10 hours, 33,000 Americans were either killed or wounded. The cornfield, if you go to Antietam Creek and you stand there and you let the ranger brief you on that battle, and you are standing there at the headquarters of Antietam battlefield, he will show you where the cornfield was, the famous cornfield which was taken and retaken by both sides, until it had switched possession six times. At the end of that carnage, you could walk all the way across the cornfield on bodies.

We took 33,000 casualties, North and South, in that battle, because there was an evenness of forces; because there was not overwhelming superiority on one side or another.

Compare that with our fight in Desert Storm, where we beat the fourth-largest army in the world and took about 100 men killed in action. The facts are that having overwhelming force is much better for your young men and women in uniform, because it protects them, it allows them to get the job done quickly without taking massive casualties, and it does not turn your operation into a long, grinding battle that wears you down and results in body bag after body bag being shipped home.

Mr. HANSEN. Will the gentleman yield on that?

Mr. HUNTER. I am happy to yield to the gentleman from Utah.

Mr. HANSEN. I think my friend from California has brought up a very interesting point, talking about the Civil War in the United States of America.

As we go back and look at the history of that, it was a grisly, mean, dirty, bloody affair, and we lost literally thousands and thousands of our people.

Now we look at the thing today, as we talked about, the kind of wars we could look at. The gentleman brought up the idea of weapon proliferation, talking about ethnic, religious wars, problems we have probably not faced at other times, and the gentleman has used a good example which I appreciate the gentleman used, what happened in Iraq.

At this point, the big, fourth-largest military might on the face of the Earth moved into Kuwait. It was a war of aggression, much like during the Second World War, when Hitler's Germany moved into Czechoslovakia, France, Scandinavian countries.

At that point people wanted to push them out. It was the anticipation, get them out of our country. They have occupied something that is not theirs.

It is interesting the gentleman brings up the Civil War, a different kind of war. In Vietnam, what did we have on our hands? We had a civil war on our hands. When you talk to people who were Vietnam veterans, they did not know who was wearing the white hat, who was the right person, a very difficult type of war to get in. Korea was another civil war. Ours was a civil war. The history of civil wars is that they are very tough to win.

Now as we look at what we may face now, these are not easy wars, and I'm not saying the Persian Gulf was easy, but we knew those people did not have their hearts in it. Look how they surrendered.

Look at the problems with Bosnia and these areas. Look at some of the problems that could come up. What you have alluded to is another one of these tough wars to fight, much more, even with the overwhelming odds because they had people fighting for God, country, and mother, so to speak. It is not one of those things where they are mercenaries.

There is another point that I believe even requires a higher degree of training, a higher degree of preparedness, than having the technology and the overwhelming odds that we have. It is a sin almost in my mind to see the technology that we have perpetuated in America, which has been the leading edge of why we have been ahead and in my opinion why the cold war ended, is the technology of America. To see that taken apart and eroded is to me one of the biggest mistakes we are seeing in America at this particular time.

Mr. KINGSTON. If the gentleman will yield, I think one of the things we are saying is that yes, it is efficient to swat a fly with a sledgehammer when you are talking about saving lives. That is how the American military has been successful throughout the years.

Mr. Speaker, we have a couple of other things we wanted to talk about, but I don't want to cut the gentleman short, but just encourage him to maybe sum up.

Mr. HUNTER. I thank the gentleman from Georgia, and I thank him for letting my friend from Utah and I talk a little bit on his time in this special order.

Let me just finish by saying this, Mr. Speaker. The airlift that we have undertaken over Bosnia has now been car-

ried on longer than the Berlin airlift. This is another aspect of military operations and military requirements in this so-called peaceful period. We have now carried that airlift on longer than the Berlin airlift.

Our military operations over Iraq have now been carried on longer and we have had more military operations over Iraq, aircraft operations, than we had during the Iraq war, so the so-called period of peace following the war has been more stressful on our air wings than the war itself.

At the same time, Mr. Speaker, we have gone down in President Clinton's defense budget, we are cutting down on the number of new aircraft that we procure to the point where if we compare what we did in the 1980's, when we had in naval air, for example, we had about 5,500 aircraft, and that includes fixed-wing aircraft, fighters, attack planes, bombers, and it includes helicopters.

We replaced those aircraft with replacement budgets each year of in excess of 300 aircraft, or roughly about 18 to 1. That means for every 18 aircraft we had in our inventory, whether on the decks of our carriers or in our air bases, for every 18 aircraft in inventory we would buy at least 1 new aircraft every year.

We have cut back so far on replacing those aircraft, on replenishment inventories, that we are only going to replace this year at the ratio of about 1 to 100, so we are replacing them at five times lower rates than what we were replacing them during the 1980's. That means we are aging our naval air force.

That means that instead of replacing those 1965 Chevys with new models, we are going to go ahead and get along with the 1965 Chevys for a few years longer. That means that when we have that conflict that the gentleman from Utah [Mr. HANSEN] talked about, and it might be a civil war, it might be something along the lines of Desert Storm, it could be an ethnic problem, but when we have to meet that conflict, we are going to have much older aircraft than the modern aircraft that we were able to prosecute Desert Storm with.

Mr. HANSEN. I thank the gentleman from Georgia for allowing us to use a little of his time and be a voice in the wilderness in what some of us feel very strongly about.

Mr. KINGSTON. I appreciate the gentleman's leadership in defense matters.

I wanted to touch on some health care topics, and particularly, Mr. Speaker, I wanted to talk about the impact of health care on small businesses and the family. I think it is so important that we talk about the family more.

We had this great debate today on school prayer. I was glad to be here for that. It is very important. I was glad it was a healthy debate on school prayer. The central theme behind that debate was, will this make life better for our students and our families, and will we be getting back to maybe some better values as a country?

I think one of the things that we need to do in America is assess our tax system as respects the family. A statistic that I fell across the other day has just shocked me. That is that in the 1950's, the average American family paid, as part of their income, 2 percent taxes in Federal income tax, so part of the average family income, 2 percent went to Federal income taxes. Today that same average family pays 24 percent.

During that period of time, Mr. Speaker, the family time spent with each other has actually decreased about 37 percent. Now I'm not sure how that statistic actually has been studied, but I think the fact is that everyone we talk to is busy: The mom works, the dad works, they are rushing around here and there, they are trying to catch planes and go on trips and so forth.

And yet, is our quality of life any better than it used to be, are we spending more time with our children? No. If we do not spend more time with them, we do not impart our values and I am afraid if this health care plan passes with its $400 billion price tag that it will just be one more massive tax on the middle class who cannot afford it anymore.

I am very concerned that in the health care debate we are forgetting the tax formula as it hits the middle class, because if we look at it statistically, Mr. Speaker, the folks who have the traditional families as much as Hollywood and some of our pseudointellectual think-tank types hate to admit it, the traditional families have the fewer dropouts, the fewer drug problems, the fewer DUI's for their children. We need to do anything we can to promote and encourage that traditional family unit, and I think making the tax system more friendly toward them will keep families together.

I am going to also say this is not unique to the middle class. If you look at what we are doing for the folks in the lower social and economic levels particularly those who are on welfare, we are absolutely murdering them. We do not even let the dad get near the house because if we do we cut off all of the benefits, push them off the economic cliff and they cannot survive.

The gentleman from California [Mr. HUNTER].

Mr. HUNTER. I know the gentleman from North Carolina [Mr. TAYLOR], has some important comments on this so I will not take long. But the one statement the gentleman just made about the so-called Great Society and the progeny of the Great Society which are all of these programs that are supposed to help people are something I have often reflected on because as a young lawyer in San Diego County I remember going to the presiding courtroom of the superior court and the municipal court and watching fathers be sent out for trial, for criminal trial on the basis that they had been caught by a neighbor or seen by a neighbor slipping back into their own house. And that was a function of this, the great welfare system that was a function of this, the great welfare system that was built initially under Lyndon Johnson, that said that people got more money if the father was not around, and as a result of that, you had families that purposely stayed apart or gave the image of staying apart, the impression of staying apart so they could receive more money. It was human nature to do everything you could possibly do once you have been seduced by the great welfare system from Washington to accommodate that welfare system. You do everything possible to get the most money possible.

So as a result, instead of Lyndon Johnson's pride and joy, the Great Society welfare programs, bringing families together, they ended up splitting families apart because they gave them an economic incentive for the father to be gone and ultimately the father would be, if he was caught slipping back into his own house to see his own wife and children, he would be criminally prosecuted. And I have wondered often how many families were broken up permanently because they made that initial separation on the basis that they could get more sugar from Uncle Sam, more money from Uncle Sam if they would just split up. The gentleman is right on point when he mentioned that fact.

Mr. KINGSTON. I will give the gentleman a statistic that has been proven. Ninety-two percent of the children on AFDC or basically welfare do not have a father at home. Listen to this: 35 percent of the children in Washington, DC, are on AFDC, 28 percent in New York City, 24 percent in Chicago, 19½ percent in Los Angeles, and the national average is 13 percent. And that is because our tax policies and our benefit policies have attacked the family, and particularly in these cases the family in the lower socioeconomic levels.

There is a bill pending right now which I am a cosponsor of, which is a rent control bill that actually allows the father to move back into the housing project and does not kick the family out, because we have got to rebuild the family before we can get folks off welfare, and this is an issue which is bipartisan. And I am proud to say that there is so much agreement between the Democrats and Republicans on it, to me there is no reason why this should be back burner stuff. We should be debating this and moving this through the Congress before recess, be-

cause it is that important to the security of our Nation. But there is so much bipartisan agreement on it.

I know the gentleman from North Carolina [Mr. TAYLOR], wants to say a word and I am happy to yield to him.

Mr. TAYLOR of North Carolina. I appreciate the gentleman from Georgia having this special order and giving time. I was interested in his comments about small business and how the health care bill, the Clinton health care program will impact small business. I think most of us recognize that mandates that will be placed on small business, if that legislation passes, will kill a lot of small businesses. About 95 percent of the jobs in my district are tied to small business, and we feel that, in fact I have had business after business tell me they cannot sustain that kind of cost.

Now I know Mrs. Clinton said we cannot afford to be concerned about these under capitalized small businesses. I think that is the way she put it. But we have to recognize that everything from Apple Computer to Coca Cola started in someone's back yard or in their garage and became a small business. That idea was developed. As it proved to be an idea that served people, it grew into a large business, and that is how most large businesses become large, they start as small businesses, are allowed to grow and become successful and then provide more and more jobs and more and more benefits as they are able to do that. There are few businesses that start as major businesses, few companies in this country start this way.

I know the President has been in Detroit with the job summit worrying about creating more jobs and strengthening the economy. That was the base of his whole campaign. It is a worthwhile goal that many of us want to work toward. But, he has lost his compass in that direction. It is the Government that is creating the problem for small business. I cannot tell you the hours and hours I spend and the horror stories I hear of the Government, the onerous hand of Government and the damage it is doing to our small businesses, going far beyond the basic public health and safety protection, going far beyond the basic consumer protection. It reaches out, Government does, to be more and more intrusive until the point that it kills the patient altogether.

Mr. KINGSTON. If the gentleman will yield, what we are hearing from our small businesses in the first district of Georgia, if they have to pay 80 percent of the health care for their employees they will eliminate jobs starting with the part-timer, and the lower wage, which in my opinion are the people who need the work the most and need to have that opportunity, and they will raise their prices and when you draw that back one more time what will it do with the family. It will probably eliminate more, it will reduce the number of jobs available to the second wage earner and when you go to the grocery store, the restaurant, the dry cleaners, wherever, your goods and services that you purchase will be more.

Mr. TAYLOR of North Carolina. Yes. How will we have served the people in this country is they lose their job? Then they will have neither health care nor a job. And I do not see how we move people ahead with that kind of draconian action.

Mr. HUNTER. If the gentleman will yield on that point. The gentleman is one of our experts as a successful businessman, one of the real experts on the cause and effect of Government policies on business. And you know I have two cents' worth from California. The liberal leadership in the legislature in the State of California decided that they were going to do a wonderful thing for working people in California, and that was to put into place the most expansive, all encompassing Workmen's Compensation program on the face of the earth. I am talking about a Workmen's Compensation program that allows you to sue for stress and has very lenient guidelines in proving stress.

Well let us look at what happened with that Workmen's Compensation program. It passed. This was supposed to help the workers. Liberals around the world celebrated when this thing passed and as a result of that you had a steady exodus of businesses leaving the State of California, going not just to Mexico, but to Arizona, Nevada, Texas, all other States which are considered to be business-friendly, and it is my understanding that now if you rent a U-Haul going back to California, instead of leaving California, you can get a very good deal, because no businesses are coming in. And I have talked to colleagues who serve in this Chamber, who have said to me, "DUNCAN, we hate to say it, but we are on another raid in California; you have so many businesses out there to whom government has dealt a killing blow that they cannot wait to come to our States and we are going out with our chambers of commerce, our city fathers and we are going to go bring your businesses to our States. So here is an example of the welfare state attitude, the liberals in Congress doing something that they thought was good for workers, and in doing so, they deprived the workers of their most precious possession, their job."

□ 2130

Mr. KINGSTON. I want to speak on the State of California and this whole issue of really mandates on employers, because that is what we are talking about. It is not the 80/20 split. It is just one more mandate, more Government intrusion.

But there was a great movie several years ago called Billy Jack, and I have got to tell you my anecdote, but one of the lines was that Billy Jack came up to one of the bad guys and said, "You know what, Duncan," and I am going to pick on you, "I am going to put my right foot on your right cheek, and you know something else," he said, "No," he said, "there is nothing you can do about it." I will say this, having studied the fact that you all passed that work comp allowing stress, the fact that you have a 700-percent increase in claims and that your permitting process when businesses want to add on, sometimes they have to go through 25 local agencies and 35 State agencies and seeing what they have to go through, to raid California right now as an outsider, it is fruit like California oranges is ready to pick, because your business climate, in my opinion, has been ruined by Government taking fish out of the water to keep them from drowning.

Mr. HUNTER. The gentleman is exactly right.

Just one last thing with respect to regulations put together by Government, we had one company, a great aerospace company that tried, it took 3 years for them to get a permit to increase their factory size in San Diego County. They went to Arkadelphia, AR, and they got a permit to build a 500,000-square-foot manufacturing facility in 3 weeks. What they could not get in their own hometown in 3 years they were able to get in 3 weeks in another State. That is the story of big Government ruining California.

Mr. TAYLOR of North Carolina. You were mentioning California. We are happy to accept in North Carolina those companies that leave.

Mr. HUNTER. Let us not get too quick to take all of our businesses. We are going to come back. We are going to elect Republicans and they are going to slash regulations and bring businesses back to California.

Mr. TAYLOR of North Carolina. The problem is we in this body nationally are creating those same problems for every State in the Union.

Of course, in my district, I see companies going to Mexico for that reason. We lost Ball Manufacturing. It said, "We are going to Mexico. We are making it a lot cheaper." We had Eaton Corp. that announced much the same thing. We may lose a portion of our Gruber Manufacturing for the same thing. We are creating more joblessness because of these regulations.

It is not just the disparity in wages. Our workers can outproduce and take up that slack of the difference in wages, but the businesses themselves, nor the workers, can make up the difference for these onerous regulations that keep piling on and piling on. There is no way they can make up that difference in cost.

So we are losing outside the country.

I want to cite just two or three areas just to tell people what we are talking about rather than just talking in generalities.

Let us talk about the Superfund sites. Now, that is up for renewal in this legislature, in this Congress, this year. It may go over to the next Congress, but it is up this year to be renewed. It should have been named the Lawyers' Relief Act, because the study over the last 15 years shows that of the sites that were listed as critical sites to be cleaned up, only about 20 percent have been cleaned up. There are still 80 percent of the sites that were there 15 years ago.

It also showed that almost 80 percent of the funds went for lawyers' fees, did not go toward what folks would be talking about cleaning up actual chemical spills or other problems. It went for litigation, and it went into a fund, or it went into lawyers, whether they were defending, whether they were prosecuting. It was strictly a legal mechanism.

In the legislation itself which totally overlooks the ex post facto law, in my district I can tell you a story of a situation some 25 years ago. We all know batteries were being tossed in the creek or on the side of the road for people to get rid of them. We did not have a collection process. Some of the local service stations and the recycling salvage dealers there decided, let us collect these things up and send them away to be recycled. That takes them out of the creeks, that takes them out of the public for any damage they would do. They did it. They would urge people to bring old batteries to their service stations and they would come by and pick them up.

This was the best environmental move at that time. There was no law against it at that time. They would ship them to central sites, and that central site would break them down and salvage the components of the batteries that could be reused.

In the early 1980's after Superfund passed, they said, "You know, the contents of these batteries may create spills." Now, there is not a great deal of scientific evidence that this is a deadly site. It could pollute in certain circumstances. And so these areas that were used as breakdown points for those batteries were declared Superfund sites.

Now, the stations and the recycling centers in my district stopped when the law said this might be a problem.

Twenty-five years later now in my district one of the central sites, the gentleman who the site was declared a Superfund site, they first said it is an $80 million Superfund site, and so they allowed him to plead to a $15,000 fine if he would list the names of all the people that had sent in batteries over the last 25 years.

Now small dealers, small salvage companies have fines on them anywhere from $200 to a million and a quarter dollars for doing what was legal at the time they did it, for doing what was best for the environment at the time they did it and totally disregarding the ex post factor protections in our Constitution, and these people are now facing, small family companies, small businesses, are facing total ruin for doing what was best at the time and totally legal at the time.

Now, when Government can reach out and do that, think of the chilling effect it puts on any business to make any positive move or to try to do anything in the area of business.

In the area of pesticides, we had in the late 1950's a bill passed in this Congress, and I think it was 1957, called the Delaney clause. It said that any technical amount of a carcinogen found on a fruit would render that fruit out of the market. It would have to be destroyed and could not be sold in the market.

At that time the detection had large amounts of pesticides were all that could be detected, and you could not detect small amounts. Today you can detect up to 1 quadrillionth of an amount.

There is more of the same chemical in the skin of the fruit than there is pesticide that might be detected on the fruit. And yet now we have the Delaney clause holding up in my district, and it happens to be a fungicide, there is a question whether or not it is a carcinogen, but without the use of it, our Red Delicious apple trees are dying, 60 percent of the crop.

Most of our small farmers will be wiped out unless something is done. The FDA and the EPA, sitting in my office, both say this is not a public health and safety question. They recognize there is more danger, if there is danger at all, in the skin of the fruit than there is on the pesticide. And yet this onerous bureaucratic regulation is there now going to destroy thousands of our farmers and take out of circulation a very valuable commodity, I think, for the American people, if you follow the old adage that an apple a day keeps the doctor away. We are not going to be having many Red Delicious coming out if we do not do something about the Delaney clause.

Here again, it is one of a long list of ways that we have piled on regulations. It seems to operate along the candy theory. You know, if a piece of candy is good, a pound will be better, and a ton will be wonderful. We all know that a piece may be good, a pound will make you sick, and a ton will kill you, and that is what happens with the regulations. Jefferson said that Government is best that governs least, not that it does not govern at all.

There are needs in our product safety and our food laws and other areas for certain regulations, but as they continue to spread and become counterproductive, it kills our small businesses, and that is what is happening.

I think both of you gentlemen are on a piece of legislation that we have that would require regulations that are promulgated after a bill is passed to come back to Congress for those regulations to be approved by the Congress before they go out to the public.

We had 70,000 pages of those regulations come out of this body last year that small business is now having to live under and having to try to survive under, and I cannot imagine that anyone in this body, nor anyone with a small business, nor anyone else out there, knows what those 70,000 pages of regulations say.

I was on the plane coming in this morning, and two lawyers were going to the regulators today, because they said the regulators did not even know; that the numbers of regulations had so surpassed them they did not even know what the regulations were anymore, and here lawyers were having to go down, and they will be sitting there talking about what is coming out in such abundance that they cannot be kept up with.

Mr. KINGSTON. On the subject of regulation and Government overkill, I understand right now the average family pays about $4,000 a year more in all total goods and services purchased simply because of the additional cost of regulation, anywhere from, you know, filling out forms to putting in new guardrails on machinery. Some of it is good. Some of it is simply overkill and bureaucracy.

One of the things in the health care bill that people need to know about in this 1,342-page document is that if you have a friend who is a physician and you go straight to that physician because, say, they are in the same Sunday school class or kindergarten, you know the physician, and you say, "Tell me, Johnny has got a little sore throat. What can you do about it?"

□ 2140

And right now this situation happens all over America. The physician says, "Look, here is a prescription. Go get it," or, "I have some stuff in my office. Have him take 2 or 3 of these and it will be OK." Now, that becomes a Federal law under this new health care program. That leaves you subject to a fine of up to $10,000. That is an example of more regulation, more Government coming into your life and destroying, once again, the family because the bureaucracy is now in the formula. The bureaucracy has now entered this kindergarten, and the bureaucracy is standing between little Johnny and that friendly doctor.

Mr. Speaker, I yield to the gentleman from California.

Mr. HUNTER. Mr. Speaker, I want to thank the gentleman from Georgia

[Mr. KINGSTON] for having this special order and talking about this threat. I think the health care bill that is before us represents a struggle between Government and freedom. I hope Government does not win this struggle, because I think that the health care bill is going to produce more $300 ashtrays—remember the $300 ashtray that the Defense Department produced; and the $600 hammer—they are going to produce more of those, more $300 health care ashtrays and hammers than the Defense Department ever thought of. We will end up with high-priced medicine. We will end up with very high-priced medicine. I think we will end up a lot like the Canadians. The Canadian system was ballyhooed for months in this Chamber by many Members of the House. They have kind of quieted down now because over December the biggest hospital in Ontario had to shut down because they ran out of money. I think that is the trademark of socialist system, they find out in the end people who do not care, Government bureaucrats, will never be able to produce systems as efficiently as people who do care, free individuals.

Mr. TAYLOR of North Carolina. In a health care forum I had a nurse from Canada stand up and testify as to how horrible the system was, how that she could not stand the fact that they could not take care of patients, could not apply medicine as she had been taught, they did not have the resources to do it. They had to watch people wait and die, in many cases, because of the rash nature of that system.

The gentleman said it—I think both the gentleman from California [Mr. HUNTER] and from Georgia [Mr. KINGSTON] have hit the right thing. The McDermott, the Clinton, the Cooper bill, are all bills that believe that more Government, more of your tax money, more regulations, will do for health care a better system that what we have and an improved system in the world. On the other hand, there are those of us who recognize that there are problems in our health care system.

MOST-FAVORED-NATION STATUS FOR CHINA SHOULD BE DENIED

The SPEAKER pro tempore (Mr. PETERSON of Florida). Under the Speaker's announced policy of February 11, 1994, the gentlewoman from California [Ms. PELOSI] is recognized for 60 minutes as the designee of the majority leader.

Ms. PELOSI. Mr. Speaker, I rise today to discuss with my colleagues the subject of China.

As you know, recently Secretary Christopher made a trip there. I want to rise in support of the actions that he took on that trip. He very forthrightly presented the Clinton administration proposal. He delivered to the leadership in Beijing a letter, signed by 275 of our colleagues, which showed support for the Clinton administration Executive order basing renewal of most-favored-nation status on improvement of human rights in China.

This is an issue that has been before this Congress for a number of years. Last year we were poised to send a piece of legislation to the President of the United States. Instead, the President suggested an Executive order which, though our concerns include the trade imbalance with China, the proliferation and human rights issues, in the Executive order the President said that he would deal with proliferation and trade under the laws that we had in existence and that he would condition the renewal of MFN on the reasonable and achievable conditions contained in that Executive order.

Secretary Christopher brought that message to China. He had the support of the Members of this House of Representatives in doing so.

Tonight some of my colleagues have gathered here to talk about the trip, talk about the Executive order, and to talk about issues of our concern in our relationship with China.

My colleague, the gentleman from Massachusetts [Mr. MARKEY] has been patiently waiting. I know he is going to quickly take the floor to address the House on this issue of Secretary Christopher's trip.

Mr. Speaker, he has been a leader in the House of Representatives on many issues. A subject of particular concern to him where he has educated Members is on the issue of proliferation. As you know, Mr. Speaker, the Clinton administration has issued sanctions against China for the proliferation of weapons. Let me be very specific: The delivery systems to Pakistan. This is a very dangerous action on the part of the Chinese.

Mr. Speaker, at this time I am pleased to yield to the gentleman from Massachusetts, who, as I mentioned, has been a leader on this issue.

Mr. MARKEY. I thank the gentlewoman for having this special order, and I thank her for conducting it tonight. I again compliment her for her nationally and internationally recognized leadership on the subject of human rights in China.

You know, one of the problems that historically has been the issue of our relationship not only with China but also with the former Warsaw-bloc countries is that while we raise and sanctify a certain set of issues, human rights, and nonproliferation of weapons, as the ultimate primary objectives of our foreign policy, the truth of the matter is that we have always allowed those objectives to be subordinated to the short-term political or diplomatic agenda of a particular President or Secretary of State or Secretary of Defense.

Now, finally, Warren Christopher has made the decision that he will stand up on human rights, he will deal with the Chinese in a way which presents the American perspective on the subject.

And what do we hear from critics? We hear that it could jeopardize trade with China, it could jeopardize the economic or political short-term interests that we have with this country, and we, as a result, should be more careful, and the Secretary should be more careful if in fact the United States is not going to stand up for those principles which they believe in.

My belief is that the Secretary should be complimented, that rather than being undermined, he should be praised.

Just in the last week, we have learned that the Chinese have exported, just in the past year, 1 million semiautomatic military-style rifles into the United States. On average, they are selling on the streets of America for $100 to $130 apiece. So the very same Chinese Government which proliferates nuclear materials around the globe, which still engages in human rights abuses domestically within their own country, now we find that in addition to being the butchers of Beijing, they also are, in fact, leading a butchery on the streets of America; 1 million semiautomatic rifles, a very slight but important loophole constructed in a 1989 regulation set by the Alcohol, Tobacco, and Firearms Agency, which the Chinese Government is exploiting.

Now listen to this.

□ 2150

Who is running this trade into our country?

Interesting. It happens to be the Chinese secret service and the Chinese Army.

Where do the revenues for the sales go?

They go back to the Chinese secret service and to the Chinese Army for their use.

Now what a circle being constructed by these butchers of Beijing that now infects our society with 1 million assault weapons, and unless we close this loophole, by the way, we will see a proliferation of these weapons on the streets of our country.

My feeling is that we have to be honest with the Chinese, and we also have to be willing to walk away from some potential economic or political short-term benefits if, in fact, human rights and nuclear and conventional weapons proliferation is more important to our country, and I think that Warren Christopher is a good man who took American values and presented them to the Chinese Government in an honest way, and he needs to be praised, and I think that the Chinese Government should understand that to a very large extent the gentlewoman from California [Ms. PELOSI] holds the balance of power in her hands with regard to how we are going to be handling our eco-

nomic relationship with them over the next several years and that they should listen very carefully to her and to Warren Christopher as they tell that Government how important human rights and respect for human dignity is to the people of the United States of America.

Ms. PELOSI. Mr. Speaker, I thank the gentleman from Massachusetts [Mr. MARKEY] for his remarks. Certainly the dangers that he described in the export of these slightly modified AK-47 rifles poses a danger on the streets of America in addition to the danger from the proliferation of weapons worldwide. Our policy should be to make the trade fairer, the world safer, and the people freer. And so in terms of what he had to say about my role in all of this, Mr. Speaker, it is not my role. I have a great interest in it, but Congress, especially this House of Representatives, has been a bulwark of support for promoting democratic values, American values, but they are international values, not just American. And some of the issues that have built the coalition in this Congress are issues of proliferation, the issue of trade violations and the issue of human rights.

I am now pleased to yield to the gentleman from New York [Mr. GILMAN] who is the Chair of the Tibetan Caucus in the House of Representatives. This is an issue of concern to many people in the House and Senate, and I thank him for his leadership on it and human rights, not only in China and Tibet, but throughout the world. So, I yield to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I thank the gentlewoman from California [Ms. PELOSI] for yielding to me, and I want to thank the gentlewoman for arranging this special order tonight. I commend her for her dedicated leadership on the issue of human rights in China and occupied Tibet.

Mr. Speaker, the New York Times ran a front page article today entitled, "Beijing Says It Could Live Well Even If U.S. Trade Was Cut Off." That article states that Communist China's Foreign Minister said this weekend that the importance of China's trade with the United States has been overstated, and that China was prepared to return to the cold war status of no trade relations with Washington if the dispute over China's human rights record could not be resolved. Mr. Speaker, if the Chinese Government does not make significant progress in human rights as defined by President Clinton's Executive order, then the Foreign Minister will have an opportunity to prove his point. Candidate Clinton took a very strong opposition against President Bush on this issue. As one of the many Republicans who did not support the former administration on MFN, I want this administration to know that many of us in the Congress will be very closely monitoring President Clinton's action on this issue.

It is difficult to perceive how the Chinese Government could be extended MFN again in June. If we look at only one of the previously adopted conditions, religious freedom for example, laid down in the administration's Executive order, it becomes apparent that the Clinton administration will have to be highly imaginative in certifying any progress in that area.

Religious worshipers in China and Tibet continue to suffer from government-sponsored persecution. In early February, China took its first reported action to enforce new rules aimed at stopping activities by foreign missionaries. It expelled seven overseas evangelists from Henan Province. Late last year, relatives of Bishop Stephen Liu Difen—after being summoned to pick up their uncle—found him lying unconscious in a hospital, where he died 3 days later. When they dressed his remains for burial, they were horrified to discover puncture wounds all over his body. Last year Bishop Joseph Fan of Hubei also died while incommunicado in administrative detention, and showed bruises on his body and injury to his legs.

Just a little over 1 month ago, Chinese authorities arrested three Catholic bishops, seven underground Catholic priests and seven evangelical house-church preachers. At least six of them have been sentenced to "reform through labor" for between 1 and 3 years, and at least five of these six sentences were handed down administratively—i.e., without trial or other due process guarantees. And, Christian Solidarity International reported last month that one of their pastors was recently killed by authorities in Hubei Province.

In Tibet, on February 12, nuns, including a 15-year-old girl, were given sentences of up to 7 years in prison for demonstrating in June 1993. In addition, in late February, the sentences of 14 other nuns who were already in prison were doubled and tripled for singing pro-independence songs in prisons.

Accordingly, Mr. Speaker, under these tyrannical conditions, if the Chinese Foreign Minister believes he can live without us, I believe the feeling in this Congress is mutual.

Ms. PELOSI. Mr. Speaker, I thank the gentleman from New York [Mr. GILMAN] for his very eloquent remarks and putting in perspective what the Chinese have at stake here. I think that the references that the gentleman has made to religious persecution are very important. They are important to the American people, and the list, as the gentleman knows, goes on and on both in China and in Tibet, and it is for that reason, and that is just one of the reasons, that we have very serious concerns about China making overall significant progress in meeting the conditions of MFN in an executive order relating to the Uniform Declaration of Human Rights.

Mr. Speaker, what we are asking China to do is almost everything is something they are a party to already. They were founders of the United Nations. They signed the Declaration of Human Rights, and it is that Declaration of Human Rights that we are asking them to respect. Their Constitution even guarantees some rights to their people, and it is that Constitution that we are asking them to respect in regard to accounting for prisoners arrested for speaking out peacefully at the time of Tiananmen Square and Democracy Wall.

I next, Mr. Speaker, will yield to the gentleman from North Carolina [Mr. ROSE]. He has been a relentless advocate in the Congress on the issue of Tibet. He has a personal friendship because of his leadership with His Holiness, the Dalai Lama, and he has educated the Members of this body and the country on what is happening there, and how we can ignore it I do not know. But suffice to say that His Holiness recognizes both the role of the gentleman from New York [Mr. GILMAN] and the gentleman from North Carolina [Mr. ROSE], and I hope that the American people will become more aware of the terrible tragedy that is Tibet and the opportunity that this executive order presents for improving that unfortunate situation.

So, with that, Mr. Speaker, I yield with great respect and admiration to the gentleman from North Carolina [Mr. ROSE].

□ 2200

Mr. ROSE. Mr. Speaker, I thank the gentlewoman for yielding.

Mr. Speaker, I want to join my colleague from California to commend the current administration and Secretary of State Warren Christopher for their firm and clear stand on human rights in China and Tibet. I will put the remainder of my comments in the RECORD.

But I want to make a few comments about the things that the gentlewoman from California [Ms. PELOSI] said, along with many of her colleagues and my friend BEN GILMAN, who came here many years ago with me in the 93d Congress and who shares with me our concern about human rights in Tibet, and share an article recently in the Los Angeles Times by Mr. Fang Lizhi, the very prominent dissident that, after the Tiananmen Square massacre on June 4, 1989, took asylum in the embassy in Beijing and stayed there until the summer of 1990.

In this March 16 article in the L.A. Times, it says:

> As much as President Clinton may want to satisfy American businessmen and create jobs in a time of fledgling economic recovery, it would be shortsighted to sell East Asia down the tube in the bargain.

I am very optimistic about what I think the President is going to do. I really believe from conversations that I have had with him last week, and he did not tell me directly what he was going to do, with members of his Cabinet who feel very close to him, I believe our President is going to deny MFN status to China. Here we stand several months before that final decision, but I firmly believe if the decision were today, he would say no to a continuation of MFN.

When I go to Russia, my colleagues in the Russian Parliament say to me, "America preaches to us that we must have institutions of self-government in Russia before we can truly understand and learn the capitalist system." They say to me, "Why don't you say that to the Chinese? Why is it that you participate in vigorous trade with China, when they have the kind of dictatorship that they do in that country and not even the hint of Democratic self-government?"

It would be nice if I had a straight answer to give my friends in Russia, but the simple truth is that we are hypocrites. We see a market to exploit, American business sees opportunities to make a great deal of money with both an expanding market and with cheap labor, and the principles of Jefferson and Madison go out the window.

But the business community says to those of us who feel this way, that China is not deserving of MFN, why not do business with a country that needs our help and that needs us to buy things from them and to sell us things?

MFN is a gift from this country. It is a very special relationship with a nation that was founded over 200 years ago on the basic premise that our reason for being was to preserve freedom and liberty in a world that had little knowledge of freedom and liberty.

To me, standing up for human rights as a precondition to granting MFN to any country in the world is purely and simply a matter of being true to our roots, true to our heritage.

There is no other country on the face of this planet that has the same heritage about freedom and liberty that we have. When Lafayette went back to France after the revolution, he said to the world in a speech, "Liberty and freedom have found a home, and it is in America." And if Bill Clinton denies MFN, as I believe and hope that he will, in the absence of substantial progress in both Tibet and China in the area of MFN, Bill Clinton will be following the true course that this nation has always taken.

The Dalai Lama says that he is a simple monk, that he comes to us in American and asks that we understand the plight of Tibetans. I have said that this man has asked us to shine the light of freedom in his country of Tibet, and for us to stand up for our heritage.

Mr. Speaker and my colleague from New York, Mr. GILMAN, and my colleague from California, Ms. PELOSI, who believe as I do that human rights and America standing true and tall for tits heritage, are more important than making money off the backs of cheap worker labor. I thank you for this special order.

The gentlewoman from California [Mr. PELOSI], who has gone to the well time and time again, has gone to the President personally time and time again, who has gone to Cabinet members, friends that she has known for years time and time again when being social and nice, would be more pleasant, but who has spent her political capital on saying to the world, human rights in China must come before big business concerns. My hat is off to you, Ms. PELOSI. You are a beacon of honor, of dignity, of freedom and liberty for all of us to admire.

So Mr. GILMAN and I and you as well may have known His Holiness the Dalai Lama for many years, but I want to salute you tonight for your tireless effort in behalf of freedom and justice in China. I thank you for yielding me this time.

Mr. Speaker, I am happy to join my colleague from California to commend the current administration and Secretary of State Warren Christopher for their firm and clear stand on human rights in China and Tibet.

Since the 1987 massacre of Tibetan demonstrators by Chinese occupation forces in Lhasa, Tibet, the United States policy of constructive engagement through trade has not yielded even the slightest improvement of human rights conditions in China or Tibet. United States business interests were the prime reason for not imposing MFN sanctions in 1987; as they were after the 1988 killing of scores of Buddhist protesters in Tibet's holiest shrine and the 1989 Tiananmen Square massacre in which thousands of people were brutally destroyed by the so-called enlightened, modernizing, and trade-oriented leadership in Beijing.

Under the cover of constructive engagement with Beijing, many U.S. corporations collude with a Communist tyranny to exploit a workforce that lives without freedom, without a voice and without mercy. In the absence of decisive action to advance the cause of democracy in China, our investments only serve to bolster a regime that is in direct contradiction to the funding principles of our Nation.

My message today is that it is not President Clinton not is it Secretary of State Warren Christopher that deserve to be scorned. The Administration and many of us here in Congress wish to end tyranny; not to make excuses for Beijing or to ignore injustice. Those parties that deserve our condemnation are the Chinese Government which grossly abuses even the most fundamental human rights and those United States businesses entities which neglect human rights in their blind and unprincipled pursuit of the dollar.

Individuals who press for delinking MFN and human rights offer no real alternatives to bring about positive change in China. Since the 1987 massacre of peaceful Tibetan demonstrators, many United States business interests and their allies in Washington and Beijing have engineered a United States Government policy that has placed trade over human rights. For 7 years, this approach has failed. It is time to change our course of action with the Chinese Government. The future of Asia and the trade of the United States should be inextricably linked to the nurturing and development of human rights and democracy.

I fully support the decision by this Congress and by President Clinton to link China's MFN-trading status with substantial progress in human rights in China and Tibet. I commend the President for his faithful implementation of this policy and for the administration's strong stance with Beijing. Should June come without substantial human rights progress in China and without actions to preserve the culture of Tibet, I will support the President in his decision to revoke Beijing's preferential trade status.

[From the New York Times, Mar. 16, 1994]

STANDING UP TO CHINA

When dealing with China, it sometimes helps to see matters through Chinese eyes. As Beijing views it, a great power must always insist on being treated with due respect. To behave otherwise is to acknowledge inferiority and therefore to forfeit influence.

During Secretary of State Christopher's weekend visit to Beijing, Chinese leaders aggressively asserted what they see as the prerogatives of China. They deliberately humiliated America's highest-ranking diplomat by temporarily rounding up some of the country's most prominent dissidents, and by detaining several Western correspondents trying to report on the crackdown.

The purpose of the roundup was to prevent Mr. Christopher from hearing any independent views on the human rights issues he is required to evaluate before making a recommendation by June on renewing China's access to the most favorable American tariff schedules.

For the sake of a healthy U.S.-China relationship, Washington is now obliged to respond with equal firmness. To kowtow to Chinese bullying would be to repeat the mistakes of the Bush Administration, which squandered American influence by its consistent refusal to press human rights issues. That was what first provoked Congress to force annual showdowns over linking continuation of China's trade privileges to progress on human rights.

The Clinton Administration needs instead to be forthright about its continued determination to insist on human rights progress. It especially needs to dispel China's impression that it can exploit differences between various policy makers in the Administration, Congress and the business community. Such miscalculation can only increase the likelihood of a rupture both sides would prefer to avoid.

China, despite its pose of cool indifference, desperately needs the $20 billion hard currency surplus it earns from its trade with the U.S. to carry on with its ambitious economic development plans. And U.S. business frankly wants to maintain access to one of the world's largest and fastest-growing economies. For their part, human rights advocates recognize that China's continued economic growth and openness contribute to domestic pressures for more responsive, less dictatorial government.

Even so, the Clinton Administration has a clear right under international law, and an

obligation under U.S. law, to link China's trade status to minimum human rights goals. The Administration has demanded nothing unreasonable or demeaning, for the most part asking only compliance with international agreements to which China already subscribes. Washington seeks an end to the export of goods produced by slave labor, freer emigration for relatives of exiles and detainees, humane and lawful treatment of prisoners, and respect for the cultural traditions of Tibet. On most of these issues it has not set rigid benchmarks but is looking for "overall significant progress."

The Administration can use the remaining two and a half months provided by last year's executive order to give China the greatest possible incentive to demonstrate progress. But Mr. Clinton must make clear that if Beijing continues to try to blow past the whole issue with deliberate human rights provocations, it will be making a very big mistake.

[From the Los Angeles Times, Mar. 16, 1994]

CALLING BEIJING'S BLUFF: PUT UNIVERSAL VALUES AHEAD OF TRADE

(By Fang Lizhi)

China's leaders have slammed the door from the inside and, unless the United States responds now with the revocation of most-favored-nation trade status, Beijing will see the United States as the "paper tiger" that Mao always said it was.

Failure to react to China's intransigence on human rights will show to the East what the failure to act in Bosnia has meant elsewhere. When push comes to shove, the West does not have the will to stand up for the values it purports to stand for.

That perception will be dangerous in the long run. Feeling free to flout human rights, develop its military might and sell weapons to the world in any way it sees fit, an economically powerful China will then pose a threat to the stability of all of East Asia.

By detaining and harassing dissidents on the eve of the visit by Secretary of State Warren Christopher, whose very purpose was to discuss human rights, China's rulers were trying to show their strength and demonstrate that they will not be bullied by the West. They were trying to show that they will not blithely surrender to a new hierarchy of the world order with the United States on top. When Chinese leaders ignored a U.S. plea several months ago not to test a nuclear device, thus upsetting a worldwide moratorium on testing, they were putting the United States itself to a test of wills.

Their affront to Secretary Christopher in recent days was another test of that sort, which they think they can get away with because of President Clinton's political troubles over the Whitewater scandal. China's rulers are banking on Clinton's perceived political weakness and America's commercial interests in trade with China to win their bluff.

Already, the argument is common in business circles that China is "different" from the West because of its Confucian culture and thus should not be subject to the same human-rights standards as the rest of the world. Well, Taiwan is a Confucian society and its human-rights record is far better than Beijing's.

The truth is that China's leaders, starting with Deng Xiao Ping, are more Leninist than Confucian. Their power is based not on learned authority or respect for elders, but on the brutal ideology of one-party rule.

No matter how open the market has become, China's communist rulers have not departed one iota from this principle. They fully understand that to allow the kind of freedom implied by the American pressure for human rights is a direct threat to their hold on power.

The other common argument against revoking MFN status for human-rights reasons is that greater trade with the United States will bring a more generalized prosperity to China and that, in turn, will be the basis for more widespread democratic practices. Here we need only remind ourselves that, in addition to the Leninist element, China's rulers are also invoking nationalism to protect themselves. And, as Japan and Germany bloodily illustrated in this century, nationalism plus economic might without human rights is not the road to democracy; it is the road to fascism.

Former President Richard M. Nixon has often said that good relations must be maintained with China because the West can be better heard talking quietly inside Zhongnanghai (the compound near the Forbidden City where China's leaders live and work) than shouting from beyond the Great Wall. That may have worked at some point in the past, and it may be true at some point in the future.

For now, though, China's leaders aren't listening to voices from either location. The best way to get them to listen is to revoke MFN status while maintaining diplomatic relations so that channels of communication remain open. We must remember that MFN status did not precede diplomatic relations. It was the other way around. First, Nixon met with Mao in the early 1970s; then, later on, MFN status was bestowed.

In the end, China will recognize its own interests and return to the table. To maintain MFN relations with China under the current circumstances is tantamount to letting up on the pressure. If that pressure is gone, China's leaders will do anything. Harassment of dissidents will be the least of their crimes.

From my perspective, the current confrontation between the United States and China is akin to the Cuban missile crisis during the Cold War. If the United States had not forced the Soviet Union to back down in Cuba, global stability would have been threatened. If the world wants stability in East Asia over the longer term, as that region becomes an economic powerhouse, China's bluff must be called today.

As much as President Clinton may want to satisfy America's businessmen and create jobs in a time of fledgling economic recovery, it would be shortsighted to sell East Asia down the tube in the bargain. What is at stake today is the future stability of East Asia and the credibility of the West in defending the values that are the essence of its leadership role on the world stage.

Ms. PELOSI. I thank the gentleman for his very important remarks and kind remarks at the end. I accept any compliments from my colleagues on this issue on behalf of the congressional working group on China, of which my colleagues are members, and for the hard work that has been done, both Member to Member here and in working with some of the outside groups and in helping to get some people free who are in China.

One of the ones that Mr. ROSE mentioned, Fang Lizhi, is a great leader for democratic principles in the world. Working in this House of Representatives, I have the honor, as you do, Mr. Speaker, of being a colleague to many great people who care very much about our country and its values and its principles and its well-being. Sometimes on issues we have the opportunity to work with exceptional people in history even outside of this great body.

I must say, and I think my colleagues would share the view, that one of the great rewards of this effort that we have made is that we have been able to work with people who are colleagues not to us, but to our Founding Fathers, who with great courage have spoken out for democracy in their oppressive country and at risk to their personal security and in some cases to that of their families.

One such individual is Fang Lizhi. Mr. ROSE mentioned him in his remarks. He cited a recent op-ed that Prof. Fang Lizhi had in the Los Angeles Times. I would like to read from another part of his statement.

To reiterate, as Mr. ROSE said, Dr. Fang Lizhi is an astrophysicist who was in China. He and his wife were great leaders in the pro-democracy movement. At the time of Tiananmen Square they were sought by the Chinese authorities. They fled to the American Embassy where they received refuge. They remained there for over 1 year and then were expelled from the country. But through the good offices of the American Embassy, they were able to safely come to the United States.

Doctor Fang Lizhi is an astrophysicist, a highly regarded scientist. But in addition to that, he has advanced the cause of democracy, pro-democratic principles in China.

In his article he says, giving some advice, Prof. Fang Lizhi has taken the long view on the China issue, as I am sure President Clinton will do. In his article he said the Chinese do not think that we will live up to our values. Paper tiger, that is what Mao Tse-tung called us, and after Tiananmen Square, the butchers of Beijing referred to us again. They said we will not do anything. They are driven by money and they are a paper tiger when they want to talk about values and democratic ideals.

I quote Prof. Fang Lizhi when he says that perception will be dangerous in the long run. Feeling free to flout human rights, develop its military might and sell weapons to the world in any way they see fit, an economically powerful China will then pose a threat to the stability of East Asia, as Mr. ROSE mentioned.

□ 2210

It goes on to say:

Although the argument in business circles is that China is different from the West because of its Confucian culture and thus should not be subjected to the same human rights standards of the rest of the world, the truth is that China's leaders, starting with Deng Xiaoping, are more Leninist than Con-

fucian. Their power is based not on learned authority or respect for elders but on the brutal ideology of one-party rule. China's present leadership is a corrupt remnant left over from communism.

Mr. Speaker, it is a very interesting article, and I will read more from it in the days ahead.

I would also like to point out that I believe one of our colleagues has sent that out as a "Dear Colleague." Our colleagues should be aware of it. That is what Dr. Fang Lizhi says.

I would like to quote, because so much has been said about what the business community thinks about this issue and how the business community treated Secretary Christopher in Beijing. Frankly, I thought that the Chinese discourtesies to Secretary Christopher were appalling, but they were not surprising. It is a regular routine of the Chinese to be harsh in the beginning, mellow out a bit and then make sure that some communication takes place. Because, indeed, as Mr. GILMAN said, they do need access to our markets. If they want to pretend that they do not, they may find out just how much they do. But let us assume for a moment, and I know I am speaking for my own self, that we would all like to see most favored nation status renewed, but only if they meet the conditions of MFN.

I said the Chinese behavior was appalling. Equally appalling, if not more so, I believe, is the behavior of the business community in China, the United States Chamber in Beijing. While it is obviously perfectly appropriate for all of us to disagree on approach and tactic, we certainly had hoped at the very least as a courtesy to our Secretary of State, once he had been discourteously treated by the Chinese regime, that they would have stood by him in terms of the message he brought about human rights.

Would it not have been wonderful to see the American business community in Beijing say, while we disagree, Mr. Secretary, with the policy and the approach and the use of MFN, we want to remove all doubt from anybody's mind that we stand with you in advancing American values and promoting human rights. Our differences are not about that.

Instead, they chose to lecture the Secretary of State, and I thought in an inappropriate way.

Let me put the words in someone else's writings. There is a writer for the Los Angeles Times, Mr. Flanigan, a business writer for the Los Angeles Times. He writes:

Right now China's leaders are pushing American companies to lobby the U.S. Government, and U.S. business seems a bit too ready to cooperate. Some of them lectured Secretary Christopher at the U.S. Chamber of Commerce at Beijing, criticizing his emphasis on human rights.

And he calls—this business writer for the Los Angeles Times, not this prodemocratic advocate, this business writer for the Los Angeles Times—he called that action "distasteful, disloyal and dumb."

"Aside from morality, there is good economic reason for U.S. emphasis on democratic reforms and human rights."

Mr. Speaker, I will include Mr. Flanigan's article in the RECORD.

Just a few days before Mr. Christopher arrived in Beijing, the Chinese engaged in a roundup of dissidents. One of the Chinese leaders very candidly said, at the end of Mr. Christopher's visit, we would not have rounded them up, if we thought you were not going to want to talk to them.

Here was an admission on the part of a Chinese leader that there was no cause to round these people up. They had not broken the law, but for fear that Secretary Christopher might speak with them and hear their view of what was going on in China. Anyway, my point is, Mr. Speaker, that just before Secretary Christopher got there, seven leading Chinese dissidents very courageously came forward and wrote a letter to the Beijing leadership expressing their concern about the rounding up of the other dissidents.

I believe that these seven dissidents who wrote the letter were encouraged by the Congress of the United States, by our President of the United States, and the visit of Secretary Christopher that the world was watching and that there was some sense of security in their coming forth with their message.

I also believe that they were encouraged by the actions of Wei Jingsheng who was considered the leading dissident in China. He served a long, long sentence for criticizing Deng Xiaoping. He was released a few months before his turn was up in order to make points, the Chinese readily admit, before the Olympic Committee vote on assigning the Olympics, which Beijing, as you know, wanted. And in their cynical act, they released him a few months sooner, but they rearrested him before Secretary Christopher came.

They have since released him, but I think that after serving nearly 14 years in prison for attempting to speak freely, for speaking his mind, it did not happen to be freely, because he went to jail for it, even after coming out of prison he still spoke about human rights and promoting democratic principles and criticized the regime. So he has been in and out of prison since even the last few months.

But anyway, these seven dissidents, as I say, encouraged by our position and by particularly Wei Jingsheng, that courageous man, they wrote a letter, an appeal and a warning from seven Chinese.

"The following is the text of a petition to the Government issued today by a group of Chinese intellectuals," and it is translated by the New York Times.

So lately there have been many incidents in which people have been arrested or detained in Beijing and Shanghai for interrogation because of their ideas and their exercise of free speech. World public opinion has reacted strongly. People of insight who are concerned with the fate of the Nation and who are dedicated to the cause of our country's modernization are shocked, upset and worried. In looking at history, we find that modern civilization began when humans awoke to eliminating the ideological confinement of ancient and medieval dictatorship and to becoming aware that humans should have independent personalities and dignity and enjoy unalienable and inviolate basic rights, the first of which is freedom of ideas and speech. To talk about modernization without mentioning human rights is like climbing a tree to catch a fish. Two hundred and five years ago, the French Declaration of Rights of Man stated clearly that being ignorant, neglectful and disdainful of human rights is the sole cause of the general public's misfortune and corruption in government. China's history and reality have verified that long-standing truth.

In the 1940's, with the victory over the fascists, it became common thinking for people the world over to diligently seek an end to preventing human rights. In 1948, the United Nations adopted the Declaration of Universal Human rights,

I depart from the letter for a moment to make the point, Mr. Speaker, that what we are talking about in Executive order and on this floor is not about inflicting American views on China. It is about the Universal Declaration of Human Rights and the idea that we subscribe to that human rights knows no boundary. They are universal.

□ 2220

China, by the way, is a signatory to the declaration of human rights, as I mentioned earlier.

The letter goes on to list what those rights are, which are basically freedom of speech, religion, press, assembly, and the right of workers to organize.

China was a founder of the United Nations, and is a member of the Security Council. It should be a pioneer in abiding by all United Nations conventions instead of a target of international blame because of the issue of domestic human rights.

For this reason, we appeal to the authorities to bravely end our country's history of punishing people for their ideas, speeches and writings, and release all those imprisoned because of their ideas and speeches.

We believe that only after human rights are respected and all rights of citizens are secure will society achieve true stability. Otherwise contradictions will intensify, causing unmanageable turmoil.

It was signed by seven intellectuals, seven dissidents in China. One of them, Xu Lianying, is a gentleman who translated the works of Albert Einstein. We are talking about some of the great minds of China, who understand that a society can only succeed if free inquiry is allowed to happen, and freedom of speech.

One of the tragedies in China is that many of these dissidents, when they

are imprisoned and they have to sit on a stool for 14 hours a day and they are tortured and all of the rest, one of the reasons they are tortured is they will not tell their guards and torturers what they are thinking, so it is not only that you cannot speak freely when you are living in China, or you cannot exercise the right of freedom of the press or worship or assembly or the right of thought. They insist on knowing what you are thinking, so that they can try to change your mind.

Mr. Speaker, this is not a wholesome attitude, I think anyone would agree.

Mr. Speaker, I also want to—I think he will save this one until we get toward the end. Mr. Speaker, I just want to get back to where we started on this. I thank the gentleman from New York [Mr. GILMAN] for staying here. I know the hour is late.

I said earlier, very briefly, that how we got to where we are in these last couple of months before the President must make an announcement about China-MFN, many business people will say, "Everybody has MFN, so why should not China?"

First of all, everyone does not, and China does not unless by June 3 of each year the President requests a special waiver granting most-favored-nation status to China. This is because China is still considered a centralized economy, and part of our most-favored-nation status law has in it the Jackson-Vanik requirement. It is on the basis of that that we base the conditionality on human rights, improvement in human rights for the renewal of MFN.

Mr. Speaker, in the Congress of the United States, in both Houses, we have had overwhelming votes in support of conditioning MFN. In fact, we have votes in favor of revoking most-favored-nation status, but I think generally most people say we want MFN to continue if we can use it as leverage to improve the situation in China.

Mr. Speaker, however, President Bush vetoed the bill every year and we could not override on the Senate side. We always did on the House side, had the votes, but not on the Senate side; but nonetheless, always a strong, strong majority in favor of conditioning MFN.

Mr. Speaker, Senator MITCHELL on the Senate side, if I may refer to the Senate side, and I in the House, introduced the legislation last year. President Clinton preferred the executive order, and frankly it was a good idea, I think, that the administration had, because it gave us the opportunity to speak with one voice, the House, the Congress, and the administration, on a policy which contained reasonable and achievable conditions for the renewal of MFN. We must obey our law about Jackson-Vanik, freedom of emigration, and the laws prohibiting prison labor for export. Those conditions we could not weaken. They are American law, so they are "must meet" conditions.

In addition to that, the President's executive order said that China must make overall significant progress, which gives the President some latitude, and frankly the Chinese some latitude, too, to improve human rights in China and Tibet; specifically, that they should move toward abiding by the universal declaration of human rights of the U.N., of which they are signers; that they must stop jamming Voice of America, and they told Secretary Christopher on his visit that they were not intentionally jamming Voice of America but there were some technical difficulties that made the jamming happen, so hopefully we can work out those technical difficulties. That does not seem to be a big problem to the Chinese, as they said to Secretary Christopher. We will see in the implementation of removing the technicalities, the technical difficulties.

They have to cease to threaten the culture of Tibet, and one form that could take would be to agree to meet with His Holiness, the Dalai Lama, as he has requested. They said they do not want to talk to him about independence. Since I have been in the Congress, since 1987, he has been talking about autonomy, not independence, and many of us here who worked on the Tibet issue believe that there is progress to be made there that is reasonable and achievable.

It also talks about the—I mentioned the prison labor, but it talks about accounting for and releasing those people arrested in Tienenmen Square and Democracy Wall, while peacefully demonstrating. In addition to that, that relates to the declaration of human rights, because it talks about freedom of speech, press, religion.

My colleague, the gentleman from New York [Mr. GILMAN] very carefully and scientifically spelled out some of the harsh penalties and the violations of people's right of freedom of worship in China, as I said earlier. That is part of it. We cannot go into all of it in one special order, but it is a very, very, very—an issue of concern to many people in the Congress, whether they are—of whatever denomination, as well as the repression of the Buddhist priests and nuns in Tibet.

The point is that the conditions in the most favored nation are reasonable and achievable. That is why they are in there. If they were not achievable, it would be cynical to put forth an executive order that said, "We are putting forth conditions which are not achievable." We purposely designed our bill, calibrating it for renewal, and the President took some of the conditions that we had and put in the bill. As I mentioned earlier, he wisely put the trade issues and the proliferation issues in a separate category, where he said we would forcefully enforce our laws on that.

Even though they are not part of the conditions of the bill, they were part of the text of the executive order, and for that reason, I want to spend a moment on it.

Mr. Speaker, why do we think we have leverage with the Chinese, and what is the situation with trade, United States-Chinese trade?

Mr. Speaker, I think it is important for the American people, particularly American workers, to know that we are—the Chinese, as the expression goes, are eating our lunch on trade. They have preferential access to our market to the tune of—let me just read from the Washington Post—I do not even have to read it, because I know the fixtures. There is about 31 billion dollars' worth of trade. Of that, they buy about $8 billion from us, and we buy the $31 billion from them, giving them a $24 billion trade surplus. That means hard currency for the regime to stay in power.

What the American people and the American worker should know is that we have no reciprocal access to the Chinese markets. For the most part, most American products made in America are not—do not have market access into China. They want aerospace, electronics, wheat, some refrigeration. These are good, and those industries have been lobbying the Congress and the President for the renewal of MFN without any conditions, which is fine for them, but what about the rest of the work force in America? Why should our products not have access to the Chinese market?

Mr. Speaker, when we hear people talk about this great, growing market, for the most part it is about products made in China. An American business goes into China, accesses cheap labor, the minimum wage in most areas in China is $24 a month, a month; they access the cheap labor, and they want to have access to the Chinese market, or they sell those products back into the United States.

That is the marketplace, but it is not the marketplace if our products do not have the nontariff barriers, they do not have the access back into China for products made in America. So this whole thing about jobs is confined to a very narrow spectrum of jobs to the exclusion of a very broad spectrum of the American work force, so there is great concern in this body about the issue of trade, and that is just about market access.

In addition to that is the issue of transshipments in which the President, the Clinton administration, very forcefully issued, threatened to issue sanctions against China at the end of December, and guess what, China complied and reached an agreement on transshipments.

Transshipments means, as most of the Members know, that when a country's quota is exhausted—in other words, we allow x amount of Chinese sweaters into the United States. If

they have exhausted their quota, they have filled their quota, they will simply sew in a label that says "made in wherever," some other place, probably a place that does not make sweaters because they would have already used up their quota into the United States, so they transship to another country, but they have gotten a little more arrogant and have just been sending them directly with the labels, but they are called transshipments for the reason I describe.

This is a billion-dollar business. The United States got the goods, literally, on China, and with the threat of sanctions at the end of this year, finally, the Chinese came to the table and agreed to negotiate, but it was a very tough negotiation, and I frankly think that absent this debate on MFN, the Chinese would not have been so willing, because they knew this was at risk and at stake.

Mr. Speaker, the other thing is prison labor for export. We will probably have a special thing just on prison labor. This is one of the vilest traditions because it is twofold. They round up people. They put them in reform through labor camps to reeducate them and change their thinking, and then they have them make these products and we say, "Those products should not come into the United States."

□ 2230

First of all, they are made by prison labor which is against our laws. We cannot have our workers competing with slave labor in China.

But in addition to that, the immorality of having this slave labor, of people who are now in the prison labor camps, and the slave labor camps, and the reform-through-labor camps, there are people who are there for offenses other than expressing their political and religious views. But there are those who are there for that reason. So the list goes on and on about how they violate our trade relationship.

The Chinese people's liberation army and its companies have thriving businesses in the United States. The gentleman from Massachusetts, Mr. MARKEY, talked about the AK–47s slightly changed just a little bit to get through Customs, through some letter that they got from the Treasury Department. And we are writing to Secretary Bentsen about that. And I think he seems willing to review that issue. But a million of those AK–47 rifles are sold on the streets of our country for $129. That is about one-tenth of the cost it would be for a similar weapon. It has become the weapon of choice for gangs, for drug dealers, for you name it.

We talked about weapons proliferation, and we were really talking about nonconventional, nuclear, chemical, and biological weapons. But in this case we are talking about arming to the teeth the teenagers of the country. It is cheaper to buy one of those than some of the high-falutin sneakers that teenagers like today.

So we have major problems with how they abuse our good nature that we have given them.

Why again do we have the leverage?

Back at the time of Tiananmen Square in 1989, they were making $6 billion off of our trade, almost $9 billion in 1990, $12 billion in 1991, $18 billion in 1992, $24 billion in 1993, and it will be into the $30 billions this year of profit they make off of our trade. They do not like capitalism. They abhor democracy. But they love money, and they need hard currency. It is up to nearly 40 percent of the Chinese exports which come to the United States. They need those exports to fuel their domestic economy growth.

We have been told by their trade people that they need to increase their exports in order to continue to fuel that growth. So they need access to our markets regardless of what their bullying tactics are and their brinksmanship has attempted to put forth. Why the fuss? Why have they hired many lawyers in Washington, DC? Almost every law firm has something going with China. Why have they hired so many public relations firms over and over?

When I was in China once, the Foreign Minister said to me, "We consider MFN your domestic issue. We're not involved in it." I said, "Well, that's interesting. Then why pay over $1 million to a public relations firm to lobby Congress to defeat the override of the President's veto if you consider it such a domestic issue?"

It is not a domestic issue for them. It is just not the United States, it is a domestic issue for them in their own country.

Sure, there are human rights violations all throughout the world. But when we have an opportunity to make a real difference in a country about how it treats its people, and how it allows freedom of speech and thought and religion, et cetera, and we do not use that leverage, then we lose the moral authority to go out and to say to people, "You should correct your human rights," because what we were saying if we walk away from the situation is we want to promote human rights, but we do not want to do it if there is any squawking from the business community.

And we do not want to do it if the other country objects. Well I mean, we are a very mature democracy.

We say that promoting human rights and democratic principles is part of our foreign policy, and indeed President Clinton, I am very proud to say, has reinforced that message. That is why I am so very, very proud of Secretary Christopher. He went there to deliver a message. He was strong enough to take what was inevitable from the Chinese, and anybody who has dealt with them a long time knows that this is act one, bully; act two, soften; act three, let us sit down and talk. He had enough self-confidence and the strength of his commitment to the promotion of human rights throughout the world that he was the person to do the job. And I am proud that he did it.

The third issue that I touched on, and it was the issue of proliferation and that the Clinton administration has issued sanctions against China for the sale of the missile technology to Pakistan, giving them the capacity to launch a nuclear weapon. It seems ironic that everybody says oh, we cannot lift MFN in China or even threaten to, because they will not cooperate with our policy as far as North Korea is concerned and their developing a weapon. Well China has no interest in a nuclear Korean Peninsula. They have every interest in it being non-nuclear, so South Korea decides now that it wants a weapon if North Korea does, and Japan says well, I have to have one if they have one. So it is in China's interest to cooperate on North Korea.

But at the same time people are saying we need their help there, they are forgetting conveniently that China is part of the problem by proliferating weapons to non-safeguarded countries, weapons that are very serious, and which our law requires sanctions, for which I am pleased that the Clinton administration did.

Of course, obviously I could talk all night. I have a lot to say about this, as do many of our other Members, and they will be in the nights ahead. But I through it was important, as our colleagues did, that we stand up and say thank you, Mr. Christopher, for having the courage of your convictions, for being willing to come back here and take the attacks of the new China lobby in Washington, DC, including, may I say, some former Secretaries of State who made their reputation and their name as a part of the public sector in this country, and who are now extensively involved in business deals in China. That is their right, and I respect their opinion that they hold that they disagree about China MFN. But for them to criticize the Secretary of State for standing up for American values, while making big money, and this China thing is very big money, now they are personally financially benefiting from it, I think it is appalling.

I think they owe the American people an apology, and I think also the press should really point out that while so and so is speaking as a former Secretary of State or a former National Security Adviser, he is also in theory doing business deals as we speak with China, and there is a direct conflict of interest. As I said, they have a right to do business, and they have a right to their opinion. The public has a right to know what their financial gain is when

they speak as a Secretary of State and they are privately benefiting from the statements they are making.

I will end, Mr. Speaker, and then we will do this another night and in the morning as well. In addition to thanking Secretary Christopher, I want to quote from the New York Times editorial this week entitled "Standing up to China." It supported the conditioning of MFN to China, and it says, "To kowtow to Chinese bullying would be to repeat the mistakes of the Bush administration which squandered American influence by its consistent refusal to press human rights issues." The Clinton administration needs instead to be forthright about its continued determination to insist on human rights progress.

□ 2240

China, despite its cool indifference, desperately needs the over $20 billion hard currency surplus it earns from its trade with the United States to carry on with its ambitious economic development plans.

The Clinton administration has a clear right under international law and an obligation under United States law to link China's trade status to minimum human rights goals. The administration has demanded nothing unreasonable or demeaning, for the most part asking only compliance with international agreements to which China already subscribes.

Mr. Speaker, with that, I yield to the gentleman from New York.

Mr. GILMAN. I thank the gentlewoman for yielding.

I want to thank the gentlewoman for her astute, thorough, eloquent analysis of the problems between our Nation and the People's Republic of China as we consider our trade relations with China.

I think that what we are saying tonight is not so much China-bashing, not so much as trying to prevent favorable trade relations with China, but to remind the Chinese people that we have important values that we live by in our Nation, important values that other nations have joined with us in the Declaration of Human Rights for prevention of this kind of tyranny and this kind of atrocities that are being waged in China today.

All we are saying to China by these conditions that we put in the prior Executive order that the President so clearly spelled out is abide by the international values that we all have for human rights, for religion, for equal trading rights, to prevent proliferation of arms, and we will be pleased to work with them as an equal trading partner. And I hope that those who may be listening tonight representing the People's Republic of China will take that as part of our important message to them. We want to trade with China. We want to be an equal trading partner with them. But, please, abide by these principles that we hold so dearly.

I thank the gentlewoman again for arranging this hour and for her eloquent address.

Ms. PELOSI. I thank the gentleman from New York [Mr. GILMAN] for this and for your leadership as the ranking Republican on the Committee on Foreign Affairs. You bring great honor to this issue by your attention to it and the information that you have provided to our colleagues.

The respect with which you are held in this body is great, and it is because of your commitment to basic values and the hard work that you do in addition to the pronouncements which many people are willing to make, but you match it with hard work, and that is why I believe we have a chance to make a difference on this issue.

Mr. GILMAN. I thank the gentlewoman for her kind words.

Ms. PELOSI. I thank your constituents for allowing you to do this.

In closing, I would just like to say the past 8 or 9 months, for the most part, those of us who have been advocating for this issue over the years have been fairly silent. We have not engaged in any China-bashing. We have held our fire, because we wanted to give the President's policy a chance to work, and I believe that the President has a good policy, and I give him high marks for his implementation of it including Secretary Christopher.

Make no mistake, I am blessed in my district with a 30-percent Asian-American community, many of whom are Chinese-Americans. We believe we will have a brilliant future with China, diplomatically, politically, economically, culturally. I know anybody our age, when we were little people, said if you dig a hole in the sand far enough you will reach China, and we all felt this mystique and connection about this special place.

We will have a very wonderful relationship with them. This is not about China-bashing. The conditions are in the executive order about renewal. They are not about revocation. And it is for that reason I believe the Chinese will meet the conditions, and I urge my colleagues to support Secretary Christopher, and thank them for all the support they have given to the President's policy.

We will be back another evening and perhaps on morning business as well.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. MEEK of Florida (at the request of Mr. GEPHARDT), for today, on account of personal business.

Mrs. FOWLER (at the request of Mr. MICHEL), until 6:30 today, on account of family reasons.

Mr. BUYER (at the request of Mr. MICHEL), for today, on account of illness.

Mr. GALLO (at the request of Mr. MICHEL), for today and the balance of the week, on account of hip surgery.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. KINGSTON) to revise and extend their remarks and include extraneous material:)

Mr. GOSS, for 5 minutes, today.

Mr. DORNAN, for 5 minutes, today.

Mr. BURTON of Indiana, for 5 minutes each day on March 22, 23, and 24.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. OWENS, for 5 minutes, today.

Mr. RICHARDSON, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. BOEHNER, immediately following the remarks of Mr. MILLER of Florida, in the Committee of the Whole today.

(The following Members (at the request of Mr. KINGSTON) and to include extraneous material:)

Mr. CALVERT.

Mr. WELDON.

Mr. HORN.

Mr. HYDE.

Mr. PACKARD.

Mrs. JOHNSON of Connecticut.

Mr. SANTORUM.

Mr. COLLINS of Georgia.

(The following Members and to include extraneous matter:)

Ms. BYRNE in two instances.

Mr. SCHUMER.

Ms. NORTON.

Mr. RICHARDSON in two instances.

Mr. MANTON.

Ms. ESHOO in three instances.

Mr. MINGE.

Miss COLLINS of Michigan.

Mr. FROST.

Mr. REED in three instances.

Mr. SANGMEISTER.

Mr. HUTTO.

(The following Members (at the request of Ms. PELOSI) and to include extraneous matter:)

Mr. CONDIT.

Ms. DELAURO.

Mr. MFUME.

SENATE JOINT RESOLUTION REFERRED

A joint resolution of the Senate of the following title was taken from the

Speaker's table and, under the rule, referred as follows:

S.J. Res. 171. Joint resolution to designate March 20 through March 26, 1994, as "Small Family Farm Week"; to the Committee on Post Office and Civil Service.

SENATE ENROLLED JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to an enrolled joint resolution of the Senate of the following title:

S.J. Res. 56. Joint resolution to designate the week beginning April 11, 1994, as "National Public Safety Telecommunications Week."

ADJOURNMENT

Ms. PELOSI. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 45 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, March 22, 1994, at 10:30 a.m.

CONTRACTUAL ACTIONS, CALENDAR YEAR 1993 TO FACILITATE NATIONAL DEFENSE

The Clerk of the House of Representatives submits the following report for printing in the CONGRESSIONAL RECORD pursuant to section 4(b) of Public Law 85–804:

OFFICE OF THE SECRETARY OF DEFENSE,
Washington, DC, March 15, 1994.

Hon. THOMAS S. FOLEY,
Speaker of the House of Representatives, Washington, DC.

DEAR MR. SPEAKER: In compliance with Section 4(a) of Public Law 85–804, enclosed is the calendar year (CY) 1993 report entitled Extraordinary Contractual Actions to Facilitate the National Defense.

Section A, Department of Defense Summary, indicates that 54 contractual actions were approved and that 4 were disapproved. Those approved include actions for which the Government's liability is contingent and can not be estimated.

Section B, Department Summary, presents those actions which were submitted by affected Military Departments/Agencies with an estimated or potential cost of $50,000 or more. A list of contingent liability claims is also included where applicable. The Defense Logistics Agency, Ballistic Missile Defense Organization, Defense Information Systems Agency, Defense Mapping Agency, and the Defense Nuclear Agency reported no actions, while the Departments of the Army, Navy, and Air Force, provided data regarding actions that were either approved or denied.

Sincerely,

D.O. COOKE,
Director.

Enclosure: As stated.

DEPARTMENT OF DEFENSE

EXTRAORDINARY CONTRACTUAL ACTIONS TO FACILITATE THE NATIONAL DEFENSE (Public Law 85–804) Calendar Year 1993

FOREWORD

On October 7, 1992, the Deputy Secretary of Defense (DEPSECDEF) determined that the national defense will be facilitated by the elimination of the requirement in existing Department of Defense (DoD) contracts for the reporting and recoupment of nonrecurring costs in connection with the sales of military equipment. In accordance with that decision and pursuant to the authority of Public Law 85–804, the DEPSECDEF directed that DoD contracts heretofore entered into be amended or modified to remove these requirements with respect to sales on or after October 7, 1992, except as expressly required by statute.

In accordance with the DEPSECDEF's decision, on October 9, 1992, the Under Secretary of Defense for Acquisition directed the Assistant Secretaries of the Army, Navy, and Air Force, and the Directors of the Defense Agencies, to modify or amend contracts that contain a clause that requires the reporting or recoupment of nonrecurring costs in connection with sales of defense articles or technology, through the addition of the following clause:

The requirement of a clause in this contract for the contractor to report and to pay a nonrecurring cost recoupment charge in connection with a sale of defense articles or technology is deleted with respect to sales or binding agreements to sell that are executed on or after October 7, 1992, except for those sales for which an Act of Congress (see section 21(e) of the Arms Export Control Act) requires the recoupment of nonrecurring costs.

This report reflects no costs with respect to the reporting or recoupment of nonrecurring costs in connection with sales of defense articles or technology, as none have been identified for calendar year 1993.

CONTRACTUAL ACTIONS TAKEN PURSUANT TO PUBLIC LAW 85–804 TO FACILITATE THE NATIONAL DEFENSE, CALENDAR YEAR 1993

SECTION A—DEPARTMENT OF DEFENSE SUMMARY

SUMMARY REPORT OF CONTRACTUAL ACTIONS TAKEN PURSUANT TO PUBLIC LAW 85–804 TO FACILITATE THE NATIONAL DEFENSE—JANUARY–DECEMBER 1993

Department and type of action	Actions approved			Actions denied	
	Number	Amount requested	Amount approved	Number	Amount
Department of Defense, total	54	25,783,716.00	25,783,716.00	4	5,076,107.75
Amendments without consideration	2	25,000,000.00	25,000,000.00	3	4,896,207.75
Implied contract of "fair consideration"	1	783,716.00	783,716.00	0	0.00
Award new contract	0	0.00	0.00	1	179,900.00
Contingent liabilities	51	0.00	0.00	0	0.00
Army, total	2	783,716.00	783,716.00	1	833,860.75
Amendments without consideration	[1] 1			[3] 1	833,860.75
Implied contract of "fair consideration"	[2] 1	783,716.00	783,716.00	0	0.00
Navy, total	49	25,000,000.00	25,000,000.00	2	4,062,347.00
Amendments without consideration	1	25,000,000.00	25,000,000.00	2	[4] 4,062,347.00
Contingent liabilities	48	0.00	0.00	0	0.00
Air Force, total	3	0.00	0.00	1	179,900.00
Award new contract	0	0.00	0.00	1	[5] 179,900.00
Contingent liabilities	[6] 3	0.00	0.00	0	0.00
Defense Logistics Agency, total	0	0.00	0.00	0	0.00
Ballistic Missile Defense Organization, total	0	0.00	0.00	0	0.00
Defense Information Systems Agency, total	0	0.00	0.00	0	0.00
Defense Mapping Agency, total	0	0.00	0.00	0	0.00
Defense Nuclear Agency, total	0	0.00	0.00	0	0.00

[1] Intes Construction Company ACAB No. 1235A. Supplemental Decision. Released amounts previously approved but withheld from contractor (under ACAB No. 1235, 10 Apr 92) until contract was complete. Contract was completed in 1993. ($2,500,000 was reported last year and will not be reported again to avoid duplication.)

[2] Mela Associates, Inc., requested extraordinary contractual relief under Public Law 85–804. The request for relief was approved for $783,716.

[3] Thiokol Corporation requested extraordinary contractual relief in the amount of $833,860.75, plus interest, under Public Law 85–804. The request for relief was denied.

[4] Denials involved Trident Marine Corporation ($1,062,347.00) and RD&D Corporation ($3,000,000.00).

[5] Subcontractor requested payment directly from the Government for work performed for the prime contractor and for which the prime contractor did not pay.

[6] Two additional indemnifications were approved; however, the Air Force has deemed them to be "CLASSIFIED," not subject to this report's purview.

SECTION B—DEPARTMENT SUMMARY

Contractor: Intes Construction Company.

Type of action: Amendment Without Consideration.

Actual or estimated potential cost: Supplemental Decision (Released amounts previously approved but withheld from contractor (under ACAB No. 1235, April 10, 1992) until contract was complete. Contract was completed in 1993. ($2,500,000 was reported last year and will not be reported again to avoid duplication).

Service and activity: United States (U.S.) Army Corps of Engineers.

Description of product or service: Construction of a composite medical facility at Incirlik, Turkey.

Background: In ACAB No. 1235, dated 10 April 1992, the Board granted relief to Intes Construction Company by extending the period of performance to December 31, 1992, and increasing the contract price by $2.5 million, payable only when the contract was satisfactorily completed. Intes requests that the Board modify its decision to permit early release of part of the $2.5 million. The Corps of Engineers recommends approval.

The U.S. Army Corps of Engineers reports that Intes was able to negotiate deferment of actions by its creditors based upon the expectation of receiving payment in December 1992. Subsequent to the Board's decision and Intes' arrangements with its creditors, the completion date was extended as a result of change orders issued by the U.S. Army Corps of Engineers. Performance was issued by the U.S. Army Corps of Engineers. Performance was further delayed by Intes due to its inability to obtain adequate financing. Currently Intes finds itself facing the same plight that brought it to the Board with its original request.

Justification: The U.S. Army Corps of Engineers recommends that the Board authorize immediate release of $1 million, an additional $100,000 for each additional one percent of progress, and the remainder upon completion. Although Intes requested that payments be made at the rate of $250,000 instead of $100,000, and linked to time as opposed to progress, it now agrees that the restructuring proposed by the U.S. Army Corps of Engineers will be sufficient to enable it to complete the project. The U.S. Army Corps of Engineers maintains that these measures are adequate to address the concern expressed by the Board in the original decision. The U.S. Army Corps of Engineers notes that the job is 92 percent complete, that less than $1.5 million worth of work remains, and that $700,000 retainage will provide ample incentive for Intes to finish the work.

Decision: The Board agrees with the U.S. Army Corps of Engineers, and therefore, authorizes the immediate release of $1 million, additional payments of $100,000 for each additional one percent of completion, and payment of the remaining $700,000 upon completion of performance.

This action will facilitate the national defense.

Contractor: Thiokol Corporation.

Type of action: Amendment Without Consideration.

Actual or estimated potential cost: $833,860.75.

Service and activity: U.S. Army Armament, Munitions and Chemical Command (AMCCOM).

Description of product or service: Settling a suit filed by the family of a Thiokol employee who died several days after being seriously burned in a fire at the Longhorn Army Ammunition Plant.

Background: Thiokol Corporation submitted an application for relief under Public Law 85-804 through the U.S. Army Armament, Munitions and Chemical Command (AMCCOM), seeking an amendment without consideration to contract DAAA09-90-C-0990 in the amount of $833,860.75, plus interest. The request represents the cost of settling a suit filed by the family of a Thiokol employee who died several days after being seriously burned in a fire at the Longhorn Army Ammunition Plant. AMCCOM forwarded the request to the Board with a recommendation that relief be granted.

After consideration of Thiokol's written submissions, its testimony before the Board, and the recommendation of AMCCOM, the Board has determined that relief is not appropriate for the reasons set forth below.

Statement of facts: Thiokol has operated and managed the Longhorn Army Ammunition Plant for many years under a series of cost-reimbursable operating contracts. These contracts included indemnification provisions covering unusually hazardous risks such as detonation or combustion of explosives and incendiary materials. The contract under which Thiokol seeks relief, however, was a separately negotiated, firm-fixed-price contract for the production of flares. It did not include an indemnification provision. (Hereinafter, this contract is called the Flare Contract to distinguish it from the Operating Contract.)

The Flare Contract was negotiated during the Spring and Summer of 1990. On several occasions during the course of negotiations, Thiokol was advised of the separate nature of the contract. Insurance was an item of discussion four times. Specifically, the contract specialist advised Thiokol that the Flare Contract was not a "standard government owned, contractor operated (GOCO) contract," and that Thiokol would need to get its own insurance. Thiokol ultimately responded with a letter stating that its liability needs were met by Worker's Compensation Insurance. The contract was awarded on November 30, 1990, without an indemnification provision.

During the same time frame, the Army and the operators of 18 Army ammunition plants were engaged in the final stages of defining the risks to be indemnified under a consolidated indemnification authorization for operating contracts pursuant to the Secretary's authority under Public Law 85-804. The process concluded with a memorandum of decision, dated November 14, 1990, that authorized inclusion of indemnification provisions in the operating contracts for 18 specified ammunition plants. The new indemnification provision was added to Thiokol's Operating Contract on December 20, 1990.

The fire occurred on September 27, 1991, when excess hexane was dumped into a trough that flowed to a collection pan. After the fire, a grounding strap was found next to the collection pan. Apparently, it had not been connected while the hexane was being dumped. Thus, investigators determined the most probable cause of the fire to be an electrostatic discharge that ignited hexane vapors.

Two Thiokol employees were seriously burned and hospitalized. One of them died several days later as a result of a heart attack. The family of the decedent filed suit on January 24, 1992, under the following provision of the Texas Worker's Compensation Act:

This section does not prohibit the recovery of exemplary damages by the surviving spouse of heirs of the body of a deceased employee whose death was caused by an intentional act or omission of the employer or by the employer's gross negligence . . . [Article 8308-4.01(b), Texas Revised Civil Statutes]

Shortly thereafter, Thiokol sent AMCCOM a letter requesting authority to retain outside counsel. The letter cited provisions of the Operating Contract. In conversations between AMCCOM counsel and Thiokol counsel, Thiokol was again advised that the indemnification provision of the Operating Contract did not extend to work under the Flare Contract, and that the Flare Contract did not include an indemnification provision. Thiokol then unilaterally stopped work and commenced negotiations to add an indemnification provision to the contract. In May 1992, the Secretary authorized prospective indemnification.

Justification: Thiokol states that it performed the Flare Contract under the assumption that it was covered by the indemnification provision in the Operating Contract. This assumption was based upon the historical indemnification of operating contracts and the Secretary's execution, at about the time of the Flare Contract award, of the consolidated authorization for Operating Contract indemnification. Thiokol cites FAR Section 50.302-2, Correcting Mistakes, as authority for relief.

It asserts that the mistake was, or should have been, apparent to the contracting officer based upon historical dealings with the company.

Decision: The Secretary's November 14, 1990, memorandum authorizes AMCCOM to include an indemnification provision in operating contracts. It further authorizes contracting officers to extend coverage to subcontracts under operating contracts and to third party contracts when the ultimate purchaser of the items is an agency of the United States.

The memorandum did not address indemnification under other contracts between Thiokol and AMCCOM (such as the flare contract). Thus, it did not provide authority to include an indemnification provision in the flare contract.

We find no reasonable basis for Thiokol to have been misled by the memorandum. It clearly did not establish umbrella coverage for all hazardous activities undertaken by the Longhorn Division. It merely authorizes the extension of indemnification under specified circumstances. While it is conceivable that Thiokol may have been confused about whether its contract was a third party contract, it is unmistakably clear that the memorandum does not provide for self-operating extensions of coverage. Some action is required by the parties to implement the authority. It was incumbent upon Thiokol to initiate that action.

We also find no reasonable basis for Thiokol's assumption that it was covered by the Operating Contract indemnification provision. To the contrary we find ample reason to believe that Thiokol knew or should have known, that it was not covered by the Operating Contract. AMCCOM specifically advised Thiokol that it would require insurance because the Government would not be responsible for any risk of injuries sustained in contract performance. Thiokol responded with an assertion that it was covered by the Operating Contract as was further advised that it interpretation was accurate for equipment but not with regard to accidents resulting in injuries to employees. Although AMCCOM did not explicitly discuss the absence of an indemnification provision in the Flare Contract, we believe its actions were more than sufficient to put Thiokol on notice that employee injuries were not covered by either the Flare Contract or the Operating Contract.

There may be circumstances under which the Board would grant relief for liabilities related to an unindemnified contract, however, they are not presented by this request. Notwithstanding the importance of indemnification in munitions production, the Board must insist that the parties bear some minimum responsibilities in an arm's length bargain. To do otherwise would encourage laxity in important matters such as this. It is the Board's view that Thiokol bears the responsibility for assessing the risks associated with a contract and for requesting in-

demnification, if appropriate. Given the discussions concerning insurance, the sophistication of the applicant, and the unambiguous terms of the indemnification authorization, it is the unanimous view of the Board that relief is neither justified nor appropriate.

Contractor: MELA Associates, Incorporated.

Type of action: Implied Contract of "Fair Consideration".

Actual or estimated potential cost: $783,716.

Service and activity: U.S. Army Information Systems Selection and Acquisition Agency (ISSAA).

Description of product or service: Proposal preparation and other work directed by ISSAA.

Background: MELA Associates, Incorporated submitted an application for relief under Public law 85-804 through the U.S. Army Information Systems Selection and Acquisition Agency (ISSAA) for costs incurred in proposal preparation and other work directed by ISSAA in anticipation of a contract award. For the reasons set forth below, it is the unanimous view of the Board that relief should be granted in the amount of $783,716.

Statement of facts: Section 8(a) of the Small Business Act established a program that authorizes the Small Business Administration (SBA) to enter into contracts with other agencies and to subcontract the work to eligible businesses. Under this program the SBA may request a specific requirement from an agency for subcontracting to a particular firm. In October 1991, the SBA requested the Installation Transition Processing (ITP) project for MELA (a small, disadvantaged, woman-owned business). ISSAA agreed and commenced negotiations with MELA in December 1991.

The ITP project was intended to provide computer hardware and software in support of Army installations throughout the United States to process five sustaining base automation systems including (1) Installation Support Modules, (2) Standard Army Retail Supply Support Installation, (3) Standard Army Maintenance System/Table of Distribution and Allowances, (4) Standard Installation/Division Personnel System-3, and (5) Army Food Management Information Systems.

Because the Army was under tight time constraints to begin fielding systems under the ITP project, ISSAA directed MELA to begin performing a substantial amount of work related to the requirement in addition to submitting a proposal. This work included analyzing the Army's requirements, evaluating and testing alternative system designs, and configuring components to satisfy compatibility requirements to meet the ITP specialized information processing needs. Although no written agreement was executed, ISSAA expected to compensate MELA for these pre-contract costs after the contract was awarded. ISSAA's confidence in this arrangement was based upon the virtual certainty of a contract award after acceptance of a project by the SBA.

As it happens sometimes with virtual certainties, this one did not mature. In response to protests, the details of which are not relevant to this decision, the SBA determined that MELA did not satisfy the "regular dealer" requirements of the Walsh-Healy Act. Since MELA was no longer eligible for the award, ISSAA withdrew the ITP project from the 8(a) program on May 28, 1992, leaving MELA with dashed expectations and a host of uncompensated costs relating to the project.

Justification: In ACAB decision Nos. 1236 and 1237, Public Law 85-804 Applications of LDH Instandsetzungswerke and REM Ryder System-EWK GmbH, dated January 17, 1991, the Board determined that its authority to grant relief does not turn on the existence of an express, written contract. In that decision the Board authorized amendment of the implied contract of "fair consideration" created when an offeror submits a proposal in response to a government solicitation. The instant application differs from the LDH decision in that the contract resulting from the ITP solicitation would have been with a party (the SBA) other than the applicant. We believe, however, that there is little question that the parties to the implied contract of "fair consideration" are MELA and ISSAA. ISSAA requested the proposal and MELA furnished it. Thus, there is at least one contract available for adjustment by the Board.

Beyond the implied contract of "fair consideration," it is also likely that an implied (if not express) contract was created when ISSAA directed MELA to begin performance of the requirement with the expectation that MELA would be compensated after contract award. The likelihood of the latter contract raises an issue concerning the availability of other adequate relief authority within the Army (FAR Section 50.102(a)). Arguably, ISSAA could reduce to writing the action it has already taken.

We find that such relief, even if available, would be inadequate. ISSAA has noted that the line between proposal costs and the work it directed is not clear. Significant delay would be entailed in differentiating these costs. Because MELA is a small, disadvantaged business that has already borne many of these costs for over a year, we believe that additional delay would be inappropriate.

Decision: The Board finds that granting relief would facilitate the national defense. With regard to the work directed by ISSAA, the Army's interest in fairness demands immediate compensation. We also find that granting proposals costs are appropriate considering the unique circumstances of this application, i.e., that segregation of these costs would result in unacceptable delay, that MELA bears no responsibility for the turn of events that resulted in the withdrawal of the requirement, and that MELA is a small, disadvantaged business. Therefore, subject to the availability of funds to be obtained by ISSAA, and to the release by MELA of all claims against the Army arising out of, or related to, the ITP project, ISSAA is authorized and directed to formalize the implied contracts in a consolidated document and make payment in accordance with this decision.

The Board finds that granting relief would facilitate the national defense.

Contingent liabilities: None.

Contractor number: None.

DEPARTMENT OF THE NAVY

Contractor: Trident Marine Corporation.

Type of action: Amendment Without Consideration.

Actual potential cost: $1,062,347.00.

Service and activity: The Department of the Navy.

Description of product or service: Cleaning, abrasive blasting, and corrosion control services on Navy ships.

Background: The original request was submitted on May 3, 1991. The Contracting Officer requested additional information from the contractor on June 21, 1991. In addition, the Contracting Officer requested a Defense Contract Audit Service (DCAA) audit on May 21, 1992. Following receipt of additional information from the contractor and from DCAA, the Contracting Officer has forwarded the claim with a recommendation for denial.

The contractor, Trident Marine Corporation (Trident), 2305 56th Street, Hampton, Virginia, 23661, submitted the subject claim for $1,062,347 under contract N00189-89-D-0175. This is a fixed price, requirements-type contract for cleaning, abrasive blasting, and corrosion control services on Navy ships. By awarding a requirements contract, the Navy agreed that all requirements for this type of services would be fulfilled through this contract with Trident. The original contract included a base year and two one-year options for a total estimated value of $4,549,420. The contract was awarded on February 7, 1989, and expired on February 7, 1991, after the Government chose not to exercise the second option. Trident states that the shortage of delivery orders under the contract has caused substantial losses and has threatened the firm's viability.

The information in paragraph one provides sufficient basis for a final decision. Trident provided a Certified Public Accountant's (CPA) report to substantiate its position. DCAA performed an independent audit and compared its findings with those of the CPA.

Contracting personnel at Naval Supply Center (NSC), Norfolk, Virginia, indicate that Trident is not essential to the Navy's operations. The services performed under this contract are not highly technical in nature and could be performed by a number of other contractors. NSC awarded this contract based on full and open competition.

Justification: Trident bases their claim on five major factors. First, Trident claims that the Government caused them to incur excess labor costs to support the contract. Second, they claim that the contract required them to incur costs for a larger facility. Third, they claim that in order to perform, they had to lease additional equipment which remained idle. Fourth, they claim that they are entitled to lost profits. Finally, they claim that the Government delayed and disrupted performance of the contract.

Trident is requesting money to compensate them for each of the costs detailed in the above paragraph. However, the DCAA audit shows that Trident has no basis for the amounts it is requesting. The analysis below shows that the Government did not cause a loss in any of the claimed five areas.

Trident's claim regarding labor costs is based on three components: certification time for flame spray operators, salaries for quality assurance and program management personnel, and wages for idle workers kept on hand to staff the contract. As shown below, the facts do not support any of these components.

a. Although Trident personnel indicate that they had to train and certify 14 flame spray operators, their original proposal indicated they would only be using three operators, and that they already employed two of the three. Moreover, Trident has no time sheets or other labor records to support the number of hours claimed. Trident management personnel indicated that they have never used time sheets. However, they did submit time sheets to support their claim of Government delay.

b. Trident requests reimbursement for the salaries of two individuals—a quality assurance manager and a program manager. Trident cannot identify the individuals whose salaries it is requesting, nor does Trident have payroll records for these individuals.

c. Trident claims they employed eight workers full time for the entire two-year tenure of the contract. They request that the Government reimburse them completely for the cost of these workers. However, Trident has no time sheets or other labor records to support the cost of the workers. The fact is, Trident did receive orders under this contract, hence the workers could not have been idle. In addition, it is possible that Trident used these workers for other contracts.

With labor records documenting that these individuals were actually employed or that they were idle, the claim is unsubstantiated.

Trident requests money to cover the expense they incurred to lease a larger facility. However, Trident indicated in its original proposal in response to the solicitation that the existing facility would be adequate for performance of the contract. There is no evidence that the Government required them to move to a larger facility.

Trident requests reimbursement for a flame spray system and blast room that it leased for performance of the contract. As a result of a preaward survey and a Certificate of Competency investigation, Trident had to guarantee that it would acquire the needed equipment. Trident had a duty to show that it was a responsible offeror. Without the extra equipment, they would not have been responsible (they could not have performed successfully). Whether or not they included the cost for the equipment in their proposal, they must bear the cost for the equipment.

Trident included in its request an amount equal to ten percent of the estimated contract value to account for lost profits. However, the contractor received orders under the contract, which included profit in each line item. Trident is really asking for the profits it thought it would receive. FAR Section 50.302-1(b) indicates that the Government is not to adjust the contract price to account for a decrease in anticipated profits. Also, the estimated contract price already includes profit, so Trident would be collecting double profit.

Trident indicates that the Government delayed and disrupted work on three occasions. However, when DCAA questioned the validity of the claim and time sheets used to support it, Trident withdrew the portion of its claim related to allegations of delay and disruption.

Decision: a. Essentiality. FAR Section 50.302-1(a) states that the contract may be amended when the contractor's "continued operation as a source of supply is found to be essential to the national defense." NSC Norfolk contracting personnel indicate that Trident is not an essential source of supply. On the contrary, there are a number of sources for these services. Consequently, it was found that Trident is not essential to the national defense.

b. Government action. FAR Section 50.302-1(b) states that "when a contractor suffers a loss (not merely a decrease in anticipated profits) under a defense contract because of Government action . . . fairness may make some adjustment appropriate." First, Trident cannot show that it suffered a loss, because it has inadequate financial records. Second the alleged losses are not Government-caused, since these were financial risks of which the contractor was or should have been aware. Third, Trident has withdrawn the only direct claim of Government delay and disruption. Finally, Trident is attempting to recover anticipated profits, which is unacceptable. There is no evidence that a loss took place, or that Government action caused such a loss. It was, therefore, determined that the contractor did not suffer a loss because of Government action.

c. Conclusion. Since the contractor is not essential to the national defense, and since the Government did not cause the contractor to suffer a loss, the contractor is not entitled to an amendment without consideration under FAR Section 50.302-1.

Contractor: RD&D Corporation.

Types of action: Amendment Without Consideration.

Actual or estimated potential cost: $3,000,000.00.

Service and Activity:

Naval Regional Contracting Center, Washington.

Description of product or services: To build four extra-heavy duty lathes.

Backgound: The subject action is a request for Amendment Without Consideration under FAR Section 50.302-1. The request was originally submitted to the Naval Regional Contracting Center, Washington, on December 23, 1991, with necessary additional information provided to the Contracting Officer throughout much of 1992. After thorough analysis of the complete request, the Contracting Officer forwarded it with a recommendation for denial.

The contractor, RD&D Corporation (RD&D), 4693 Iroquois Avenue, Erie, Pennsylvania, claims that its costs to build four extra-heavy duty lathes under contracts N00600-87-C-0894 and N00600-87-C-1078 exceeded the total prices of the two contracts by $4,949,381, with attendant interest expense of $1,195,164.60. The request for adjustment is for $3,000,000, which RD&D described as the amount "sufficient to insure [sic] the company's viability." This is consistent with the statutory requirement that a contract may be amended without consideration, but only to the extent necessary to avoid impairment to the contractor's productive ability.

Justification: The fact that losses were incurred in performing Government contracts is not basis alone for exercising the authority of Public Law 85-804. RD&D, however, has cited both of the examples presented in FAR Section 50.302-1 as applicable in this case. The contractor asserts that it expended additional costs to construct lathes which, by complying with contract specifications, exceeded the Navy's real requirements; the claim is that Government insistence on infeasible specifications caused unnecessary rework and redesign effort. RD&D also claims that its losses, no matter how caused, impair its productive ability as a source of supply which is essential to the national defense, thereby entitling the firm to contract adjustments which would ensure its continued operation.

Technical issues of timing regarding submission RD&D's request are directly related to the issue of the firm having exhausted its administrative remedies. Contract adjustment is only authorized if the contractor submits its request before all obligations under the contract have been discharged and if it has exhausted all remedies available to it under the contract within the agency.

The subject matter of RD&D's claims (defective specifications and/or impracticability of performance) are matters routinely addressed and resolved by The Armed Services Board of Contract Appeals (ASBCA) pursuant to the Contract Disputes Act. However, it may be that RD&D's financial situation, in itself and as the wholly-owned subsidiary of a holding company (Sudbury, Inc., of Cleveland, Ohio) recently discharged from Chapter 11 bankruptcy with the expressed intent of selling RD&D, could be considered to require relief more quickly than could be obtained through the ASBCA.

Final payment had already been made on contract N00600-87-C-0894 before RD&D submitted its application for relief. But final payment for contract N00600-87-C-1078 was not made until several months after submission of the request. Since, however, the requested contract adjustment of $3,000,000.00 is not related directly to losses under either contract, but rather is stated to be the amount needed to maintain the productive capacity of the firm, consideration of the request as being related exclusively to contract 1078 would make it timely under Public Law 85-804.

RD&D asserts that its costs of performance for both contracts increased because of actions on the part of the Government. This assertion is summarized as: the Government's initial insistence on and prolonged adherence to a Headstock Horsepower drive of 100 H.P. 3 R.P.M. As a result of the Government's action in this regard, RD&D expended additional costs on engineering, design, material and work to construct lathes that were far more massive robust [sic], and sophisticated than necessary to meet the Navy's real requirements.

RD&D claims that it had to proceed with design and construction of the lathes "without the benefit of knowing the practical application of the specified capability," and that the Navy eventually "agreed to the relaxation of the 100 horsepower, 3 R.P.M. test requirement."

None of the three elements of this claim rises to the level of Government action which would result in relief under Public Law 85-804:

a. The Navy awarded contracts which contained performance specifications and test requirements. The specifications were written to satisfy the 50-year life cycle of necessary equipment, based on shipyard experience with current equipment and anticipated usage for known and expected materials comprising ship propeller shafts. The performance specifications were clear, unambiguous and achievable.

b. RD&D has stated that its offered prices for the two contracts were generally based on design and cost of a previously manufactured lathe. However, after the contracts were awarded, RD&D discovered that "a far more massive, complex and sophisticated design would be required." Over a two year period, RD&D completed an "iterative series of preliminary and critical design reviews" in order to "improve the probability that the machine would meet the 'letter' of the detailed specifications." Any costs which RD&D incurred in excess of the offered prices appear to have resulted from the firm having undertaken its in-depth engineering analysis after award of the contracts.

c. The lathes which RD&D delivered were accepted by the Navy as meeting the performance specifications of the contracts. The original test requirements were relaxed, by contract modification, at the request of the contractor; however, the purpose of the tests—to demonstrate that the equipment could perform as required—never changed.

In the alternative to the assertion that its losses were incurred due to Government action, RD&D contends that its contracts may be amended without consideration because it suffered losses—however caused—which impair is productive ability as a source of supply essential to the national defense.

The Navy does not consider RD&D to be an essential supplier. The four lathes delivered by RD&D, which represent all known re-

quirements for this type of equipment, have a 50-year useful life; no additional procurements are anticipated. While it may become necessary to relocate one or more of these lathes, RD&D's assistance would be useful but not necessary.

In accordance with FAR Section 50.305(d), all other Government agencies identified as having an interest in the issue of RD&D's essentiality to the national defense were requested to provide their advice. Their input was as follows:

a. The United States Department of Commerce, International Trade Administration, identified RD&D as "the only domestic supplier left" which manufactures a machine "that meets the requirement for shaft turning as solicited by the Navy." The Navy's needs, however, have already been met; other similar requirement, have already been met; other similar requirements, if there are any, can be met by several firms which the Department of Commerce concedes have "the capacity (facilities) to manufacture equipment comparable to the Navy's needs."

b. The Office of the Assistant Secretary of Defense, Production and Logistics, provided information on prior contracts performed by RD&D, but did not conduct an independent assessment of RD&D's "essentiality to the national defense industrial base" since that effort would duplicate the Navy's direct requests for information to military and civilian agencies.

c. The Department of the Army, for which RD&D has provided a substantial amount of equipment to Watervliet Arsenal, considers the contractor to be "a valuable supplier within a dwindling domestic base for machine tools," but not an essential supplier.

d. The National Aeronautics and Space Administration, George C. Marshall Space Flight Center, "cannot support a determination that RD&D Corporation is essential for the national defense." As a lower-tier subcontractor to both Martin Marietta Manned Space Systems and to Babcock & Wilcox, RD&D is a "cost and schedule advantageous source" for manufacture and rehabilitation of large machine tools. But alternate sources have been identified for all required work.

Decision: a. Government action. FAR Section 50.302-1(b) states that "when a contractor suffers a loss (not merely a decrease in anticipated profits) under a defense contract because of Government action . . . fairness may make some adjustment appropriate." In this case, award of a contract and insistence upon adherence to performance specifications do not represent actions which warrant that the contract price be adjusted in the interest of fairness.

Therefore, it is determined that the contractor did not suffer a loss because of Government action.

b. Essentiality. FAR Section 50.302-1(a) provides that a contract may be amended when a "loss under a defense contract, however caused, will impair the productive ability" of a contractor whose "continued operation as a source of supply is found to be essential to the national defense." RD&D, however, is not a unique supplier of items for which there is any known or anticipated requirement.

Therefore, it is determined that the contractor is not essential to the national defense.

c. Conclusion. Since the Government did not cause the contractor to suffer a loss under contracts N00600-87-C-0894 and N00600-87-C-1078, and since the contractor's continued operation is not essential to the national defense, the request of RD&D Corporation for amendment of these contracts without consideration is denied.

Contractor: Avondale Industries, Inc.

Type of action: Amendment Without Consideration.

Actual or estimated potential cost: $25,000,000.00.

Service and activity: The Department of the Navy.

Description of product or services: Detail design and construction of LSD (CV) 49-51 (N00024-88-C-2048).

Background: By letter of December 22, 1992, Avondale Industries, Inc. (Avondale), New Orleans, Louisiana, submitted a request under P.L. 85-804 seeking an Amendment Without Consideration of $25 million under its contract for detail design and construction of LSD (CV) 49-51 (N00024-88-C-2048). Avondale requests immediate relief to preclude an adverse opinion by its outside auditors, which would impair Avondale's current relationships with its creditors, and would, in all probability, force Avondale to seek protection of Federal bankruptcy laws. Avondale states that P.L. 85-804 relief is appropriate in that it has submitted requests for equitable adjustments under its contracts with the Navy for over $340 million, and these have not been resolved. The Naval Sea Systems Command (NAVSEA) forwarded this request by letter of March 1, 1993, to the Navy Contract Adjustment Board (NCAB) and recommended approval of the request.

Status of the Avondale Contracts: Avondale had a backlog of approximately $769 million in Navy contracts for ship construction and repair on September 30, 1992. The majority of this effort, associated with the T-AOs (N00024-88-C-2050) and the LSD (CV)s (N00024-88-2048) is expected to result in an overall loss, without consideration of the pending requests for equitable adjustment (REAs). Each of these contracts was awarded to Avondale after competitive bidding, with Avondale being the lowest responsive offeror.

Status of the REAs: In late 1991, Avondale informed NAVSEA that it was planning to submit a number of REAs in addition to those already submitted. These REAs amount to over $340 million, covering a number of NAVSEA contracts. NAVSEA promptly created an evaluation team consisting of appropriate technical, procurement and legal professionals. The last of these REAs was submitted in September 1992. The evaluation team is being assisted by the Defense Contract Audit Agency (DCAA) for audit support. Additional outside accounting and technical support is also being used to expedite the evaluation. Not including audit support some thirty Government personnel are dedicated to resolving these claims. Because of the number and the complexity of the claims, they cannot be immediately analyzed or resolved. Extensive technical analysis reports must be prepared and legal entitlement positions must be determined. This effort will require several months before NAVSEA will be in a position to make fair and reasonable proposals for resolving these REAs.

Current financial situation: Although Avondale is currently performing its contractual obligations, due to its outflow of cash to cover losses on Navy contracts and the time required to resolve the REAs, Avondale's cash flow position is such that if additional funds are not provided in 1993, it is forecasted that the Avondale cash position will be insufficient to meet operational requirements. NAVSEA has advised that Avondale is currently undergoing an annual financial audit by its independent auditors, which is required to be completed and submitted to the Securities and Exchange Commission by March 31, 1993. The auditors have indicated to Avondale and to NAVSEA that based on Avondale's projected financial condition, they will issue an opinion questioning Avondale's "going concern" status. Such a qualified opinion would breach certain of Avondale's credit agreements with its banks and would raise the realistic expectation that Avondale would seek protection under Federal bankruptcy laws. Avondale has also stated that such a qualified opinion would cause certain loans to be accelerated and become payable. In the event of bankruptcy, there is a real probability that Avondale will cease work on unprofitable contracts, and will seek to repudiate such contracts. Avondale has worked with its banks to restructure its debt. NAVSEA has assisted in this effort to restructure these arrangements. In addition, NAVSEA has already taken action to improve Avondale's cash flow by increasing progress payments to Avondale. The Assistant Secretary of the Navy (FM) approved unusual progress payments for Avondale on April 9, 1992. While current forecasts indicate that Avondale will have available cash until the June-November 1993 period, the auditors have indicated that they will be forced to issue a qualified opinion at the end of March 1993, unless additional sources of funding can be identified. NAVSEA has extensively reviewed these cash projections, and has presented them to the Navy Contract Adjustment Board. This situation compels the Navy to act at this point.

Consideration of alternatives: The following alternatives have been considered but are unsatisfactory for the reasons indicated. Take no action on the Avondale request and await the auditor's opinion. It's very probable that a qualified opinion will be issued, causing creditors to refuse further credit, consequently creating the potential that Avondale would seek the protection of Federal bankruptcy law. Actions after bankruptcy cannot be predicted. A contract can be assumed or rejected, and it's likely that Avondale would reject its larger loss contracts. The Navy would then have to take action to preserve the hull construction work, and find another contractor, or renegotiate with Avondale. These actions are both unsatisfactory from a planning standpoint and from a financial standpoint.

In the event of bankruptcy and rejection of certain contracts, the Navy would have to complete the work in another yard. Because of the large number of ships under repair or under construction, this is an impractical alternative. NAVSEA has performed an analysis of the cost to complete the ships under contract at other facilities and has estimated that it would cost approximately $532 million more than to have the ships completed by Avondale. In addition, based on recent experience in attempting to complete two other ships at another shipyard, this estimate is highly dependent on the ability of the new shipyard to schedule in such work, and the ability of the new shipyard to obtain necessary skilled labor and professional workforce. In addition to the cost of completion, significant delays can be expected. The Navy would have to select a completion contractor(s), arrange for transfer of the ships, materials and equipment, and provide for the transfer and review of necessary engineering products. Schedule slippages are therefore expected to be lengthy.

Await resolution of the REAs: The analysis of the REAs will not be completed in time to

yield significant cash settlements and to avert a qualified opinion. Since such an opinion will begin a train of events that will make obtaining additional credit difficult if not impossible, REA resolution will be too late to address the problem. At this point, twenty REAs have been submitted, totaling about $343 million. These REAs must be reviewed from a technical standpoint, resulting in a Technical Analysis Report (TAR). After TAR completion, a legal analysis is performed to determine whether entitlement has been demonstrated, and to provide NAVSEA with legal advice and recommendation in resolving the claims. This process has, as described above, been expedited, but due to the complexity of the REAs, immediate resolution is not possible.

Determinations: The Navy Contract Adjustment Board determines that it is essential to the national defense to grant immediate aid under P.L. 85-804 to resolve the immediate Avondale short term cash flow problems for the following reasons:

1. The completion of the ships are essential to the national defense. The Vice Chief of Naval Operations has affirmed the requirement for a fourth LSD (CV) class ship by letter dated December 11, 1992. This assumes completion of the existing vessels. In addition, the T-AO class is part of a long term operational requirement. Continuation of these ships is therefore crucial.

2. Absent P.L. 85-804 relief, Avondale will receive an opinion by its auditors that will question its going concern status. Such a qualified opinion will impair Avondale's ability to obtain loans and additional work, and impair the continuation or completion of the ships under construction.

3. A consideration of the alternatives reveals no practical or feasible alternatives. Completing the ships at another shipyard would add significant cost and undue schedule delay.

4. Immediate P.L. 85-804 relief will accomplish the objective of allowing Avondale to continue working into 1994, and permitting the resolution of the REA's.

Conclusion: Applicable regulations provide that no contract, amendments, or modifications shall be entered into under the authority of P.L. 85-804 unless other legal authority in the Department is deemed lacking or inadequate. In the current case, the financial situation of Avondale is such that absent immediate action, Avondale's credit will be impaired and it may seek protection from its creditors under the bankruptcy laws. This will result in unacceptable uncertainty, delay and possible work stoppage on essential Navy ship construction. Further, because of the complexity of the pending requests for equitable adjustment and the period of time necessary for evaluation and resolution, the NCAB considers the normal contract disputes resolution process inadequate to resolve Avondale's financial situation.

FAR Section 50.302-1(a) provides: "When an actual or threated loss under a defense contract, however caused, will impair the productive ability of a contractor whose continued performance on any defense contract . . . is found to be essential to the national defense, the contract may be amended without consideration, but only to extent necessary to avoid such impairment to the contractor's productive ability."

Decision: For the foregoing reasons, the NCAB has concluded that Avondale faces an actual or threatened loss which will impair its productive ability on contracts whose continued performance is essential to the national defense. The operating forces need the ships under construction. The relief of $25 million recommended by NAVSEA is considered adequate to supplement the ash flow position of Avondale to achieve the Navy's purpose of maintaining Avondale as a going concern until the analysis of the REAs is complete and an overall resolution of the REAs can be expected.

The Navy Contract Adjustment Board adopts the NAVSEA recommendations that this relief be conditioned as follows: the modification(s) preclude the use of any amounts in excess of $2 million provided pursuant to P.L. 85-804 for the payment of any principal on debt; funds are not authorized under P.L. 85-804 for payment to Avondale in the event Avondale's creditors attach any assets of Avondale, in the event any of Avondale's creditors initiate foreclosure proceedings on any secured debt, or in the event Avondale's creditors, or Avondale itself, files a petition for involuntary or voluntary bankruptcy; in the event that a settlement of the REAs is not achieved by mutual agreement, any amounts paid to Avondale pursuant to P.L. 85-804 shall offset any recovery ultimately obtained by Avondale through a court or board of contract appeals proceeding; and further provided that Avondale and its creditors ("the Bank Group") implement the "Key Terms and Conditions" in general accordance with the creditor's letter of February 5, 1993.

Accordingly, the Navy Contract Adjustment Board in the exercise of the authority delegated to it, grants an amendment without consideration under P.L. 85-804 in the amount of $25 million, and finds that this is essential to the national defense. The increase will be applied at the discretion of the contracting officer to avoid a negative cash flow. As requested by NAVSEA, the contracting officer is authorized to amend any or all of the current Navy contracts with Avondale, under which losses are occurring, as may be administratively convenient. The contracting officer shall provide for such internal controls and audits as are deemed necessary to validate appropriate use of this money.

Contingent liabilities

Provisions to indemnify contractors against liabilities because of claims for death, injury, or property damage arising from, nuclear radiation, use of high energy propellants, or other risks not covered by the Contractor's insurance program were included in these contracts; the potential cost of the liabilities cannot be estimated since the liability to the United States Government, if any, will depend upon the occurrence of an incident as described in the indemnification clause. Items procured are generally those associated with nuclear-powered vessels, nuclear armed missiles, experimental work with nuclear energy, handling of explosives, or performance in hazardous areas.

	Number
Contractor:	*Number*
Litton Systems, Inc.	1
Kearfott Guidance and Navigation Corp.	4
General Electric Company	3
Westinghouse Electric Corporation	3
General Dynamics Corporation, Electric Boat Division	1
Honeywell, Inc.	2
Raytheon Company	3
EG&G Reticon Corporation	1
Interstate Electronics Corporation	2
Martin Marietta Defense Systems	6
Lockheed Missiles & Space Company	7
Rockwell International Corporation	2
Paramax Systems Corporation	4
Vitro Corporation	1
Hughes Aircraft Company	6
McDonnell Douglas Aerospace	1
Newport News Shipbuilding and Drydock Company	1
Total	48

DEPARTMENT OF THE AIR FORCE

Contractor: Commercial Siding and Maintenance Company.

Type of action: Award New Contract.

Actual or estimated potential cost: $179,900.00.

Service and activity: Plattsburgh Air Force Base, New York.

Description of product or services: Replacement of Room on the F-111 Flight Simulator Building.

Background: Commercial Siding and Maintenance (CSM) was a subcontractor to L&H Development Corporation (L&H) under Contract No. F30636-87-C0742 to replace the roof on the F-111 Flight Simulator Building at Plattsburgh Air Force Base, New York. CSM claims it performed work under its contract with L&H, the prime contractor, but that L&H's owner disappeared and absconded with all the funds that L&H had received from the Air Force for work performed under the contract. CSM requests that the Air Force enter into a contract with it, reimbursing it for its out-of-pocket expenses of $179,900.00 that it claims it expended in performing its subcontract with L&H.

CSM failed to file suit under L&H's payment bond before the expiration of the statute of limitations under the Miller Act. In addition, CSM claims it did not bring suit directly against the prime contractor because it alleges that L&H had declared bankruptcy. (The Bankruptcy Notice submitted by CSM says that the name of the debtor is Donald L. Maracle, also known as an officer in L&H Development Corporation. While this notice does not show that L&H had declared bankruptcy, this fact is not relevant to the Board's decision.) Instead, CSM sought relief under P.L. 85-804 from the contracting officer. The contracting officer denied the request, concluding that the Air Force did not have privity of contract with CSM. CSM now seeks "to have a contract entered into between the U.S. Government and Commercial Siding as a subcontractor to provide payment for the outstanding balance due to Commercial Siding."

Justification: The Air Force, through its Air Force Contract Adjustment Board (Board), has decided to review the contracting officer's decision. Under the appropriate circumstances, and agency may grant relief to subcontractors. While such relief is normally granted by amendment to the prime contract, for the use and benefit of the subcontractor, relief, if warranted, may be granted directly to the subcontractor by directing the contracting officer to enter into a contract with the subcontractor for the purpose of effecting payment to the subcontractor.

CSM, as a subcontractor, seeks relief under the Board's authority to grant contract adjustments. Under Federal Acquisition Regulation (FAR) Section 50.302-1 (48 C.F.R. Section 50.302-1), which CSM quotes in its request, contract adjustments are authorized as follows:

When a contractor suffers a loss (not merely a decrease in anticipated profits) under a defense contract because of Government action, the character of the action will generally determine whether any adjustment in the contract will be made, and its extent. When the Government directs its action primarily at the contractor and acts in its capacity as the other contracting party, the contract may be adjusted in the interest of fairness. Thus, when Government action, while not creating any liability on the Government's part, increases performance cost and results in a loss to the contractor, fairness may make some adjustment appropriate.

CSM has not established that it is entitled to relief under FAR Section 50.302-1. It is essential, under FAR Section 50.302-1, that there be some Government action that causes harm to the contractor. No such action is present in the case of CSM. In the cases relied upon by CSM, contractors, including subcontractors, were provided relief because some type of Government conduct harmed the contractor.

In the present case, the Government did not engage in any action, or inaction, that harmed CSM. While CSM, in passing, alleges that "the government failed to ensure that the individual sureties possessed the requisite assets," this allegation is unproven and irrelevant.

In a supplement to its request, CSM alleges that "[p]art of the problem in the one (1) year [Miller Act statute of limitations] expiring was that the government was insisting on warranties which was part of the original contract. . . ." This allegation does not establish government action that has increased CSM's performance cost or that has resulted in a loss to CSM, as is required by FAR Section 50.302-1(b). Other than the accusation itself, CSM presents no evidence that the Government engaged in any action causing harm to CSM. Moreover, the allegation is irrelevant because CSM never sought relief from the surety.

CSM's inability to obtain payment is the result of its failure to file suit under the Miller Act, rather than any Government action. Although CSM argues that it is without any other legal remedy, CSM could have brought suit against L&H's surety. Congress enacted the Miller Act, 40 U.S.C.A Sections 270a-270d (West 1986), to protect subcontractors from prime contractors who do not pay for work performed on a government contract. Section 270a of the Miller Act provides that the prime contractor must post a payment bond to guarantee payment of the subcontractors.

If the subcontractor is not paid, then it may sue on the bond in federal district court, but the suit must be commenced within one year after the day on which the last labor was performed or material supplied. 40 U.S.C.A Section 270b (West 1986).

Decision: The Board has granted the request for review, but denies relief. CSM has failed to establish that it is entitled to relief under P.L. 85-804. Any loss that CSM has suffered is due to the conduct of the prime contractor and its failure to seek relief under the Miller Act or against L&H. Because CSM has failed to show that Government action contributed to its loss, relief under P.L. 85-804 and FAR Section 50.312-1 is inappropriate. All members of the Board concur in this decision.

Contingent liabilities

Provisions to indemnify contractors against liabilities because of claims for death, injury, or property damage arising from nuclear radiation, use of high energy propellants, or other risks not covered by the contractor's insurance program were included in one contract; the potential cost of the liabilities cannot be estimated since the liability to the United States Government, if any, will depend upon the occurrence of an incident as described in the indemnification clause.

Contractor:

	Number
McDonnell Douglas Space Systems Company (DELTA II Program)	1
Civil Reserve Air Fleet (Somalia)	1
Civil Reserve Air Fleet (Southwest Asia)	1
Total	[1]3

[1]Two additional indemnifications were approved; however, the Air Force has deemed them to be "classified," not subject to this report's purview.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2794. A communication from the President of the United States, transmitting a request to make available appropriations in budget authority for the Department of Commerce, pursuant to Public Law 99-177, sec. 251(b)(2)(D)(i) (H. Doc. No. 103-225); to the Committee on Appropriations and ordered to be printed.

2795. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report involving United States exports to Russia, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Banking, Finance and Urban Affairs.

2796. A letter from the Executive Director, Thrift Depositor Protection Oversight Board, transmitting a report pursuant to section 21A(k)(9) of the Federal Home Loan Bank Act; to the Committee on Banking, Finance and Urban Affairs.

2797. A letter from the Deputy Director, Defense Security Assistance Agency, transmitting notification of the Department of the Navy's proposed Letter(s) of Offer and Acceptance [LOA] to Greece for defense articles and services (Transmittal No. 94-15), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

2798. A letter from the Director, Office of Management and Budget, transmitting OMB estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1998 resulting from passage of H.R. 2339, pursuant to Pub. L. 101-508, Sec. 13101(a) (104 State. 1388-582); to the Committee on Government Operations.

2799. A letter from the Director for Administration and Management, Office of the Secretary of Defense, transmitting the calendar year 1993 report on "Extraordinary Contractual Actions to Facilitate the National Defense," pursuant to 50 U.S.C. 1434; to the Committee on Government Operations.

2800. A letter from the Comptroller General, General Accounting Office, transmitting the list of all reports issued or released in February 1994, pursuant to 31 U.S.C. 719(h); to the Committee on Government Operations.

2801. A letter from the Vice President, Corporation for National and Community Service, transmitting a report of activities under the Freedom of Information Act for calendar year 1993, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2802. A letter from the General Manager, Defense Nuclear Facilities Safety Board, transmitting a report of activities under the Freedom of Information Act for calendar year 1993, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2803. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a report of activities under the Freedom of Information Act for calendar year 1993, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2804. A letter from the Director, Officer of Science and Technology Policy, transmitting a report of activities under the Freedom of Information Act for calendar year 1993, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2805. A letter from the Secretary of Defense, transmitting a statement of assurance regarding the internal controls and financial systems for fiscal year 1993, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2806. A letter from the Senior Attorney, U.S. Copyright Office, transmitting a report of activities under the Freedom of Information Act for calendar year 1993, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2807. A letter from the Deputy Director, U.S. Office of Government Ethics, transmitting a report of activities under the Freedom of Information Act for calendar year 1993, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2808. A letter from the Secretary of Defense, transmitting his views on the balanced budget amendment; to the Committee on the Judiciary.

2809. A letter from the Administrator, Federal Aviation Administration, transmitting the final report on assessment of threats to domestic airport security, pursuant to Public Law 101-604, section 106(d) (104 Stat. 3075); to the Committee on Public Works and Transportation.

2810. A letter from the Secretary, Department of Veterans Affairs, transmitting the 1993 annual report of the activities of the Secretary of Veterans Affairs, and the Veterans' Advisory Committee on Rehabilitation annual report, fiscal year 1993, pursuant to 38 U.S.C. 214, 221(c), 664 and 3121(c); to the Committee on Veterans' Affairs.

2811. A letter from the Secretary of Veterans, transmitting a draft of proposed legislation to amend title 38, United States Code, to clarify the coverage and protection provided to medical quality assurance records by section 5705 of that title; jointly, to the Committees on Veterans' Affairs and Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. GONZALEZ: Committee on Banking, Finance and Urban Affairs. H.R. 3235. A bill to amend subchapter II of chapter 53 of title 31, United States Code, to improve enforcement of antimoney laundering laws, and for other purposes; with an amendment (Rept. 103-438). Referred to the Committee of the Whole House on the State of the Union.

Mr. STUDDS: Committee on Merchant Marine and Fisheries. H.R. 2760. A bill to authorize the Marine Mammal Protection Act

for a period of 6 years, to establish a new regime to govern the incidental taking of marine mammals in the course of commercial fishing operations, and for other purposes; with amendments (Rept. 103-439). Referred to the Committee of the Whole House on the State of the Union.

Mr. STUDDS: Committee on Merchant Marine and Fisheries. H.R. 3360. A bill to direct the Secretary of Transportation to demonstrate on vessels ballast water management technologies and practices, including vessel modification and design, that will prevent aquatic nonindigenous species from being introduced and spread in U.S. waters; with an amendment (Rept. 103-440). Referred to the Committee of the Whole House on the State of the Union.

Mr. STUDDS: Committee on Merchant Marine and Fisheries. H.R. 3886. A bill to amend the boundaries of the Flower Garden Banks National Marine Sanctuary (Rept. 103-441). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee of Conference. Conference report on S. 1284. An act to amend the Developmental Disabilities Assistance and Bill of Rights Act to expand or modify certain provisions relating to programs for certain individuals with developmental disabilities, Federal assistance for priority area activities for individuals with developmental disabilities, protection and advocacy of individual rights, university affiliated programs, and projects of national significance, and for other purposes (Rept. 103-442). Ordered to be printed.

Mr. MILLER of California: Committee on Natural Resources. S. 1574. An act to authorize appropriations for the Coastal Heritage Trail Route in the State of New Jersey, and for other purposes; with an amendment (Rept. 103-443). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Natural Resources. H.R. 4034. A bill to amend the Urban Park and Recreation Recovery Act of 1978 to authorize grants for the expansion of recreation opportunities for at risk youth in urban areas with a high prevalence of crime, and for other purposes; with an amendment (Rept. 103-444). Referred to the Committee of the Whole House on the State of the Union.

Mr. STUDDS: Committee on Merchant Marine and Fisheries. H.R. 3786. A bill to amend title 46, United States Code, to establish requirements to ensure safe operation of recreational vessels, to require allocation of State recreational boating safety program assistance based on State adoption of laws regarding boating while intoxicated, and for other purposes (Rept. 103-445). Referred to the Committee of the Whole House on the State of the Union.

Mr. FORD of Michigan: Committee of Conference. Conference report on H.R. 1804. A bill to improve learning and teaching by providing a national framework for education reform; to promote the research, consensus building, and systemic changes needed to ensure equitable educational opportunities and high levels of educational achievement for all American students; to provide a framework for reauthorization of all Federal education programs; to promote the development and adoption of a voluntary national system of skill standards and certifications, and for other purposes (Rept. 103-446). Ordered to be printed.

Mr. DERRICK: Committee on Rules. House Resolution 393. Resolution waiving points of order against the conference report to accompany the bill (H.R. 1804) to improve learning and teaching by providing a national framework for education reform; to promote the research, consensus building, and systemic changes needed to ensure equitable educational opportunities and high level of educational achievement for all American students; to provide a framework for reauthorization of all Federal education programs; to promote the development and adoption of a voluntary national system of skill standards and certifications, and for other purposes (Rept. 103-447).

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BILIRAKIS:

H.R. 4094. A bill to require that a study be conducted with respect to the medical benefits and services that are available to individuals by virtue of being Members of Congress; to the Committee on House Administration.

By Mrs. FOWLER:

H.R. 4095. A bill to repeal the Medicare and Medicaid coverage data bank, and for other purposes; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. HILLIARD:

H.R. 4096. A bill to ensure that certain unresolved commercial disputes between American firms and Saudi Arabia are resolved satisfactorily; to the Committee on Foreign Affairs.

By Mr. LEACH:

H.R. 4097. A bill to reform the Federal regulation of depository institution service corporations; to the Committee on Banking, Finance and Urban Affairs.

By Mr. MONTGOMERY:

H.R. 4098. A bill to suspend through September 30, 1995, the duty on certain textile manufacturing machinery; to the Committee on Ways and Means.

By Mr. MORAN:

H.R. 4099. A bill to amend the Internal Revenue Code of 1986 to index the basis of certain assets for purposes of determining gain; to the Committee on Ways and Means.

By Mr. PORTER:

H.R. 4100. A bill to limit the *Seawolf* submarine program to two vessels and to limit the costs of procurement of those vessels; to the Committee on Armed Services.

By Mr. SANGMEISTER (for himself, Mr. LIPINSKI, and Mr. COSTELLO:

H.R. 4101. A bill to amend title 28, United States Code, to create a southern division in the Northern Judicial District of Illinois; to the Committee on the Judiciary.

By Mr. BARCA of Wisconsin:

H. Con. Res. 228. Concurrent resolution expressing the sense of Congress with respect to violence against truckers; to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

314. By the SPEAKER: Memorial of the Legislature of the State of Washington, relative to the Washington State Rural Development Council; to the Committee on Agriculture.

315. Also, memorial of the Legislature of the State of Washington, relative to disabled veterans; to the Committee on Armed Services.

316. Also, memorial of the Legislature of the State of Washington, relative to allowing States to require a notice requirement before imposing a Federal lien on real property; to the Committee on Ways and Means.

317. Also, memorial of the Legislature of the State of Washington, relative to employment security system funding; jointly, to the Committees on Education and Labor, Ways and Means, and Government Operations.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. McCOLLUM introduced a bill (H.R. 4102) for the relief of Jacques H. Mims; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 302: Mr. PETERSON of Florida.
H.R. 412: Mr. BACHUS of Alabama.
H.R. 567: Mr. GILCHREST.
H.R. 587: Mr. MINETA.
H.R. 885: Mr. BROWN of Ohio.
H.R. 911: Mr. LEVY.
H.R. 998: Mr. TORKILDSEN.
H.R. 1309: Mr. PAYNE of Virginia.
H.R. 1342: Mr. JOHNSTON of Florida.
H.R. 1438: Mrs. MEYERS of Kansas.
H.R. 1517: Ms. WOOLSEY.
H.R. 1712: Mr. PAXON.
H.R. 1719: Mr. FIELDS of Texas, Mr. SAM JOHNSON OF TEXAS and Mr. CALVERT.
H.R. 1906: Mrs. MALONEY.
H.R. 1910: Mr. BARRETT of Nebraska.
H.R. 2741: Mr. NADLER.
H.R. 2873: Mr. BAESLER, Mr. McKEON, Mr. LIVINGSTON, Mr. PASTOR, and Mr. BARLOW.
H.R. 2898: Mr. McDERMOTT.
H.R. 2930: Ms. EDDIE BERNICE JOHNSON of Texas, Mr. DE LUGO, Mr. BLACKWELL, and Mr. BONIOR.
H.R. 2951: Mr. DICKEY.
H.R. 2995: Ms. FURSE.
H.R. 3023: Mr. DEAL, Mr. TORRES, Mr. DUNCAN, Mr. DIAZ-BALART, Mr. BONILLA, and Mr. TANNER.
H.R. 3246: Mr. BILBRAY, Mr. BURTON of Indiana, Mr. COMBEST, Ms. DANNER, Mr. DEFAZIO, Mr. EWING, Mr. GRAMS, Mr. HUTTO, Mr. LANCASTER, Mr. MANZULLO, Mr. OLVER, Mr. RICHARDSON, Mr. ROWLAND, and Ms. SNOWE.
H.R. 3266: Mr. WYDEN, Mr. BARCIA of Michigan, Mr. DIAZ-BALART, Mrs. ROUKEMA, Mr. GENE GREEN of Texas, Mr. ROBERTS, Mr. FIELDS of Texas, Mr. BARCA of Wisconsin, Mr. HANSEN, Ms. DANNER, Mr. GILMAN, Mr. BAESLER, Mr. JOHNSON of Georgia, Mr. PARKER, Mr. PETERSON of Florida, Mr. McCRERY, Mr. ROTH, Mr. SKEEN, Mr. SMITH of Oregon, Mr. SPENCE, Ms. SCHENK, Mr. MANN, Mr. GRAMS, Mr. LEWIS of Florida, Mr. SARPALIUS, Mr. BATEMAN, Mr. CALLAHAN, Mr. CLINGER, Mrs. BENTLEY, Mr. INSLEE, Mr. FISH, Mr. SCHAEFER, and Mr. LEVY.
H.R. 3288: Mr. FOGLIETTA.
H.R. 3293: Mr. SKEEN and Mr. EVANS.
H.R. 3302: Mrs. MEYERS of Kansas.
H.R. 3320: Mr. CALVERT and Mr. HAYES.
H.R. 3328: Mr. GOODLATTE.
H.R. 3333: Mr. BAKER of California.
H.R. 3365: Mr. DEUTSCH and Ms. DELAURO.
H.R. 3367: Mr. BARTON of Texas, Mr. KNOLLENBERG, Mr. McDADE, Mr. HASTERT, Mr. HEFLEY, Mr. BREWSTER, Mr. BROWDER, Mr. LEVY, Mr. POSHARD, Mr. CRAPO, and Mr. McCANDLESS.

H.R. 3386: Mr. LINDER and Mr. BAKER of Louisiana.

H.R. 3481: Mr. CLAY and Mr. JACOBS.

H.R. 3490: Mr. STENHOLM.

H.R. 3513: Mr. LEVIN, Mr. RAMSTAD, and Mr. KLEIN.

H.R. 3704: Mr. HOBSON.

H.R. 3805: Mr. SAXTON.

H.R. 3810: Mrs. THURMAN, Mr. COLEMAN, and Mr. MURPHY.

H.R. 3841: Mr. HINCHEY.

H.R. 3845: Mr. DEFAZIO, Mr. SYNAR, Mr. CASTLE, and Ms. SHEPHERD.

H.R. 3851: Mr. CAMP, Mr. GEKAS, Mr. YOUNG of Alaska, Mr. GRAMS, Mr. MCCANDLESS, Mr. TORKILDSEN, Mr. GENE GREEN of Texas, Mr. FISH, Mr. CHAPMAN, Mr. BARCIA of Michigan, Mr. HOKE, Mr. WELDON, Mr. SENSENBRENNER, Mr. GINGRICH, Mr. ROHRABACHER, Mr. HYDE, and Mr. ZIMMER.

H.R. 3866: Mr. HILLIARD, Mr. BRYANT, Ms. BYRNE, Mr. MINGE, Mr. BLACKWELL, and Mrs. CLAYTON.

H.R. 3872: Mr. GENE GREEN of Texas, Mr. FAZIO, and Mr. HERGER.

H.R. 3875: Mr. HANCOCK, Mr. EVERETT, Mr. BAKER of Louisiana, Mr. LIGHTFOOT, Mr. BARCIA of Michigan, Mr. BATEMAN, Mr. SKEEN, and Mr. INGLIS of South Carolina.

H.R. 3895: Mr. HUNTER and Mr. TAYLOR of North Carolina.

H.R. 3900: Mr. BONIOR, Mr. FALEOMAVAEGA, Mr. FILNER, Mr. JACOBS, Mr. LAFALCE, Mr. MARTINEZ, Mr. MILLER of California, Mr. PALLONE, Mr. RAHALL, Mr. SPRATT, and Mr. STOKES.

H.R. 3923: Mr. BARTLETT of Maryland.

H.R. 3926: Mr. LEVY, Mr. HUGHES, and Mr. MENENDEZ.

H.R. 3951: Mr. BOUCHER, Mr. STUPAK, Mr. WILSON, and Mr. POSHARD.

H.R. 3986: Mrs. THURMAN, Mr. WOLF, Mr. LAUGHLIN, Ms. LAMBERT, Mr. BARRETT of Wisconsin, Mr. PETRI, Ms. DANNER, and Mr. LINDER.

H.R. 3992: Mr. STUMP, Mr. DEFAZIO, Mr. DELAY, Mr. HANCOCK, and Mr. DUNCAN.

H.R. 3993: Mr. LANTOS and Ms. BYRNE.

H.R. 3994: Mr. LEVY.

H.R. 4024: Ms. ROYBAL-ALLARD, Mr. HINCHEY, Mr. FILNER, and Mr. ABERCROMBIE.

H.R. 4030: Mr. MCHALE.

H.R. 4034: Mr. NEAL of Massachusetts, Mr. HILLIARD, Mr. TEJEDA, Mr. HALL of Ohio, Mr. COLEMAN, Mr. EDWARDS of California, Ms. NORTON, Mr. FLAKE, and Mr. FARR.

H.R. 4036: Mr. SMITH of New Jersey, Mr. BLUTE, and Mr. ACKERMAN.

H.R. 4050: Mr. BRYANT and Mr. HINCHEY.

H.R. 4073: Mr. COYNE.

H.R. 4078: Mr. SKEEN.

H.J. Res. 253: Mrs. MALONEY, Mr. ENGEL, Mr. DEFAZIO, Mr. CRAPO, Mr. BROWDER, Mr. DUNCAN, Mr. WAXMAN, Mr. JACOBS, Mr. GUNDERSON, Mr. BILBRAY, Mr. CALLAHAN, and Mrs. THURMAN.

H.J. Res. 291: Mr. COSTELLO, Mr. SWIFT, Mr. BARRETT of Nebraska, Mr. PETERSON of Minnesota, Mr. MCKEON, Mr. FINGERHUT, Mr. INSLEE, Mr. DIXON, Ms. DUNN, Mr. EDWARDS of Texas, Mr. JOHNSON of Georgia, Mr. WHITTEN, Mr. VOLKMER, Mr. GLICKMAN, Mr. PRICE of North Carolina, Ms. DANNER, Ms. LAMBERT, Mr. OBERSTAR, Mr. PASTOR, Mr. PAYNE of Virginia, Mr. ROEMER, Ms. SLAUGHTER, Mr. STEARNS, Mr. TANNER, Mrs. VUCANOVICH, Mr. ABERCROMBIE, Mr. ACKERMAN, Mr. BAKER of California, Mr. BAKER of Louisiana, Mr. BALLENGER, Mr. BARCA of Wisconsin, Mr. BARCIA of Michigan, Mr. BARTLETT of Maryland, Mr. BILBRAY, Mr. BLACKWELL, Mr. BREWSTER, Mr. BROOKS, Mr. BROWN of Ohio, Mr. BRYANT, Ms. BYRNE, Mr. CALLAHAN, Mr. CALVERT, Mr. COLEMAN, Mr. CONDIT, Mr. CONYERS, Mr. COPPERSMITH, Mr. DEAL, Mr. DE LUGO, Mr. DELAY, Mr. DEUTSCH, Mr. DIAZ-BALART, Mr. DOOLEY, Mr. FRANK of Massachusetts, Mr. GEJDENSON, Mr. PETE GEREN of Texas, Mr. GONZALEZ, Mr. GUTIERREZ, Mr. HILLIARD, Mr. HINCHEY, Mr. HORN, Mr. HOUGHTON, Mr. KANJORSKI, Ms. KAPTUR, Mr. KASICH, Mr. KENNEDY, Mr. KIM, Mr. LAROCCO, Mr. MCCRERY, Mr. MACHTLEY, Mrs. MALONEY, Ms. MARGOLIES-MEZVINSKY, Mr. MILLER of Florida, Mr. MINETA, Mr. MOLLOHAN, Mrs. MORELLA, Mr. MURTHA, Mr. BURTON of Indiana, Mr. DARDEN, Mr. DOOLITTLE, Mr. GILMAN, Mr. KINGSTON, Mr. LEVIN, Mr. MCCLOSKEY, Mr. MARKEY, Mr. MEEHAN, Mr. MFUME, Mr. MILLER of California, Mr. MOAKLEY, Mr. SKELTON, Mr. SPRATT, and Mr. TORRES. Mr. MORAN, MR. MYERS of Indiana, Mr. QUINN, Mr. ROBERTS,

H.J. Res. 297: Ms. COLLINS of Michigan, Mr. HILLIARD, and Mr. WILSON.

H.J. Res. 317: Mr. STUPAK and Mr. BONIOR.

H.J. Res. 329: Mr. SKEEN, Mrs. MEYERS of Kansas, Mr. TORKILDSEN, Mr. HOKE, Mr. PICKETT, Mr. BEVILL, Mr. LIPINSKI, Ms. PRYCE of Ohio, Mr. GORDON, Ms. COLLINS of Michigan, and Mr. MARTINEZ.

H.J. Res. 333: Mr. FROST, Ms. SCHENK, Mr. BATEMAN, Mr. TRAFICANT, Mr. FAWELL, Mr. DIAZ-BALART, Mrs. THURMAN, Mr. FRANK of Massachusetts, Mr. LANTOS, Mr. WAXMAN, and Mr. SYNAR.

H. Con. Res. 147: Mr. GEJDENSON.

H. Con. Res. 199: Mr. MANZULLO, Mr. ROHRABACHER, Mr. ROYCE, Mr. CANADY, Mr. MCCRERY, Mr. PORTER, Mr. MCDADE, Mr. QUINN, Mr. LAFALCE, Mr. PAXON, Mr. MCKEON, Mr. GILLMOR, Mr. BAKER of Louisiana, Mr. EVERETT, Ms. DUNN, Mr. THOMAS of California, Mr. MOORHEAD, Mr. DIAZ-BALART, Mr. BEILENSON, Mr. OWENS, Mr. BATEMAN, Mr. KYL, and Mr. BILBRAY.

H. Con. Res. 202: Mr. SLATTERY.

H. Res. 247: Mr. EHLERS, Mr. YOUNG of Alaska, and Mr. MINGE.

H. Res. 270: Mr. LEVY.

H. Res. 383: Mr. ROHRABACHER and Mr. WALSH.

H. Res. 390: Mr. DINGELL.

EXTENSIONS OF REMARKS

CHINA: THE EMERGING ECONOMIC COLOSSUS

HON. NANCY L. JOHNSON
OF CONNECTICUT
IN THE HOUSE OF REPRESENTATIVES

Monday, March 21, 1994

Mrs. JOHNSON of Connecticut. Mr. Speaker, I am pleased to share with my colleagues a very thoughtful speech delivered by former Commerce Secretary and my Bristol, CT, constituent, Barbara Hackman Franklin. In her remarks, Ms. Franklin gives us considerable material to ponder as we examine the importance of international trade in general and with China in particular.

CHINA: THE EMERGING ECONOMIC COLOSSUS

(By Hon. Barbara Hackman Franklin, Former U.S. Secretary of Commerce)

CHINA

China has always held a special intrigue for westerners. I am no exception. This vast populous country is thought by many to have the oldest culture on Earth. Certainly it was the center of Eastern civilization. Many Asian neighbors drew upon China as the source of their written language, religion, philosophy and style of living. It was already a sophisticated society when Marco Polo traveled there in the fourteenth century, bringing back such treasures as silk, tea, spices, noodles, fireworks, exquisite porcelain, and wood block printing.

But this special fascination has not translated into a smooth and predictable relationship over the past few centuries. To us, China has been alternately open, then closed, and then reopened again. The result is that we do not understand China very well—its ancient culture, its history, its people, way of life, political structure or place in today's world. But, our fascination persists, perhaps because we have a sixth sense about—and emotional reaction to—the huge sleeping giant on the other side of the world.

Now the sleeping giant has awakened. It is increasingly important—even urgent—that we understand this unusual country, which could eclipse the United States in the size of its economy in the early part of the next century. I believe we have reached a defining moment in our relationship with China.

THE HISTORY OF THE U.S.-CHINA RELATIONSHIP

Ever since Hong Kong was established—back in the days of clipper ships when trade with China flourished—the United States was engaged, along with Europe, in China. But having existed as a self-contained society for many centuries, China did not move easily into a cooperative relationship with the nations of the West.

Restriction of trade to specific ports in the eighteenth and nineteenth centuries, the Boxer Rebellion, the limit on trade by the mandarins in the early 20th century, the Japanese occupation before and during World War II, the brief reopening under Chiang Kai-shek, and the quick retreat behind the walls of communism in 1949—these are some of the more notable instances of the on-again, off-again flirtation China has had with the West.

It has only been since Richard Nixon's trip in 1972 that China has again been reopened to the U.S. And even though George Bush was sent to establish a liaison office after the Nixon visit, it was not until 1979, in Jimmy Carter's Presidency, that the U.S. officially recognized China.

U.S.-China trade resumed in 1972, but remained minimal until 1979 when China's "open door" policy began. China launched its economic reforms, made efforts to attract foreign investment, and created Special Economic Zones. In 1980, the U.S. accorded China Most Favored Nation trading status. Under our laws, this status must be renewed annually. It has become harder to do this every year because of the growing pressure to link MFN for China with progress in human rights.

In 1983, in the Reagan years, we took our commercial relationship one step further. The Joint Commission on Commerce and Trade was begun—Malcolm Baldrige was Secretary of Commerce—to provide a government-to-government channel to increase business activity and handle problems.

As freer markets and economic growth progressed, so too did the move toward more political freedom. A high water mark was reached when the democracy movement was put down forcefully at Tienanmen Square in 1989. As a result, the U.S. and a number of other countries imposed sanctions. The U.S. imposed six—prohibiting military contacts and sales, high level government contacts and government backed financial support for trade and investment, among other things. Once again, China openness took a backward step.

Moves to normalize relations inched forward in 1992. Three new market opening agreements were signed and were the first step toward "reopening" China for commercial activity. A trip I made last December, at the request of President Bush, was another "reopening" step. It also removed one of the sanctions—the one prohibiting high-level government contacts between China and the United States. Others remained, and today the U.S. is the only country still maintaining sanctions against China that are linked to the Tienanmen Square tragedy.

CHINA'S PLACE IN THE WORLD TODAY

Today, China is a country in transition. Much change is occurring—economically, politically and socially. And the course of the change is not always smooth or even; semi-controlled chaos might be one way to describe it. But the outcome has tremendous significance for us in the United States as well as for all the rest of the world.

China is the world's most populous country—1.2 billion people. This statistic alone gives China great weight in the community of nations, but there are other reasons that it has tremendous strategic importance.

Its geography is one. China is the geographic center of Asia. It shares a border with 14 different countries—Russia, India, Pakistan, North Korea, Vietnam, Laos, Burma (now Myanmar), Mongolia and Nepal, to name a few. China has more common borders than any other country in the world.

China also has a significant role in political and security terms. It has one of the seven permanent seats on the United Nations Security Council. This means China has a voice—and a veto—over the decisions made by this organization, mainly involving peace-keeping missions the nations of the world should undertake and how to conduct them.

Finally, and most importantly, we now have China's escalating economic clout. China's economy is the fastest growing large economy in the world. The International Monetary Fund already ranks China as the third largest economy in the world, behind the U.S. and Japan. Predictions are that the Chinese economy will grow between 13 and 14 percent this year despite stringent efforts to rein it in and cool it down. This is after a 12 percent growth rate last year.

No end is in sight. Economists around the world expect China's economy to continue growing at least 6 to 8 percent annually for the next 10 years. In contrast, growth rates for industrialized countries, including the United States, are predicted to remain at only 2 to 3 percent for at least the next five years. This means that China could overtake the U.S. as the world's largest economy within the next decade.

Right now, China is the largest market in the world—for aircraft, for telephones, for construction equipment and, increasingly, for consumer goods. The country needs virtually everything we produce and sell. And demand is growing rapidly. In cities like Shenzhen, one of the first special economic zones located in the south of China just across the border from Hong Kong, one can stand on the street corner and feel the dynamism and the energy as the Chinese people build another Hong Kong. I have never before seen and felt that kind of dynamic growth in any other place.

However, there are still contradictions. Some parts of China, especially in the north and west, have not yet been touched by the freedom of the special economic zones. They are not as advanced nor prosperous. But, one thing is clear—the Chinese want to advance, to prosper, to accumulate wealth.

The economic promise of China is heightened by Hong Kong and Taiwan.

Hong Kong will revert to China from Britain in 1997. Though there are ongoing controversies between China and Britain about how much democracy there should be in Hong Kong's governance, I believe, that in the end, the reversion will take place without incident. Hong Kong is by far the largest investor in China, and the economies of the two are unmistakably intertwined.

Taiwan is the second largest investor in China today. The people of Taiwan have done well economically since the Nationalist Chinese retreated there after the Communists assumed control of mainland China in 1949. And while tensions and political differences still exist between China and Taiwan, economic ties are flourishing. If one day in the next century Taiwan and China should decide to join together again, that would further accelerate the dynamism and size of the Chinese economy.

So, for all these reasons—population, geography, politics, and especially, economic potential—China must be reckoned with and understood.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

I came away from my trip there last year more convinced than ever that we must remain engaged in China. This is the only way the United States can hope to influence the direction of change and help ensure a positive outcome—a market-oriented economy paired with a more open and free society.

However, there are others who think differently. There are a number of people, historically and now, who think the U.S. should not have contact or do business with China. There are those who are concerned about China's human rights record, such things as imprisonment of dissidents, use of prison labor to produce products for export, and coercive birth control measures. There are others who think we should not deal with any regime that is Communist, and therefore, an enemy. And, there are still others in our intelligence and defense establishments, who see a threat in China's military modernization and arms sales to other nations.

This jumble of attitudes and opinions about China and what the U.S.-China relationship should be made for a complex situation here at home.

MY MISSION TO CHINA, DECEMBER, 1992

Let me talk for a moment about my trip to China, where it fits into this mosaic, and what it accomplished.

Just after the 1992 election, President Bush asked me to go to China to reconvene the Joint Commission on Commerce and Trade with my counterpart Li Lanqing, then head of the Ministry of Foreign Economics and Trade. (He has since been elevated to Vice Premier and the Ministry has been renamed the Ministry of Foreign Trade and Economic Relations.) The Commission had been moribund since 1989 because of the sanction barring ministerial contact with China. As I said before, my trip lifted that sanction. It was the first Cabinet-level contact since Tienanmen Square.

As I also mentioned before, the trip was the next logical step in normalizing the U.S.-China commercial relationship, following the signing of three new market-opening agreements. These agreements dealt with market access, protection of intellectual property and a prohibition against using prison labor to make products for export to the U.S. The trip's objective was the advancement of U.S. commercial interests and the continued encouragement of economic reform and political freedom in China. To underscore the commercial aspects, I took six U.S. business people with me.

Before going, I met here with the Chinese Ministers of Aerospace and Telecommunications. I strongly indicated to both that our growing trade deficit with China was becoming an increasing problem and that the only way to address it was for China to buy more U.S. products. I had a list of pending U.S. sales—at the top was Boeing aircraft purchase. When I arrived in China, ten days later, and had my first bilateral meeting with Minister Li, he was quick to inform me that we would get our Boeing contract and that, to underscore Chinese good faith, it would be signed while I was in China. It was, as were other contracts between Chinese companies and AT&T and Northern Telecom. All told, we brought back more than $1 billion in new contracts for American companies. Let us remind ourselves that every billion dollars in export creates or supports more than 19,000 jobs in the U.S.

And, the discussions had with various other government and business officials were the stimulus for more U.S. business, signed later—including an order for GE engines, for more Boeing aircraft, a major AT&T joint venture, plus other sales of automobiles, satellites, and power generation equipment.

Other things accomplished on the trip—the whole of which netted more than either President Bush or I had expected—were these:

We moved forward on implementing the trade agreements, agreeing to specific deadlines, targets, and vehicles to accomplish specific objectives.

We agreed to negotiate a Memorandum of Understanding on end-user checks on "dual-use" technology products, such as computers, which could have both civilian and military uses. We indicated that if China agreed to allow checks of the end use of these products, it would be easier to convince our intelligence and military establishments that the Chinese were using them for peaceful purposes. That would provide leverage for the loosening of controls over the export of such products.

We agreed to resume negotiations on a bilateral investment treaty, to facilitate investment between our two countries.

During my talks with Primer Li Peng and other Chinese leaders, I made very clear that the U.S. also wanted to see substantial progress in a number of areas. I stressed that reducing the trade deficit, achieving full implementation of trade agreements, and addressing U.S. concerns in the areas of human rights and arms proliferation were the best ways to ensure a good working relationship between the U.S. and China.

I am proud of what we did to reopen commercial relationships with China more fully, to place the full weight of our government behind our business people, and to mend the U.S.-China relationship.

THE STATUS TODAY

The question now is: where is our relationship with China today, and where do we want it to go?

On balance, right now, in November of 1993, I think our relationship with China is one of mixed signals and escalating tensions, which holds the possibility of undoing much of our recent progress.

The Clinton Administration seems conflicted in its attitude toward China. Administration officials appear to be working at cross purposes. Strong objections to some of China's policies and actions are uttered at the same time a stream of high level visitors is traveling to China to extend olive branches. A meeting between President Clinton and China's President Jiang Zemin has been scheduled to be held during the Asia Pacific Economic Cooperation (APEC) conference in Seattle on November 18 and 19 as part of this campaign to soothe the troubled waters of the U.S.-China relationship.

COMMERCIAL RELATIONS

There is some good news. The efforts we began last year seem to be moving forward.

On the business front, U.S. companies continue to rush to explore business opportunities, send more exports, and sign more contracts in China. About 2,000 U.S. companies have about $6 billion invested there now, making the U.S. the third largest investor in China. U.S. exports are growing substantially.

We continue to move forward on implementation of the market access agreement. The Clinton Administration is considering a bigger push on services; however, progress is slower than we would like. More programs has been made on implementation of the intellectual property rights agreement. The Chinese have taken significant steps by changing laws and setting up courts. The issue now is enforcement. Our government intends to pursue this concern.

Unfortunately, the progress in these areas has not done much yet to reduce our trade deficit with China. Estimates are that the deficit will climb to $23 billion this year, a significant jump from the almost $19 billion deficit recorded in 1992.

One thing that could be done to shave almost $2 billion off that deficit quickly would be for China to get serious about stopping illegal transshipments of textiles to the U.S. This is a continuing—and growing—problem. Textile products are shipped through Hong Kong, Taiwan and other Asian ports to obscure the country of origin and thereby avoid import quotas set by a textile agreement between the U.S. and China.

The current agreement is due to expire at the end of this year. The Chinese are dragging their feet on concluding a new one. Resolving this issue would help reduce the trade deficit and remove one point of tension in the U.S.-China relationship.

ESCALATING TENSIONS

The rest of the news about our relationship with China is not so good. A number of other incidents are causing tensions to escalate.

First, came the debate about whether Most Favored Nation status should be renewed for another year. President Clinton did the right thing—renewed it—but indicated there would be human rights conditions the Chinese would be expected to meet if MFN is to be renewed again next year. Even though the conditions irritated the Chinese, there was a sign of relief on both sides of the Pacific.

From here, things have deteriorated fast.

Perhaps the most significant event—the one that angered the Chinese the most—was the vocal opposition in the U.S. to China's bid for the Olympics. China desperately wanted to host the 2000 Olympics, viewed it as a right of passage that would enable the country to demonstrate that, economically at least, it had arrived as a player in the modern world.

However, some here in the United States launched a campaign, saying China did not deserve to host the Olympics because of its human right record. Human rights groups, some in the media and some members of Congress loudly and emphatically expressed their opposition to China being awarded the honor of hosting the games. The Chinese vigorously protested this injection of politics into the Olympic games site selection process and no one will ever know whether it played any role in the Committee's decision to award the games to Sydney, Australia. The Chinese think it did.

Another incident contributing to rising tensions was the August finding by the State Department that China had delivered missile parts and technology to Pakistan. If the technology was sold to Pakistan, the action would be a violation of the Missile Technology Control Regime guidelines to which China has promised adherence. The evidence may not be conclusive, and China has denied violating the treaty. But nonetheless, the finding automatically triggered sanctions against the sale of certain high technology equipment to China.

Sanctions can cost U.S. businesses billions of dollars and throw thousands of Americans out of work. To complicate matters, the U.S. action was unilateral. No other country which is part of the regime has joined us. Thus, our competitors are moving quickly to capture the business that U.S. companies are losing.

The U.S. business community has protested and President Clinton has agreed to

review this decision. Hughes Aircraft Company and Martin Marietta Corporation, two companies that are being hurt most, are leading the charge. Hughes could lose contracts to sell 10 satellites to China, sales worth $250 million, jeopardizing 3,000 jobs, according to the Washington Post.

On the heels of the sanction decision was the confrontation in August and September over U.S. suspicions that a Chinese freighter bound for Iran was transporting chemical weapons. U.S. naval vessels prevented the ship from docking, and after weeks of intense negotiations, the Chinese agreed to let the ship put in at a Saudi port and be inspected by officials of all three countries. No weapons were found, and the Chinese have demanded an official apology.

And then came the Chinese underground nuclear test just weeks ago, performed over our objections. One wonders if the Chinese weren't just showing the U.S. that they would not tolerate interference in their affairs.

Now we are threatening more sanctions because of alleged violations of treaties protecting endangered species. China and Taiwan are accused of trading in rhinoceros and tiger parts, ingredients of traditional Chinese medicines. Both animals are on endangered species lists. If sanctions are imposed, millions of dollars of trade in flowers, timber and other plant and animal products would be affected.

We are also fast approaching the deadline for a six-month report due from the State Department to Congress on China's progress in resolving human rights issues. It is bound to be a focal point for reviving debate about China's human rights stance and the appropriate U.S. response. And whatever happens will be a major factor in 1994's annual debate about MFN renewal.

THE FUTURE

It is time we focused on our long-term relationship. We need to adopt a consistent, stable policy toward China. We need to develop a long-term vision of what our relationship should be. We must stop reacting to individual incidents and respond only in the context of this long-term vision.

And what should that vision be? I think it has to be rooted in a goal of being a friend, of helping China transform itself into a full-fledged modern, free market economy. This is the key to attaining a more free and open society in the most populous country in the world.

This means the U.S. has to stay engaged in China. We achieve nothing from withdrawal except a loss of influence. As an old China hand I know said, "we might go away in Asia, but China never will." Only by increasing the ties that bind us can we affect change.

We should have an expanding commercial relationship. We should pursue our agenda—pushing for full implementation of the market-opening agreements we have, reducing our trade deficit and supporting China's quest for membership in the GATT. We should intelligently balance all our interests in China—the commercial as well as our human rights and arms proliferation concerns.

To do this, we need to exercise the best of diplomatic judgement and skills, to disagree with the Chinese when we must, be tough-minded when necessary, but do so in the context of fostering an important friendship. We need to encourage, cajole and coax the Chinese forward, instead of blustering, threatening and shouting at them in public. Above all, we need to treat our Chinese friends—as we would any friends—with dignity and fairness.

I'm told by some close observers that the Chinese leadership is very upset about the deteriorating relationship with the U.S. They are rethinking whether they want a long-term partnership with our government. They fear the U.S. will not be a constant and consistent partner and will not treat them with the dignity and fairness they feel they deserve.

We in the U.S. must remember that China has other options. Japan and Europe are waiting in the wings, eager to forge stronger ties with the world's fastest growing large market.

Much remains to be done in China to fully resolve our concerns about human rights and arms proliferation. But the best way to promote progress is to stay engaged, to encourage China's economic reform and integration into the world economy. History has shown that economic freedom inevitably leads to personal freedom.

Let's not turn our back on the possibility of helping free markets and democracy along in China. If we are short-sighted and fail to adopt a long-term vision about our relationship, if we continue our current schizophrenic approach to a China policy, who knows what direction change could take. The U.S.—and the world—cannot afford to take this risk.

TRIBUTE TO LARRY KLEIN

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 21, 1994

Ms. ESHOO. Mr. Speaker, I rise today to honor Larry Klein on the occasion of his being presented with the 1994 Tall Tree Outstanding Citizen Award by the Palo Alto Chamber of Commerce.

Larry Klein currently serves as chair of the Palo Alto Centennial celebrations, an enormous and exciting undertaking. His contributions to the Palo Alto community are well known and highly regarded. He served on the Palo Alto City Council for 9 years, serving as mayor in 1989, a job he performed with distinction and integrity. Larry Klein has been a leader in long-range planning, regional cooperation, and environmental protection. He has been tireless in his efforts to promote cooperation between the city and the Palo Alto Unified School District.

Mr. Speaker, Larry Klein is an outstanding citizen with an unswerving commitment to his community and public service. His work on behalf of the city of Palo Alto is exemplary and he is indeed a model for others to emulate. I ask my colleagues to join me in saluting him on this auspicious occasion of receiving the coveted 1994 Tall Tree Outstanding Citizen Award.

TRIBUTE TO JONATHAN JOUBERT

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, March 21, 1994

Mr. REED. Mr. Speaker, I rise today to salute a distinguished young man from Rhode Island who has attained the rank of Eagle Scout in the Boy Scouts of America. He is Jonathan Joubert of Troop 13 in West Warwick, RI and he is honored this week for his noteworthy achievement.

Not every young American who joins the Boy Scouts earns the prestigious Eagle Scout Award. In fact, only 2.5 percent of all Boy Scouts do. To earn the award, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. He must earn 21 merit badges, 11 of which are required from areas such as citizenship in the community, citizenship in the nation, citizenship in the world, safety, environmental science, and first aid.

As he progresses through the Boy Scout ranks, a Scout must demonstrate participation in increasingly more responsible service projects. He must also demonstrate leadership skills by holding one or more specific youth leadership positions in his patrol and/or troop. This young man has distinguished himself in accordance with these criteria.

For his Eagle Scout project, Jonathan stripped, resealed, and waxed the floors at St. James Church in West Warwick.

Mr. Speaker, I ask you and my colleagues to join me in saluting Eagle Scout Jonathan Joubert. In turn, we must duly recognize the Boy Scouts of America for establishing the Eagle Scout Award and the strenuous criteria its aspirants must meet. This program has through its 80 years honed and enhanced the leadership skills and commitment to public service of many outstanding Americans, two dozen of whom now serve in the House.

It is my sincere belief that Jonathan Joubert will continue his public service and in so doing will further distinguish himself and consequently better his community. I join friends, colleagues, and family who this week salute him.

TRIBUTE TO CAROL KOUSNETZ STERKIN (1923–93)

HON. LESLIE L. BYRNE

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 21, 1994

Mrs. BYRNE. Mr. Speaker, I rise today to pay tribute to a remarkable scientist, wife, and mother whose unique contributions to the American scientific community deserve our highest accolades and profound admiration. Although an accomplished scientist in her own right, Carol Kousnetz Sterkin will be most remembered as the legendary head of the Literature Search Function at the Jet Propulsion Laboratory [JPL] in Pasadena, CA, a position which she held with distinction for the past 30 years.

Carol Kousnetz Sterkin was born in Chicago, IL, in 1923 and spent her childhood under the shadow of the Great Depression. Taking advantage of a remarkably early ability to read, she finished every book in her father's extensive library by the age of 6. Since many of his books were technical in nature, the seeds of a life-long dedication to science were planted at an early age. As a young teenager bedridden by a severe accident, she continued

her pattern of voracious reading which helped prepare her for admission to college in 1940.

She received her B.S. in physics from the University of Chicago in 1944 and, after working for 2 years as an engineer for General Electric on low pressure, plasma discharge research and igniter point development related to mercury pool tubes—thyratrons and ignitrons—she taught math and physics and completed her M.S. in nuclear physics at the University of Illinois in 1947. During these years she studied under several famous scientists, including Enrico Fermi, who were working on the Manhattan project at the time. While she was not involved with the initial development of the atomic bomb, she did participate in subsequent research and development for both the destructive and peaceful uses of the atom.

Long before the advent of modern feminism, Carol Sterkin deplored the sex discrimination suffered by professional women in science. She noted that often men with half her education were receiving twice her salary and 10 times the recognition for far less impressive work. This was especially true in the 1940's, when it was unusual for a woman to even study the sciences, not to mention actually teaching in that field.

In the following years, Ms. Sterkin developed severe moral reservations about the destructive uses of the atom. She was also ahead of her time in realizing the hazards of radioactive materials and decided that she did not want a career working with such substances. She is quoted as saying:

> At the time, the only work being done in physics was in the field of nuclear physics. I found myself surrounded by a group of men who had helped develop the A(tomic)-bomb at Los Alamos. Most of the graduate students in my nuclear physics courses could have written the (text) book! * * *. When I left I was faced with the dilemma of not really wanting to work with radio-active materials, and disapproving morally of the atomic bomb.

With these factors in mind, Carol turned more and more to the fields of research and technical writing. For the last 30 years of her life she served as the head of the Literature Search Function at the Jet Propulsion Laboratory Library. In this capacity she was so valuable because she combined the research skills of a librarian with the knowledge of a scientist, and became truly indispensable to the scientific community which she served.

She was a pioneer in the development of global access to online scientific and technical data bases. In the late 1960's and 1970's, she was one of the original developers (from the NASA side), along with experts from other government agencies and universities all over the world, of the online information systems that provide scientists worldwide with the capability of sharing and pooling knowledge. Until the time of her death, she remained one of the world's ranking experts in this field.

Again and again, she postponed her retirement because there was no one else at the Jet Propulsion Laboratory who could continue her work. Her extensive technical knowledge and acquaintance within the worldwide scientific community enabled her, not only to support the appropriate literature to a scientist, but also to put him/her in touch with the latest published work being done in the field.

Scientists all over the world knew her and valued her concept of unrecorded knowledge and information (as opposed to the common notion recorded information). This is the ongoing information as it is discovered and developed. It includes the personal knowledge a scientist has yet to document, unpublished documents and papers, current test and research results, personal scientific diaries, and so forth. For obvious reasons, in a rapidly changing technological world, this information is the most valuable to a scientist.

The high quality of her work is attested to by the fact that she did extensive work on extreme vacuums and atomic theory for Nobel laureate, Richard Feynman, the late American physicist of international fame. One of the Jet Propulsion Laboratory's principal scientists, Dr. James Stephens, has said that "she knew so much, it will be absolutely impossible to replace her." The truth of this statement is borne out by the fact that her position—which the JPL scientists are desperate to fill—remains vacant and they have yet to find anyone they feel even has the potential to grow into her capability.

Carol Sterkin was married at one time to Samuel Sterkin and was the mother of three sons, Bruce, Joel, and Lawrence. Although she worked in an era in which women often received little recognition for their accomplishments, she leaves a legacy of achievement, dedication, and expertise which has paved the way for greater recognition of other women of outstanding ability in the latter part of the 20th century. Her loss will be felt, not only by her family and local community, but throughout the scientific world for a long time. I ask my colleagues to join me on the floor of the House of Representatives to honor a truly great American, Carol Kousnetz Sterkin.

THE SERVICE EDUCATION REDEVELOPMENT PROGRAM

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Monday, March 21, 1994

Mr. RICHARDSON. Mr. Speaker, I am honored to share with my colleagues a success story about cooperation between a community nonprofit organization, private corporations and a Federal grant program that has made a difference in the life of a young woman in Santa Fe, NM.

Brenda Ortega could have easily been another teenage statistic. Brenda was pregnant by the time she was a ninth grader and a high school dropout by 16. Today at age 18, Brenda has earned a GED, has a job with the New Mexico Economic Development Department and is a student at Santa Fe Community College. The link between Brenda's situation and success was the Service Education Redevelopment [SER] Program.

The Service Education Redevelopment Program is provided by a nonprofit organization which helps students obtain a high school equivalency degree and find employment. Funded by JPTA grants, State matching education funds, and contributions from private businesses and foundations, the Service Education Redevelopment Program finds students' jobs and pays their wages while they study to obtain a GED. While preparing students for the GED test, the SER program also coaches students in how to fill out a job application, how to dress appropriately, the importance of being on time and communicating with an employer.

I ask my colleagues to join me in recognizing what is possible when we have cooperation between community, State, and Federal sources and the difference we can make in the lives of young people like Brenda Ortega.

GOVERNOR'S AWARD FOR DRUG AWARENESS WON BY HENRY COUNTY SCHOOL SYSTEM

HON. MICHAEL A. "MAC" COLLINS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 21, 1994

Mr. COLLINS of Georgia. Mr. Speaker, it is with great pleasure that I announce that the Henry County School System, Henry County, GA, has won the prestigious Governor's Award for Drug Awareness for the fourth consecutive year. In a joint effort, all 15 schools throughout the county submitted a single application to the Governor's office and were then chosen for their dedication to such anti-drug programs as Red Ribbon Week. With the help of PALS [Parents and Leaders in Schools], an organization made up of all the PTO's, PTA's, and advisory groups from each school, the students were able to achieve success in the battle against drugs.

This award demonstrates that children in today's society are willing to stand up to their peers and say "no" to drugs. We must all applaud this courage and commend them for their high moral values. However, we cannot forget the hard work done by the parents, teachers, schools, and local community in this equation. Without loving guidance or constant encouragement, this drug-free way of life that the students have chosen may not have been a reality.

This award says a lot about what works in our government. I am a firm believer that schools, as well as communities, thrive when problems are addressed on the local level, rather than by the Federal Government in Washington, DC. Parents and teachers know how to best educate children on the dangers of drugs. This recognition of the Henry County School System only proves my point.

Again, let me say, for the record, that I commend the Henry County School System and its students and teachers for their continued dedication to the war on drugs.

TRIBUTE TO BOB THOMPSON

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 21, 1994

Mr. WELDON. Mr. Speaker, this week is an important milestone for Robert J. Thompson, a distinguished gentleman from Chester County,

PA. His friends and colleagues will come together to wish him well as he enters semiretirement. Bob Thompson is an individual who has had an extraordinarily successful career in both business and public service.

Most recently, Bob was president of the Chester County Chamber of Business and Industry, where he was a forceful advocate for local business. Bob previously served as a Chester County Commissioner, including 4 years as chairman of the board of commissioners. He also was a member and chairman of the board of directors of the Southeastern Pennsylvania Transportation Authority, and a vice president of Fidelity Bank.

Bob has also been a member of the board of the Chester County Hospital, the Chester County Historical Society, the Chester County unit of the American Cancer Society, and the YMCA of Central Chester County. He was cofounder of an adolescent suicide prevention group and serves on the board of the Chester County Youth Expo.

He is an elder of the First Presbyterian Church of West Chester and a member of the Rotary Club of Westtown-Goshen.

Bob Thompson is the rare individual who can undertake a business career, public service, and civic involvement and be successful with each endeavor. I commend him for his achievements and wish him and his wife, Nancy, much happiness for their future.

DISTRICT CHAMPS

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 21, 1994

Mr. FROST. Mr. Speaker, it is my distinct pleasure to announce that the Ferris Yellow Jackets from Ferris, TX, are State High School Class 3A State Basketball Champions. The Yellow Jackets, led by Coach James Rogers, were an impressive 31–3 on their way to the school's first State championship. For the past 2 years, I had the pleasure to pay tribute to two other champions in my district—The Paul Lawrence Dunbar Wildcats who were the 1993 Class 5A State Basketball Champions and the Waxahachie Indians who were 1992 Class 4A State Football Champions. I am very proud of all the district champs.

The entire Ferris community has been longing for a State championship for sometime and this year's championship has been cause for great celebration in both the school and the community. This achievement is a prime example of what our young people can achieve given the determination and encouragement. This was Coach Rogers' 13th season as head coach for Ferris, and it turned out to be a lucky year for him.

All of Ferris is proud of their accomplishment. I salute the members: coaches—James Rogers, Mike Russell, Randy Waggoner; players—Vernon Butler, Pedro Tyejo, Jeremy Sims, Roman Barnes, Tyson Hollywood, Alonzo Harrison, Kendrick Cherry, Casey Greene, Jonathan Spence, Robert Brown, Kris Salas, Kyle Rogers, Jason Runnels, Kurt Harrison, and Tracy Johnson.

TRIBUTE TO THEATREWORKS

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 21, 1994

Ms. ESHOO. Mr. Speaker, I rise today to honor TheatreWorks on the occasion of it being presented with the 1994 Tall Tree Outstanding Organization Award by the Palo Alto Chamber of Commerce.

TheatreWorks is the San Francisco Peninsula's largest and most critically acclaimed performing arts organization. Founded in 1970 by Artistic Director Robert Kelly, the company serves over 90,000 theatergoers throughout the bay area during its season of 12 plays and musicals. It is a theater of all ages and races, unique in its dedication to multi-culturalism. TheatreWorks is a major cultural asset to the Palo Alto community and contributes in many ways. It encourages community participation, creates special opportunities for groups such as seniors and children, trains artists, and forges partnerships with school and other organizations.

Mr. Speaker, TheatreWorks is an outstanding organization and has made a substantial contribution to the lasting enhancement of Palo Alto. I ask my colleagues to join me in saluting it for receiving the coveted 1994 Tall Tree Outstanding Organization Award.

TRIBUTE TO JUSTIN HART

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, March 21, 1994

Mr. REED. Mr. Speaker, I rise today to salute a distinguished young man from Rhode Island who has attained the rank of Eagle Scout in the Boy Scouts of America. He is Justin Hart of Troop 1284 in Warwick, RI and he is honored this week for his noteworthy achievement.

Not every young American who joins the Boy Scouts earns the prestigious Eagle Scout Award. In fact, only 2.5 percent of all Boy Scouts do. To earn the award, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. He must earn 21 Merit Badges, 11 of which are required from areas such as citizenship in the community, citizenship in the Nation, citizenship in the world, safety, environmental science, and first aid.

As he progresses through the Boy Scout ranks a Scout must demonstrate participation in increasingly more responsible service projects. He must also demonstrate leadership skills by holding one or more specific youth leadership positions in his patrol and/or troop. This young man has distinguished himself in accordance with these criteria.

For his Eagle Scout project, Justin raised the funds and built a shed at the Apponaug Bambino little league field in Warwick.

Mr. Speaker, I ask you and my colleagues to join me in saluting Eagle Scout Justin Hart. In turn, we must duly recognize the Boy Scouts of America for establishing the Eagle Scout Award and the strenuous criteria its aspirants must meet. This program has through its 80 years honed and enhanced the leadership skills and commitment to public service of many outstanding Americans, two dozen of whom now serve in the House.

It is my sincere belief that Justin Hart will continue his public service and in so doing will further distinguish himself and consequently better his community. I join friends, colleagues, and family who this week salute him.

LONG BEACH SHIPYARD WORKERS HELP EARTHQUAKE VICTIMS

HON. STEPHEN HORN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 21, 1994

Mr. HORN. Mr. Speaker, the employees of the Long Beach Naval Shipyard are well known for their extraordinary work ethic, their high skill level, and their considerable contribution to the Nation's security. They should also be recognized for their strong compassion for their fellow citizens and their willingness to make significant sacrifices to help those in need.

In the wake of the earthquake centered in Northridge, CA on January 17, approximately 200 Long Beach Naval Shipyard employees responded to a January 21 request for assistance from the Office of Personnel Management [OPM]. They volunteered their services at disaster assistance centers throughout those areas that had been devastated by the earthquake.

When the OPM call came in, supervisors were immediately contacted, and they in turn set in motion a phone tree process to contact their employees in order to obtain volunteers. Workers were told that they would be taking applications for relief from the earthquake victims. They were also told that volunteers would be working approximately 12 hours a day, 7 days a week, for up to 20 days and that they were to report for an orientation session the next day.

The calls to employees continued late into the night on the 21st and then throughout the next morning. The response was overwhelming and gratifying. Over 200 shipyard employees volunteered. They attended the orientation session on the 22d and the majority began work the next day.

These employees began working in centers in Reseda, Hollywood, Santa Clarita, Santa Monica, Northridge, and anywhere else they were needed. One group of employees working at the center in Reseda reported taking in over 800 applications in one day. Fortunately, many of the Long Beach Naval Shipyard volunteers are bilingual, which proved especially helpful to many non-English speaking people in some of the hardest hit areas.

Also, because of the variety of skills the Long Beach volunteers possess, they were called on to perform many other services. For example, when rain was predicted, one group worked late into the night putting up tents to provide shelter to many of the thousands left homeless by the quake.

Disasters sometimes have a way of revealing the best in people. The volunteers from

the Long Beach Naval Shipyard worked very long hours in difficult circumstances because they simply wanted to help. There was a need and they responded willingly.

This commitment to help their fellow citizens following the earthquake reflects the commitment, dedication, and compassion which is personified in all of these talented individuals. The spirit they showed in this emergency is the same spirit they have demonstrated in their consistent commitment to excellence in their work at the Long Beach Naval Shipyard.

In closing, I would like to include a short article from the January 25 edition of the San Pedro News-Pilot.

[From the San Pedro News-Pilot, Jan. 25, 1994]

SHIPYARD CREWS GIVE QUAKE AID

Approximately 200 employees at the Long Beach Naval Shipyard on Terminal Island have volunteered their services to the Federal Emergency Management Agency to help displaced victims of the Northridge earthquake.

The volunteers will remain at various FEMA centers until they no longer are needed.

The Office of Personnel Management called the shipyard Friday to ask for volunteers; then supervisors and union officials were contacted.

In turn, they called employees at home. Those who volunteered attended a training session Saturday in Pasadena and began helping Sunday.

HONORING GREEK INDEPENDENCE DAY AND THE IMPORTANCE OF GREEK HERITAGE TO AMERICAN DEMOCRACY

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 21, 1994

Mr. SCHUMER. Mr. Speaker, as you may know March 25 is Greek Independence Day. This day is important to all Americans because it commemorates the unique bond Greeks share in our commitment to democracy. The democracy that originated in Greece 2,500 years ago, was the inspiration of our Founding Fathers when creating our democratic system. As Members of Congress, serving in this body born out of Greek ideals, Greek Independence Day will be a celebration of our common bond to liberty and freedom. To this day, my constituents of Greek descent are proud of the influence their heritage has had on this country—and so am I.

It is very appropriate as we salute Greece's past that we also salute the strong bonds between us in the present and the future. Greece and the United States have developed close ties, as members of NATO and the European Community. Let us continue to honor these ties and work to strengthen them by celebrating with Greek Americans on March 25.

CONGRATULATIONS AND THANKS TO NORTON YOUNGLOVE

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 21, 1994

Mr. CALVERT. Mr. Speaker, the county of Riverside, CA has been extremely fortunate during its history to have many dedicated citizens who have been willing to contribute their time and talents to help make our community an exceptionally good place in which to live and work. For the better part of four decades, one of the most dedicated and active of these citizens has been Mr. Norton Younglove.

Mr. Younglove is a native of Riverside. He was born in 1929, and attended local public schools before traveling to Oregon to obtain his BA in public administration and political science at Willamette University. After a stint in the U.S. Army Signal Corps in Korea, Norton returned to Riverside to work several years in his family's oil business before beginning a career as a teacher of government and history at Sierra Junior High and Ramona High School in Riverside. A decade later, Norton Younglove decided to put in practice the lessons about government that he had learned and taught.

Norton was first elected to the Riverside County Board of Supervisors in 1971, and has served in that position continuously ever since. For nearly a quarter of a century in office he has helped guide our county through an era of unprecedented progress. During that time, he has striven to be fair to everyone, and has worked diligently to manage rapid growth and development to keep it from destroying the natural assets which have attracted so many people to our area of southern California.

Norton has always believed that his job of representing the people of Riverside County entailed much more than attending board meetings and casting votes. He has involved himself in a myriad of activities at the county, regional, and State levels. These include serving as: chairman of the Riverside County Flood Control and Water Conservation District; a founding member of the board of directors of the Riverside Transit Agency; chairman of the Habitat Conservation District; executive board member of the Inland Manpower Association; past member of the governing body of the Inland Counties Health Systems Agency; member of the Regional Airport Authority; former board member of the Inland Empire Labor Management Council; former chairman of the County Supervisors Association of California; founding chairman of the California Association of Councils of Government; and a member of the southern California earthquake preparedness project, policy advisory board.

For his entire adult life, no one has worked harder or contributed more than Mr. Norton Younglove to make Riverside County a community of which we all can be proud. On March 25, 1994, Norton will be recognized for his service to our community by being named the Citizen of the Year by the Riverside Rotary Club. On behalf of the citizens of the 43d Congressional District, I want to add to this tribute my thanks and congratulations, and to wish Norton, his wife Ardith, and their three sons and five grandchildren best wishes for a happy and productive future.

INTERSTATE MUNICIPAL SOLID WASTE CONTROL ACT

HON. RICK SANTORUM

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 21, 1994

Mr. SANTORUM. Mr. Speaker, I am pleased to join my colleagues from Pennsylvania in introducing important bipartisan legislation to help our State address its growing problems with out-of-State municipal waste. I would particularly like to commend Congressmen JIM GREENWOOD, JACK MURTHA, BILL CLINGER, and JOE MCDADE for their leadership in this effort.

Back in 1992, I joined many of my Pennsylvania colleagues in writing to congressional leadership urging them to break the gridlock that has blocked action on this issue for so many years. I reiterate that plea today: we must act to give States a voice in limiting interstate waste shipments.

This bill will give the Governors, in consultation with local communities, the authority to restrict interstate waste shipments.

Pennsylvania imports far more municipal waste than any other State. In 1993 alone, nearly 4 million tons of waste was shipped into our State for disposal. Almost 2 million tons of waste was shipped to Pennsylvania from New York, and another 1.3 million tons came from New Jersey. According to the waste management industry, this waste is brought to our State because "the political and economic costs of disposal in the generating state become so high that it is 'less expensive' to transport [waste] to other states." In other words, since other States cannot find the political willpower to make hard decisions about where to place their landfills, they choose the easy way out and ship their waste to Pennsylvania.

I believe that the time has come to give Pennsylvania and other States the power to say "no" to the huge shipments of interstate waste that cross our borders every day.

Federal laws require States to develop plans for comprehensive State management of municipal waste. These plans can include programs to reduce waste and require recycling. But, citing the Interstate Commerce Clause of the Constitution, courts have repeatedly overturned State plans to limit interstate waste shipments. As a result, Governors are virtually powerless to control or restrict out-of-State waste. It is time to close this loophole.

For Pennsylvania, this legislation is important because it will give us the ability to comprehensively manage all municipal solid waste in our State. For our neighbors, enactment of this legislation will mean that their political "free-ride" is over. These States will have to find ways to manage their own waste problems without pushing it across our borders.

CONGRATULATIONS TO JUDGE THOMAS A. DEMAKOS

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 21, 1994

Mr. MANTON. Mr. Speaker, I rise today to congratulate Judge Thomas A. Demakos for his outstanding service and contribution to Queens County. On Tuesday, March 22, 1994, the Benevolent and Protective Order of Elks Queens Borough Lodge No. 878 will pay special tribute to Judge Demakos and his dedication to the judiciary system of Queens County.

Judge Demakos was born in New York City and currently lives with his wife Mary and has two children. He received his bachelor of science from Long Island University and his masters from New York University Graduate School. In 1957, Judge Demakos was awarded his juris doctor from New York State School of Law. He also served in the U.S. Marine Corps from 1943–46.

Judge Demakos was admitted to a number of courts throughout his career including: all New York State courts, Second Judicial Department; U.S. district courts, eastern and southern districts; U.S. Supreme Court and the U.S. Court of Appeals, second circuit. He has presided over a number of courts including the supreme court where he was Justice from 1986 to present in the Eleventh Judicial District; acting supreme court Justice from 1982 to 1985 and criminal court judge from 1980 to 1982.

In addition, Mr. Speaker, Judge Demakos worked in the office of Queens County District Attorney where he served as the chief assistant district attorney, chief Supreme Court Trial Bureau, chief Rackets Bureau, deputy chief Supreme Court Trial Bureau and the assistant district attorney. Furthermore, Judge Demakos worked on several major cases which including People versus Forest Hills General Hospital in 1965, People versus Ferguson & Harris in 1968, People versus Alice Crimmins in 1971, and People versus Thomas Shea in 1974.

Over the years, Judge Demakos has been involved in a number of professional activities which include: member, faculty of the office of Court Administration Judicial Seminars; member, Chief Administrators' Advisory Committee on Criminal Law, and procedure and a lecturer at the British and Canadian Bar Association joint meeting 1990 Annual Bar Conference in London, England.

Mr. Speaker, Judge Demakos deserves this special recognition for his allegiance to the judiciary system of New York. I know my colleagues join me in saluting Judge Thomas Demakos for his outstanding achievements.

ILLINOIS LEGISLATURE HONORS ADAM TOMASZKIEWICZ

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 21, 1994

Mr. HYDE. Mr. Speaker, one of Illinois' most distinguished citizens is Adam Tomaszkiewicz of Willow Springs, who was honored last January by the Illinois State Senate.

State Senator Judy Baar Topinka offered the following Resolution which was unanimously adopted. I have had the pleasure of knowing Adam for many years, and he is indeed an inspiration to all of us who count him as a good friend.

SENATE RESOLUTION NO. 988

Whereas, Adam Tomaszkiewicz has been named Man of the Year by the Polish National Alliance for his service to the Polish-American community; and

Whereas, Mr. Tomaszkiewicz, of Willow Springs, is the president of the alliance's Cicero Society and has served as national treasurer of the alliance and as chairman of the national budget and finance committee; and

Whereas, Adam Tomaszkiewicz has been active in the Polish American Congress and chaired its $1 million fund-raising campaign after World War II; and

Whereas, He succeeded his father, Michael Tomaszkiewicz, as treasurer of the Polish National Alliance in 1955 and has served the association in many capacities since then; and

Whereas, Mr. Tomaszkiewicz richly deserves the honor accorded him by the organization he has served so well; therefore, be it

Resolved, by the Senate of the eighty-eighth General Assembly of the State of Illinois, That we congratulate Adam Tomaszkiewicz on being named Man of the Year by the Polish Nation Alliance, commend him on his long history of public service, and wish him all the best in the future; and be it further

Resolved, That a suitable copy of this preamble and resolution be presented to Adam Tomaszkiewicz.

Adopted by the Senate, January 13, 1994.

25TH ANNIVERSARY OF WTOP RADIO

HON. LESLIE L. BYRNE

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 21, 1994

Mrs. BYRNE. Mr. Speaker, recently all of us in the Washington metropolitan area had the pleasure of listening to the highlights of news coverage for the past 25 years as Washington's premier all-news radio station, WTOP, celebrated its anniversary.

On March 10, 1969, WTOP Radio launched its all-news format and has for a quarter century served the Washington area with responsible and accurate news coverage of local and national events.

The high standards of this radio station must be credited to its outstanding writing and reporting staff. WTOP has launched the careers of many broadcasting greats like Walter Cronkite, Connie Chung, and Sam Donaldson to name a few.

And, as Members of Congress, we have the good fortune of working with WTOP's Capitol Hill Correspondent, Dave McConnell. I begin every workday with Dave McConnell's reports from Capitol Hill, and I know that many of my colleagues do the same.

Mr. Speaker, I want to thank WTOP Radio for providing a great public service. May the next 25 years be as successful as the first.

TUFTS IS FOREVER

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Monday, March 21, 1994

Mr. RICHARDSON. Mr. Speaker, I would like to take this opportunity to make our colleagues aware of an important even that will be taking place the week of April 21.

The year 1994 signifies the 10th annual celebration of Turftonia's Week. This is a special time for the over 75,000 Tufts alumni who gather in groups throughout the world to take part in Tuftonia's week festivities. From Somerville to Saigon, Wyckoff to Warsaw, and Albuquerque to Ankara, thousands of graduates come together to pay tribute to their alma mater and to remember the good times that they shared as fellow Tuftonians.

Tuftonia's Week is named after the venerable Tufts football fight song written by E.W. Hayes, class of 1916. Through the continual and widespread involvement of the Tufts community, this celebration captures the same sense of spirit and vitality for which this song was written. In honor of this special 10th anniversary commemoration, our male a capella singing group, the Beelzebubs, will join in the festivities as they entertain alumni on an Amtrak railroad trip which begins in Boston and travels down the Northeast corridor until reaching its final destination in our Nation's Capital.

Tufts University was founded in 1852 and enrolls approximately 7,900 students from all 50 States and 109 countries. As a Tufts alum, I am deeply honored to congratulate this outstanding institution and its loyal alumni for their continued achievements in public and community service. I ask my colleagues to join me in urging their Tufts alumni constituents to participate in this year's Tuftonia's Week celebrations.

LEGISLATION INTRODUCED TO CONSTRUCT A NEW FEDERAL COURTHOUSE IN THE NORTHERN DISTRICT OF ILLINOIS

HON. GEORGE E. SANGMEISTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 21, 1994

Mr. SANGMEISTER. Mr. Speaker, I am pleased today to introduce a bill legislating the creation of a new Federal courthouse and division in the northern district of Illinois. This courthouse, located in Joliet, would serve a newly created southern division within the northern district of Illinois. It would be comprised of Grundy, Kendall, La Salle, and Will Counties. The counties of Cook, Du Page, Kane, and Lake would remain within the district's eastern division.

The idea for establishing a suburban Federal district courthouse originally arose at the State bar level at a board of governors meeting over a year ago as a way to deal with the problem of overcrowding. A number of local bar associations, including those in Grundy, Kendall, La Salle, and Will Counties, became

interested in the project, and have since urged me to help them turn their idea into a reality.

The demographics of south and west suburban Chicago have changed dramatically over the last decade. The population has increased much faster than in other areas and, as a result, more legal activity has followed. From 1980 to 1990, the combined population of Grundy, Kendall, La Salle and Will Counties has increased from 504,277 to 535,976, a total of 6 percent. The U.S. Census Bureau predicts that by 1997, the population of these four counties will increase another 11 percent. This is a total of 17 percent in less than two decades. In comparison, the combined population of Cook, Du Page, Kane, and Lake Counties only increased 1 percent in the 10 years from 1980 to 1990, and is expected to rise a mere 2 percent by 1997.

Furthermore, Will County is the fourth largest county in Illinois, with Cook being the largest. With the vast majority of northern Illinois' population located in this area, it stands to reason that legal activity would be high. Presently, the western division of the northern district has two courthouses to handle the heavy caseload generated by the 10 counties within its division The entire central district of Illinois has six courthouses and the southern district has four.

However, with only one Federal courthouse for the eastern division, located in Chicago, serving an eight-county area with a population of more than 7.2 million people, caseload problems are exacerbated. A new courthouse for this area would, without question, allow for improved efficiency, convenient access for local residents, and a reduced caseload for the Chicago district court system.

An ongoing expansion project in the Dirksen Federal Building will eventually provide additional courtrooms. However, according to a spokesperson with the Administrative Office of the U.S. Courts, even the completion of the expansion project will not sufficiently address the problems associated with overcrowding. It's time for our court system to accommodate this shift in population.

Situated in the heavily populated, fast-growing Will County, the city of Joliet is a natural choice. Another advantage of the Joliet location is its easy accessibility to all of the counties in the newly proposed southern district. For example, those attorneys presently practicing in the southwest corner of the eastern division would find it much more convenient to practice in a forum within 1 hour's drive, as opposed to being forced to travel nearly 2 hours, one way, to file a case or attend a court date in downtown Chicago.

This initiative, in my opinion, is a crucial step toward alleviating the weighty caseload congesting the Chicago Federal court system. It is my belief that the introduction of this bill will alert people to the necessity of this urgent community need and ultimately will lead to the construction of a new Federal courthouse for the people in the southwestern suburbs of Chicago.

Most county bar associations in the eastern division agree that something needs to be done to resolve this problem. The question remains as to where would be the best location to house additional court facilities. It is my fervent hope that we make the right choice—the responsible choice.

TRIBUTE TO MARGE COLLINS

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 21, 1994

Ms. ESHOO. Mr. Speaker, I rise today to honor Marge Collins on the occasion of her being presented with the 1994 Tall Tree Outstanding Professional Award by the Palo Alto Chamber of Commerce.

Marge Collins is the ideal person to receive this prestigious award. She has been a teacher for more than 25 years, educating children in unique, creative ways and inspiring them to be productive and successful citizens. As a leader in the education community, Marge Collins has served as a mentor teacher and used her wisdom and experience to develop new and innovative programs. She makes important contributions to the Palo Alto community by working with numerous school and school district committees, the Palo Alto Centennial Committee, Neighbors Abroad, the American Association of University Women, her church, and many other organizations.

Mr. Speaker, Marge Collins is an outstanding professional with an unswerving commitment to her students and public service. Her work is exemplary and she is a model for others to emulate. I ask my colleagues to join me in saluting her on this auspicious occasion of receiving the coveted 1994 Tall Tree Outstanding Professional Award.

TRIBUTE TO JAMIE R. VILLANUEVA

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, March 21, 1994

Mr. REED. Mr. Speaker, I rise today to salute a distinguished young man from Rhode Island who has attained the rank of Eagle Scout in the Boy Scouts of America. He is Jamie R. Villanueva of Troop 13 in West Warwick, RI, and he is honored this week for his noteworthy achievement.

Not every young American who joins the Boy Scouts earns the prestigious Eagle Scout Award. In fact, only 2.5 percent of all Boy Scouts do. To earn the award, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. He must earn 21 merit badges, 11 of which are required from areas such as Citizenship in the Community, Citizenship in the Nation, Citizenship in the World, Safety, Environmental Science, and First Aid.

As he progresses through the Boy Scout ranks, a Scout must demonstrate participation in increasingly more responsible service projects. He must also demonstrate leadership positions in his patrol and/or troop. This young man has distinguished himself in accordance with these criteria.

For his Eagle Scout project, Jamie cleaned the walls and living area and waxed the floors at a local shelter called the Warwick House of Hope.

Mr. Speaker, I ask you and my colleagues to join me in saluting Eagle Scout Jamie R. Villanueva. In turn, we must duly recognize the Boy Scouts of America for establishing the Eagle Scout Award and the strenuous criteria its aspirants must meet. This program has through its 80 years honed and enhanced the leadership skills and commitment to public service of many outstanding Americans, two dozen of who now serve in the House.

It is my sincere belief that Jamie R. Villaneuva will continue his public service and in so doing will further distinguish himself and consequently better his community. I join friends, colleagues, and family who this week salute him.

VOICE OF DEMOCRACY WINNER

HON. EARL HUTTO

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 21, 1994

Mr. HUTTO. Mr. Speaker, my constituent, Stacey Boozer of Panama City, FL is a State winner in the Veterans of Foreign Wars of the U.S. "Voice of Democracy" broadcast scriptwriting contest. I am pleased to submit the following winning script written by Stacey Boozer.

As a teenager, I feel a strong commitment to America because I know that I am a part of its future. My generation will soon be taxpayers, voters, and members of the work force. We will be running this Nation in a matter of years. We need to be equipped to use the concepts that made this country great: patriotism, benevolence, pride, and democracy.

I will be able to vote in a year. This is important to me because I want to have a say in the government that is supposed to represent me. I want to pick candidates who feel the way I do about taxes, the economy, and social issues. Though I am still young, I know what I want the government to do about moral issues like abortion, prayer in public schools, and education. I feel that far too many people remain silent when voting season rolls around because they are unprepared to participate. They don't know who stands for what, or sometimes, even what they themselves stand for. They prefer to remain a part of the "silent majority," who let others run the world for them. Voting is about taking a stand for what you believe in and who you believe in. I am interested in voting because I want my opinions to count. I want to be a part of my government and have my fair say. I feel that I am ready to analyze any candidates and make responsible decisions. A democracy relies on informed, active citizens. We can't change anything unless we make an effort to try.

I plan to major in elementary education in college because my heart is yearning to teach young children. Like myself, children are the future of America. Their visions will form this country into what it will become. I want to teach our children about their world and how to be responsible Americans. I want to instill in them the same concepts of patriotism that I received in kindergarten, as I recited the Pledge of Allegiance. This patriotism is what our forefathers intended for everyone to have. I want to make a difference in the way our future society will view their part in our nation when it is their turn to lead. My generation has been stereotyped as a careless, apathetic genera-

tion with little concern about government or the economy. I must admit that in many cases this is true. As a nation we rank far below other growing nations like Japan, Germany, and England in our test scores and output as students. At the same time, we are at the top when it comes to self-confidence. In the words of T.V. talk show host, ". . . we are a nation of proud dumbbells." I resent that opinion and want to change it. Unfortunately, there is a great apathy among my peers. Most teens don't care about politics or news unless it affects them personally. I want to reach out and show them that everything that happens to our nation will and does affect them personally. I want to do something to change the world's opinion of American teens. I do care and I know that there are many others who are ready and willing to make a difference in our society.

In the future I hope to impact the lives of American children. In the meantime, I shall try to set an example to my peers who are indifferent toward their nation and show them how important we are to the future of America and our world. We are the future of America. It is our responsibility to keep America the great nation that it is and to be prepared to be reliable citizens.

TRIBUTE TO COMDR. RAY B. NIXON

HON. GARY A. CONDIT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 21, 1994

Mr. CONDIT. Mr. Speaker, I rise today to commend Comdr. Ray B. Nixon, for his exemplary service to the United States of America. Commander Nixon, a native of Panama City, FL, is a graduate of McKendree College in Lebanon, IL. He served in the U.S. Air Force from 1967 to 1971, assigned to the 6987th Security Group in Taipei, Taiwan.

In 1974, he joined the Navy and was commissioned under the Aviation Officer Candidate School in Pensacola, FL. Following flight training, he served as a naval flight officer with Tactical Electron Warfare Squadron 132 from 1976 to 1978, and was qualified a mission commander. Upon designation as a naval cryptologist in 1978, he was assigned to U.S. Naval Security Group Activity Misawa, Japan, where he served as a direct support officer, operation watch officer, and the enciphered communications division officer.

In 1981, Commander Nixon reported to Naval Security Group Activity, Pyongtaek, Republic of South Korea, as executive officer. From that assignment he went to U.S. Naval Security Group Activity, Edzell, Scotland, where he was the processing and reporting officer from 1982 to 1984. His next tour was with Commander Carrier Group Six where he served as the staff cryptologist until 1986. He went next to Naval Technical Training Center, Corry Station in Pensacola, where he was the fleet advanced systems training division officer and the base support department head.

In 1988 Commander Nixon reported to Rota, Spain, as officer in charge, Cryptologic Support Group 6th Fleet. He assumed command of Naval Security Group Activity, Key West in August in 1991.

Mr. Speaker, Commander Nixon has been awarded the Meritorious Service Medal, Navy Commendation Medal, and the Navy Achievement Medal with gold star, in addition to various service medals and ribbons. I rise to honor his achievements and thank him upon his retirement from the U.S. Navy.

VOTES REGARDING THE ISSUE OF SCHOOL PRAYER

HON. KWEISI MFUME

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, March 21, 1994

Mr. MFUME. Mr. Speaker, on February 23, 1994, I voted against a motion to instruct the House conferees to accept an amendment offered by the senior Senator from the State of South Carolina to H.R. 1804, the Goals 2000 legislation, which had been accepted in the other body by a vote of 75 to 22.

Specifically, the amendment states that:

No funds made available through the Department of Education under this Act, or any other Act, shall be available to any state or Local Education Agency which has a policy of denying, or which effectively prevents participation in, constitutionally protected prayer in public schools by individuals on a voluntary basis. Neither the United States nor any state nor any Local Education Agency shall require any person to participate in prayer or influence the form or content of any constitutionally protected prayer in such public schools.

I would like to state at this point, however, that on February 23, 1994, I voted erroneously—a conclusion I came to after a careful review of my position and of my past votes.

A review of my record on this matter will show that on May 9, 1989, I supported an amendment to the Vocational Education Reauthorization which was almost identical to the amendment stated above. Specifically, the amendment would have allowed voluntary prayer in school. I do not know of any other instances since May 9, 1989, on which this issue has been addressed on the House floor.

As the record should indicate, I also voted today in favor of the amendment offered by the gentleman from Texas, Mr. SAM JOHNSON, which again mirrors the language which was approved in the other body.

Mr. Speaker, I hope that this clarifies my position on the issue.

VOICE OF DEMOCRACY WINNER

HON. EARL HUTTO

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 21, 1994

Mr. HUTTO. Mr. Speaker, my constituent, David Hurst of Pensacola, FL, is a State winner in the Veterans of Foreign Wars of the U.S. "Voice of Democracy" broadcast scriptwriting contest. I am pleased to submit the following winning script written by David Hurst.

Commitment. Webster says, "A pledge or promise to do something." A commitment is a decision to do something for another for no other reason than love for them. Some commitments are not initiated by the receiver, they are made freely, without obligation of return, by the giver. These are, perhaps, the highest of all commitments. The other type of commitment is reciprocal, in other words, both parties involved do something for the other. I would like to say my commitment to America would be of the first type, that I would love America without hope of anything in return. But I cannot make that statement because my country has done so much for me: so much that everything I do in return cannot begin to replace it.

What has America given to me and the many millions who have been her citizens? A heritage of freedom, a past that reminds us of our liberty, and patriots who have fought and died for that cause. A prosperous economy, a land blessed with great bounty, provision for a high standard of living, and a chance for success for those who will work hard for it. Freedom of speech, freedom of press, freedom of assembly, freedom of worship, and every part of the Bill of Rights. Life, liberty, and the pursuit of happiness from our Declaration of Independence. And most importantly, the freedom to do what I believe is morally right within the bounds of human law.

This list gives just an idea of what my country provides. These conditions give me incentive not only to be a law-abiding citizen, but also to make commitments to give back what I have been given. I hope that my personal commitments will challenge you to take the privilege of being an American more seriously.

My first and most important commitment to America is moral. More and more today, Americans are being encouraged to defy authority. This is seen so vividly in the crime rate and its increase. As a committed American, I will seek to obey the laws of the land as they are established by government.

The second of my commitments is mental; I will learn why America is great from her past. I will look for the principles in the lives of her founding fathers, in her foundational documents, and in the historical events that have fed her growth. I will learn from the men who have sacrificed for my country and seek to make their commitments mine.

The third of my commitments is educational. My education is so important to my future commitments to America. To be the best citizen possible I must take full advantage of my educational opportunities. Great men of the past have made great commitments in the area of education; through what has been provided for them or their own initiative to teach themselves. To give America my best later, I must learn all I can now in math, science, writing skills, critical reading, government, and economics.

My fourth commitment is informational; that is, I will be informed on present issues of importance to my country. A citizen who is not informed and knowledgeable about problems cannot be a part of their solution. Voting is another part of being an informed citizen. Intelligent choices are made by informed citizens, not those who ignore the facts.

My fifth commitment is vocational. I will work for a prosperous, economically sound country. Whatever my job, I will work hard to reach my goals, and provide economic means for others. I will use the benefits of capitalism as a means of achievement economically. This also involves personal service if my country should ask for it. I will be willing to give my life so that others may experience the freedom I enjoy.

My sixth and last commitment is societal. I will be involved in areas of service to make others happier and more successful. I will try to give others knowledge and insight I have gained in my life. This is an area of commitment especially important in my latter years as young people need the advice of those with experience.

I hope you have been challenged to make pledges to America in each of these areas. Even if others lose their love for her, America has my solemn promise that I will stand firm in my commitments. Fellow patriots, take the challenge and commit yourself to

"the land of the free, and the home of the brave."

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, March 22, 1994, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MARCH 23

9:30 a.m.

Energy and Natural Resources
Business meeting, to consider pending calendar business. SD-366

Judiciary
Constitution Subcommittee
To hold hearings on S. 1882, to amend title 18, United States Code, to promote the safe use of guns and to reduce gun violence, focusing on public health and child safety. SD-628

Indian Affairs
To hold hearings on S. 1021, to assure religious freedom to Native Americans. SR-485

10:00 a.m.

Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1995 for the Office of the Attorney General. SR-253

Banking, Housing, and Urban Affairs
To hold hearings on proposed legislation authorizing funds for the Federal Transit Authority, focusing on operating assistance to transit authorities and the New Starts light rail program. SD-538

Finance
To resume hearings to examine the result of the Uruguay Round of multilateral trade negotiations and what more needs to be accomplished before the trade agreements are to be signed on April 15, 1994. SD-215

Foreign Relations
To hold hearings to examine United States policy toward Russia. SD-419

Governmental Affairs
Business meeting, to consider pending calendar business. SD-342

Labor and Human Resources
To hold hearings on proposed legislation to authorize funds for the National Science Foundation. SD-430

2:00 p.m.

Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1995 for the Forest Service, Department of Agriculture. SD-138

Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1995 for energy and water development programs. SD-192

Armed Services
To resume hearings on proposed legislation authorizing funds for fiscal year 1995 for the Department of Defense, and the future years defense program, focusing on Department of Energy national security programs and on safety issues at the Department of Energy defense nuclear facilities. SR-222

Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 1270, to establish the Cache La Poudre River National Water Heritage Area in Colorado, S. 1324, to exchange certain lands of the Columbia Basin Federal reclamation project, Washington, S. 1402, to convey a certain parcel of public land to the county of Twin Falls, Idaho, for use as a landfill, S. 1703, to expand the boundaries of the Piscataway National Park, and H.R. 194, to withdraw and reserve certain public lands and minerals within the State of Colorado for military uses. SD-366

2:30 p.m.

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on competition in the U.S. biotechnology industry. SR-253

MARCH 24

9:00 a.m.

Environment and Public Works
Business meeting, to mark up S. 1547, authorizing funds for fiscal years 1994-2000 for programs of the Safe Drinking Water Act. SD-406

Office of Technology Assessment
Board meeting, to consider pending business. EF-100, Capitol

9:30 a.m.

Appropriations
Labor, Health and Human Services, and Education Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1995 for the Department of Labor. SD-138

Energy and Natural Resources
To hold hearings to examine the effect of the Administration's Superfund reauthorization proposals on the Department of Energy's Environmental Restoration and Waste Management Program. SD-366

Judiciary
Patents, Copyrights and Trademarks Subcommittee
Business meeting, to mark up S. 1485, to extend certain satellite carrier compulsory licenses. SD-234

Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the AMVETS, American Ex-Prisoners of War, Vietnam Veterans of America, Veterans of World War I, Association of the U.S. Army, The Retired Officers Association, and the Military Order of the Purple Heart. 345 Cannon Building

9:45 a.m.

Banking, Housing, and Urban Affairs
Business meeting, to consider the nominations of William Alan Reinsch, of Maryland, to be Under Secretary of Commerce for Export Administration, Raymond E. Vickery Jr., of Virginia, to be an Assistant Secretary of Commerce, Maria Luisa Mabilangan Haley, of Arkansas, to be a Member of the Board of Directors of the Export-Import Bank of the United States, and Elaine A. McReynolds, of Tennessee, to be Federal Insurance Administrator, Federal Emergency Management Agency. SD-538

10:00 a.m.

Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1995 for National Guard and Reserve programs, focusing on manpower and equipment requirements and the restructuring of brigades. SD-106

Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1995 for the Federal Emergency Management Agency. SD-124

Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1995 for energy and water development programs. SD-192

Finance
To resume hearings to examine health care reform issues, focusing on the Medicaid program. SD-215

Foreign Relations
East Asian and Pacific Affairs Subcommittee
To hold hearings to review U.S. policy toward East Asia. SD-419

Governmental Affairs
Federal Services, Post Office, and Civil Service Subcommittee
To hold hearings to review the Annual Report of the Post Master General. SD-342

Judiciary
Business meeting, to consider pending calendar business. SD-226

Labor and Human Resources
Education, Arts and Humanities Subcommittee
To hold hearings on S. 1513, authorizing funds for programs of the Elementary

and Secondary Education Act of 1965, focusing on professional development.
SD-430

11:30 a.m.
Labor and Human Resources
To hold joint hearings with the Committee on Labor and Human Resources' Subcommittee on Children, Family, Drugs and Alcoholism to examine proposals for preventing youth violence.
SH-216

2:00 p.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1995 for the Federal Railroad Administration, Department of Transportation, and the National Railroad Passenger Corporation (AMTRAK).
SD-138

Armed Services
Military Readiness and Infrastructure Subcommittee
To resume hearings on proposed legislation authorizing funds for fiscal year 1995 for the Department of Defense and the future years defense program, focusing on the operation and maintenance accounts and on the defense business operations fund.
SR-232A

Commerce, Science, and Transportation
Consumer Subcommittee
To hold hearings to examine charitable solicitation fraud.
SR-253

Foreign Relations
African Affairs Subcommittee
To hold hearings on S. 1856, to promote international cooperation and assistance programs and activities, focusing on implications for Sub-Saharan Africa.
SD-419

2:30 p.m.
Veterans' Affairs
To hold hearings on pending veterans legislation.
SR-418

Select on Intelligence
To hold closed hearings on intelligence matters.
SH-219

MARCH 25

10:00 a.m.
Judiciary
To hold hearings on the nominations of Fortunato P. Benavides, of Texas, to be United States Circuit Judge for the Fifth Circuit, Ruben Castillo, to be United States District Judge for the Northern District of Illinois, and Audrey B. Collins, to be United States District Judge for the Central District of California.
SD-226

Labor and Human Resources
To hold joint hearings with the Committee on Indian Affairs to examine headstart programs serving Native Americans.
SR-485

Indian Affairs
To hold joint hearings with the Committee on Labor and Human Resources to examine headstart programs serving Native Americans.
SR-485

10:15 a.m.
Appropriations
Treasury, Postal Service, General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1995 for the Office of Management and Budget, and the Executive Office of the President.
SD-116

APRIL 11

2:00 p.m.
Appropriations
Agriculture, Rural Development, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1995 for Marketing and Inspection Services, Animal and Plant Health Inspection Service, Food Safety and Inspection Service, and Agricultural Marketing Service, all of the Department of Agriculture.
SD-138

APRIL 12

10:00 a.m.
Appropriations
Defense Subcommittee
To hold closed hearings on proposed budget estimates for fiscal year 1995 for the Department of Defense, focusing on classified programs.
S-407, Capitol

Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1995 for the National Oceanic and Atmospheric Administration, Department of' Commerce.
S-146, Capitol

2:30 p.m.
Energy and Natural Resources
Water and Power Subcommittee
To hold hearings to examine Federal agency roles in addressing the contemporary needs and management of the Newlands Project in Nevada.
SD-366

APRIL 13

9:30 a.m.
Indian Affairs
Business meeting, to mark up S. 1216, to resolve the 107th Meridian boundary dispute between the Crow Indian Tribe, the Northern Cheyenne Indian Tribe, and the United States and various other issues pertaining to the Crow Indian Reservation, S. 1526, to improve the management of Indian fish and wildlife and gathering resources, and S. 720, to clean up open dumps on Indian lands; to be followed by a hearing on proposed budget estimates for fiscal year 1995 for the Bureau of Indian Affairs.
SR-485

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1995 for the Department of Energy, focusing on fossil energy and clean coal programs.
SD-116

Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1995 for the United States Coast Guard, Department of Transportation.
SD-138

Appropriations
Treasury, Postal Service, General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1995 for the United States Postal Service.
SD-192

Veterans' Affairs
To hold oversight hearings on dangerous exposures in the Persian Gulf War.
SH-216

APRIL 14

9:30 a.m.
Energy and Natural Resources
To hold hearings on the operating and economic environment of the domestic natural gas and oil industry.
SD-366

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1995 for the Department of Defense, focusing on health services and infrastructure.
SD-192

Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1995 for the Federal Bureau of Investigation, and the Drug Enforcement Administration, both of the Department of Justice.
S-146, Capitol

2:00 p.m.
Armed Services
Nuclear Deterrence, Arms Control, and Defense Intelligence Subcommittee
To hold hearings on proposed legislation authorizing funds for fiscal year 1995 for the Department of Defense, and the future years defense program, focusing on chemical demilitarization.
SR-222

3:00 p.m.
Agriculture, Nutrition, and Forestry
Agricultural Research, Conservation, Forestry and General Legislation Subcommittee
To hold hearings on issues relating to ecosystem management.
SR-332

APRIL 18

2:00 p.m.
Appropriations
Agriculture, Rural Development, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1995 for Science and Education, Agricultural Research Service, Cooperative State Research Service, Extension Service, and Alternative Agricultural Research and Commercialization, all of the Department of Agriculture.
SD-138

APRIL 19

9:30 a.m.
Rules and Administration
To resume hearings on S. 1824, to improve the operations of the legislative branch of the Federal Branch, focusing on Subtitle A, Parts I and II of Title III, relating to Congressional biennial budgeting and additional budget process changes.
SR-301

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1995 for the Department of Defense, focusing on strategic programs.
SD–192

2:30 p.m.
Armed Services
Nuclear Deterrence, Arms Control, and Defense Intelligence Subcommittee
To resume hearings on proposed legislation authorizing funds for fiscal year 1995 for the Department of Defense, and the future years defense program, focusing on the Department of Energy's environmental restoration and waste management programs.
SR–222

Veterans' Affairs
To hold hearings to examine proposals to finance veterans health care reform.
SR–418

APRIL 20

9:30 a.m.
Indian Affairs
To hold oversight hearings on the regulation of Indian gaming.
SR–485

10:00 a.m.
Appropriations
Treasury, Postal Service, General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1995 for the Department of the Treasury.
SD–116

APRIL 21

10:00 a.m.
Appropriations
Defense Subcommittee
To hold closed hearings on proposed budget estimates for fiscal year 1995 for the Department of Defense, focusing on intelligence programs.
S–407, Capitol

Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1995 for the Department of Housing and Urban Development.
SD–106

Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1995 for the United States Fish and Wildlife Service, Department of the Interior.
S–128, Capitol

Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1995 for the Securities and Exchange Commission, and the Federal Communications Commission.
S–146, Capitol

Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1995 for the Federal Aviation Administration, Department of Transportation.
SD–138

APRIL 25

2:00 p.m.
Appropriations
Agriculture, Rural Development, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1995 for International Affairs and Commodity Programs, Natural Resources and Environment, Agricultural Stabilization and Conservation Service, Foreign Agriculture Service, Soil Conservation Service, and Federal Crop Insurance Corporation, all of the Department of Agriculture.
SD–138

APRIL 26

10:00 a.m.
Appropriations
Defense Subcommittee
To hold closed hearings on proposed budget estimates for fiscal year 1995 for the Department of Defense, focusing on National Foreign Intelligence Programs (NFIP) and Tactical Intelligence and Related Activities (TIARA).
S–407, Capitol

Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1995 for the Office of Justice Programs, and the Immigration and Naturalization Service, both of the Department of Justice.
S–146, Capitol

APRIL 27

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1995 for the Federal Transit Administration, Department of Transportation, and the Washington Metro Transit Authority.
SD–138

APRIL 28

9:30 a.m.
Rules and Administration
To resume hearings on S. 1824, to improve the operations of the legislative branch of the Federal Branch, focusing on Subtitle A, Parts I and II of Title III, relating to Congressional biennial budgeting and additional budget process changes.
SR–301

10:00 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1995 for the Environmental Protection Agency, and the Council on Environmental Quality.
SD–106

Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1995 for the United States Information Agency.
S–146, Capitol

2:30 p.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1995 for the Bureau of Indian Affairs, Department of the Interior.
SD–116

MAY 3

9:30 a.m.
Energy and Natural Resources
To hold hearings on Boron-Neutron Cancer Therapy.
SD–366

10:00 a.m.
Appropriations
Agriculture, Rural Development, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1995 for Food and Consumer Services, Food and Nutrition Service, and Human Nutrition Information Service, all of the Department of Agriculture.
SD–138

Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1995 for the Department of Defense, focusing on defense conversion programs.
SD–192

2:30 p.m.
Energy and Natural Resources
Water and Power Subcommittee
To hold hearings to review the implementation of the Central Valley Project Improvement Act (Title 34 of P.L. 102-575) and the coordination of the program with other Federal protection and restoration efforts in the San Francisco Bay/Sacramento-San Joaquin Delta.
SD–366

MAY 5

10:00 a.m.
Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1995 for the Legal Services Corporation.
S–146, Capitol

Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1995 for the National Transportation Safety Board, and the National Highway Traffic Safety Administration, Department of Transportation.
SD–138

MAY 10

10:00 a.m.
Appropriations
Agriculture, Rural Development, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1995 for the Commodity Futures Trading Commission, the Farm Credit Administration, and the Food and Drug Administration, Department of Health and Human Services.
SD–138

MAY 11

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1995 for the National Park Service, Department of the Interior.
S–128, Capitol

MAY 12

10:00 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1995 for the Corporation for National and Community Service.
SD–106

MAY 17

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1995 for the Department of Defense, focusing on the Pacific Rim, NATO, and peacekeeping programs.
SD–192

MAY 19

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1995 for the Department of Defense.
SD–192

Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1995 for the Department of Veterans Affairs, and the Selective Service System.
SD–106

MAY 20

9:00 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1995 for the Departments of Veterans Affairs and Housing and Urban Development, and independent agencies.
SD–138

MAY 25

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1995 for the Department of the Interior.
S–128, Capitol

MAY 26

10:00 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1995 for the National Aeronautics and Space Administration.
SD–106

JUNE 8

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings proposed budget estimates for fiscal year 1995 for the Department of Energy.
S–128, Capitol

JULY 19

10:00 a.m.
Appropriations
Defense Subcommittee
Business meeting, to mark up proposed legislation authorizing funds for fiscal year 1995 for the Department of Defense.
SD–192

POSTPONEMENTS

MARCH 22

9:30 a.m.
Indian Affairs
To hold oversight hearings on water and sanitation issues in rural Alaska.
SR–485

2:00 p.m.
Foreign Relations
To hold hearings on the nominations of Edward W. Gnehm, Jr., of Georgia, to be the U.S. Deputy Representative to the United Nations, with the rank of Ambassador, David E. Birenbaum, of the District of Columbia, to be the U.S. Representative to the United Nations for U.N. Management and Reform, with the rank of Ambassador, Arvonne S. Fraser, of Minnesota, for the rank of Ambassador during her tenure of service as the U.S. Representative on the Commission on the Status of Women of the Economic and Social Council of the United Nations, and Henry Howard, Jr., of Virginia, to be an Associate Director for Management, and John P. Loiello, of the District of Columbia, to be an Associate Director for Educational and Cultural Affairs, both of the U.S. Information Agency.
SD–419

MARCH 23

2:30 p.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings to examine science and technology policy issues.
SR–253